Workshop – June 16, 2014
Agenda Item 14

Agenda Item: Proposed Ordinance 2013-20, Amending Chapter 158, Outline Development Plan and Planned Unit Development Process

Presenter: Alaina Ray, Director of Planning Zoning and Building
Bill Spikowski, Spikowski Planning Associates

Summary: In November 2012, portions of the Town's process for approval of Outline Development Plans (ODP) and Planned Unit Development (PUD) were declared not legally viable in a judgment issued by Sarasota Circuit Court Judge Lee Haworth. In response, revisions have been drafted to the Town's Land Development Code in order to address the specific issues raised by Judge Haworth.

The Town contracted with Bill Spikowski, of Spikowski Planning Associates, to assist staff in drafting the revisions to the Code. Ordinance 2013-20 represents these revisions and was considered by the Planning and Zoning Board (P&Z) on March 18, April 15, and May 27, 2014. In addition, Public Workshops were held on February 13 and March 28, 2014, in an effort to encourage input regarding the proposed revisions.

At their meeting May 27, 2014 Meeting the P&Z Board recommended approval of Ordinance 2013-20.

Attachments: 06-09-2014 Memo, PZB Director to Town Manager
06-09-2014 Memo, P&Z Board Chair to Town Commission
06-06-2014 Memo, Bill Spikowski to PZB Director;
Proposed Ordinance 2013-20
PowerPoint Presentation Ordinance 2013-20
05-27-2014 Planning & Zoning Board Draft Minutes

Recommended Action: Pending discussion, forward Ordinance 2013-20 to the June 16, 2014 Special Meeting for first reading and public hearing.

MEMORANDUM

DATE: June 9, 2014

TO: Dave Bullock, Town Manager

FROM: Alaina Ray, AICP, Director
Planning, Zoning and Building Department

SUBJECT: Proposed Ordinance 2013-20, Amending Chapter 158, Outline Development Plan / Planned Unit Development Process

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In November 2012, portions of the Town's process for approval of Outline Development Plans (ODP) and Planned Unit Development (PUD) were declared not legally viable in a judgment issued by Sarasota Circuit Court Judge Lee Haworth. In response, revisions have been drafted to the Town's Land Development Code in order to address the specific issues raised by Judge Haworth.

The Town contracted with Bill Spikowski, of Spikowski Planning Associates, to assist staff in drafting the revisions to the Code. Ordinance 2013-20 represents these revisions and was considered by the Planning and Zoning Board (P&Z) on March 18, April 15, and May 27, 2014. In addition, Public Workshops were held on February 13 and March 28, 2014, in an effort to encourage input regarding the proposed revisions.

At their meeting on May 27, 2014, the P&Z recommended approval of Ordinance 2013-20. Staff is presenting Ordinance 2013-20 to the Town Commission at their Workshop for their review and request it be forwarded to their Special Meeting on June 16, 2014, for first reading and public hearing.

Attachments:
6-9-14 Memo, P&Z Board Chair to Commission;
6-6-14 Staff Report, Spikowski to PZB Director;
PowerPoint Presentation;
Draft minutes from the 5-27-14 P&Z Board Regular Meeting;
Ordinance 2013-20.

xc: Maggie Mooney-Portale, Town Attorney
Alaina Ray, AICP, Director – Planning, Building & Zoning

MEMORANDUM

DATE: June 9, 2014

TO: Honorable Mayor and Town Commission

THROUGH: Dave Bullock, Town Manager

FROM: BJ Bishop, Chair
Planning and Zoning Board

SUBJECT: Proposed Ordinance 2013-20, Amending Chapter 158, Outline Development Plan / Planned Unit Development Process

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During the public hearing held on May 27, 2014, the Planning and Zoning Board recommended APPROVAL of Ordinance 2013-20, modifying the Outline Development Plan process. The specific motion from the May 27, 2014, meeting of the P&Z Board is as follows:

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2013-20 AS AMENDED. MR. HACKETT SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

Enclosed, for your review and consideration, please find the following support documentation:

1. Staff Report, dated 6-6-14, Spikowski to PZB Director;
2. Ordinance 2013-20;
3. PowerPoint presentation; and
4. Draft minutes from the 5-27-14 regular P&Z Board meeting on this issue.

If you should have any questions, or desire any additional information, please do not hesitate to contact me.

BJB/dmc

SPIKOWSKI
PLANNING
ASSOCIATES

MEMORANDUM

TO: Alaina Ray, Director of Planning, Zoning & BUilding
FROM: Bill Spikowski
DATE: June 6, 2014
SUBJECT: Proposed Ordinance 2013-20, ODP Zoning Code Changes

Alaina, I'm attaching the latest draft of the ODP zoning code changes that were prepared in response to the final order by Judge Haworth. This draft also includes some refinements to clarify the code, eliminate inconsistencies, and address minor pressing issues.

The ODP process was designed for the incremental development of large master-planned communities. At this juncture on Longboat Key, the ODP process has about outlived its usefulness and is due for replacement with zoning techniques that focus on improvements and redevelopment. However, a Key Club expansion proposal is imminent; and the comprehensive plan should be amended to set the direction for larger code revisions before actual drafting begins. For these reasons, this ordinance is limited to clarifying and improving the existing ODP process and making it comply with Judge Haworth's decisions.

This ordinance was approved by the Planning & Zoning Board on May 27, 2014. The language in this latest draft is also supported by town staff, the town attorney, and my firm.

This ordinance supplements other changes affecting the 250 available tourism units that were adopted by Ordinance 2013-07 in March 2013.

A brief explanation of each section of the ordinance is provided here.

SECTION 2. The current town rule about mailed public notices is ambiguous as to MUC zoning districts. The current language in section 33.25 says that mailed notices will be provided "to all owners of property involved in the petition or application." The question arises as to which owners are "involved in" an application for additional units in the MUC zoning districts, with their shared recreational facilities and the possibility of disputes over allocating unassigned dwelling units. Is it just the applicant, or also other property owners in the same MUC zoning district? The language proposed in this ordinance takes the conservative position that the rights of all owners in the same MUC zoning district may be affected by that kind of application and thus they should receive individual mailed notices.

SECTION 3. Two definitions in the subdivision regulations are being amended to maintain consistency with how those terms are defined and used in the zoning code and in the subdivision regulations.

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SECTION 4. Many definitions in the zoning code would be amended, for a variety of reasons:

- Some changes are to maintain consistency with the subdivisions regulations.
- Others changes are to explain or amplify, in simple language, how several key terms are used in the Longboat Key zoning code. For instance, "binding concept plan," "outline development plan," and "planned unit development" would now have clear definitions (in addition to being explained at the beginning of section 158.067, as shown in Section 10 of this ordinance).
- The current zoning code uses three terms interchangeably: lot coverage, land coverage, and building coverage. Only the first term is currently defined. These terms are now being defined as synonymous.
- The distinction between "departure," "variance," and "waiver," are being clarified through their definitions in this section.
- A new definition is provided for "pre-existing legal use," to be used in section 158.125 (schedule of uses). This term would be applied to uses such as the existing hotel and restaurants in the MUC-1 and MUC-2 zoning districts that were built legally but are now deemed "nonconforming." These uses deserve a better status than nonconforming, which applies limitations on the ability to rebuild, expand, or resume operations after a discontinuance. The new status as "pre-existing legal uses" would afford them the privileges of a permitted use and would allow them to be reconstructed up to their pre-existing density, but only on the specific parcel on which they are located.
- A few other terms are being defined or redefined to clarify their use in this code. These terms include "golf course" and "hotel," which would now be used to define permitted uses in certain MUC zoning districts.

SECTIONS 5 & 6. These sections, which include the map in Exhibit "A," will correct what Judge Haworth concluded were technical flaws when the town converted the PD, GPD, and NPD zoning districts into the MUC-1, MUC-2, and MUC-3 districts respectively. These corrections had been proposed in Ordinance 2012-29, which was later tabled by the Planning and Zoning Board so that these corrections could be combined with the remainder of these ODP zoning code changes.

SECTION 7. The table in 158.008 that lists the density cap for each zoning district is being updated to reflect the final judgment's distinction between dwelling units and tourism units. The term "overall density" is introduced, simplified from "average overall density" in the current zoning code. The term "units per acre" will now apply only to the MUC-2 zoning district, where some allowable residential units were constructed as tourism units.

SECTION 8 (middle of page 9 of 43): Several changes are being made to the introductory language for the three MUC zoning districts that was amended by Ordinance 2012-08:

- The phrase "average overall density" is being shortened to "overall density," because average and overall can have conflicting meanings when applied to density.
- The potential for further limitations on "overall density" to be set during the ODP/PUD process is now clearly acknowledged.

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- The town's longstanding practice of updating a land intensity schedule with each MUC amendment is now being codified.

SECTION 8 (bottom of page 9 of 43): The final paragraph at the bottom of page 9 would resolve a controversial matter caused by potentially conflicting provisions of the town charter, the comprehensive plan, and the zoning code. The comprehensive plan and zoning code describe "overall densities" for the MUC categories. During the initial development stage, these overall densities ensured that the combined development on individual parcels in MUC zoning districts didn't exceed the maximum density that had been approved for the entire MUC district. However, now that the residential tracts are completed, the continued publication of "overall density" figures could be read to pre-authorize the conversion of existing open spaces and golf courses to additional residential or tourism development through claims on the rights to "unused density."

The Planning and Zoning Board debated three alternative approaches to claims for "unused density" that had originally been allowed for each original MUC-zoned master planned development, but which was never assigned to individual sites, or was assigned but never constructed:

1. Unused units have been waived and no longer exist. Requests for additional units will be treated like other property owners on Longboat Key (triggering a referendum).
2. Unused units are essentially property rights and are awaiting assignment to specific tracts through the ODP/PUD process.
3. Unused units are neither guaranteed nor waived, but may be requested by landowners through the ODP/PUD process, to be placed on any existing vacant or recreation sites, or to increase density during redevelopment of existing buildings.

The first two alternatives were debated and firmly rejected. The third alternative appears in this ordinance at the bottom of page 9 of 43.

Considerable research was undertaken during this debate. Important data is presented in the table below, which begins with the comprehensive plan's maximum "overall density" ratio and the computed unit cap when that ratio is multiplied by the overall acreage. The table also shows the number of units that had initially been assigned to development parcels through the ODP process and the latest figure for units that were actually constructed (845, which includes one vacant single-family lot). In the last two columns, the table shows the difference between the computed cap and units initially assigned, and the difference between the computed cap and units actually constructed.

ZONING DISTRICT	*OVERALL ACRES*	*COMP PLAN OVERALL DENSITY*	*COMPUTED UNIT CAP*	*# OF UNITS INITIALLY ASSIGNED THROUGH ODP/PUD*	*# OF INITIALLY ASSIGNED UNITS ACTUALLY CONSTRUCTED*	*UNIT CAP MINUS UNITS INITIALLY ASSIGNED*	*UNIT CAP MINUS UNITS ACTUALLY CONSTRUCTED*
MUC-1	725.0	3.26 / ac.	2,363	1,267	1,251	1,096	1,112
MUC-2	314.6	5.05 / ac.	1,588	1,407	845	181	743
MUC-3	25.4	11.26 / ac.	286	286	286	0	0

Resolutions of the Town Commission have assigned fewer units in the MUC-1 and MUC-2 zoning districts than would have been allowed by the maximum "overall density" ratio set in the Comprehensive Plan (which is repeated in section 158.008 of the zoning code). Resolutions 85-12, 85-27, and 92-17 indicate the initial assignment of 1,407 units for what is now the MUC-2 zoning district; Resolution 92-17 indicates that the number of assigned units was reduced to 892. The lower figure in the table (845) reflects the fact that some units that remained assigned in 1992 were never constructed.

SECTION 8 (page 10 of 43): Several additional changes are being made to Section 8:

- Previously, an MUC district could be expanded onto contiguous land. That provision is being deleted because the original MUC/ODP concept becomes obsolete with the completion of the original master-planned developments.
- Another difficult issue is the technically complex question about assigning additional tourism units in the MUC-2 zoning district. Judge Haworth's initial order included an additional complication, a remedy for which was included in the judge's amended final order in December 2012. The question has been further complicated by recent state legislation that may affect the legality of Longboat Key's referendum requirement, which was put into the town's charter by the voters in 1985:

  "The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key."

  Given the strong desire for the zoning code to accurately reflect the resolution of these complex questions, a new paragraph has been added to Section 8 just above the middle of page 10 that anticipates the possibility that pending legislation and litigation could remove the town's ability to hold a referendum on allowing additional tourism uses in the MUC-2 zoning district.

SECTION 9. The opening section about Planned Unit Developments (PUDs) in 158.065 is being amended to summarize the purpose and effect of PUDs:

(A) states the purpose and process of PUDs.

(B) clarifies that PUD approval does not change the underlying zoning district or add new uses.

(C) lists which zoning districts PUDs can be used in; in the current code, this is ambiguous.

(D) reminds readers that the code sets special density limitations for PUDs.

(E) restates the site-design flexibility intended for PUDs, without some language that the final judgment criticized as circular and too general to be meaningfully applied.

(F) provides a simple explanation of the relationship of outline development plans, binding concept plans, and final site plans.

SECTION 10. The detailed procedural section on PUDs (158.067) is being modified in the following ways:

- All subsections are given a short title, which allows readers to understand the organization of 158.067 and to locate any particular topic more easily.
- In (A), the confusing phrase "permitted use with review" will be eliminated (and eliminated from the schedule of uses in 158.125 as well, as shown in Exhibit "B").

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- In (B)(1), the application requirements are being expanded slightly. The requirement for a binding concept plan would be added in (o), and the option for replacing a binding concept plan with a final site plan would be explicitly stated (and referenced in (B)(5(c) and (G)(3)).

- In (B)(3) and (C), the issue of written findings of fact has been re-addressed. The requirement for formal findings of face was deleted by Ordinance 2012-08, which was then challenged in circuit court. Judge Haworth, when ruling on the repeal of this requirement, concluded that the repealing ordinance wasn't invalid because the town could still prepare finding of fact despite the requirement having been eliminated from the zoning code. The final judgment reached these conclusions:

  > *... The current version of §158.067(D)(3) does not mandate findings in written form. However, neither does it forbid such findings. In other words, the Commission has the option of making written findings should it choose to do so.*
  >
  > *Given the due process imperative of providing a clear evidentiary foundation for administrative decision, a commission that opts not to make such findings may find its action consistent with the Longboat Key Zoning Code but running afoul of Irvine and its progeny. However, because the Code grants the Commission the discretion to enter written findings and thus be compliant with the Irvin requirement that the agency provide an acceptable record upon which a reviewing court can make a qualitative assessment of the evidence, this court cannot find §158.067(D)(3) facially unconstitutional on this basis. ... The issue of whether the failure to make such findings provides a viable basis for an "as-applied" constitutional challenge must await an actual decision granting or denying an outline development plan, and cannot be resolved in this action.*

  The draft ordinance reflects a decision to not require findings of fact in the zoning code. However, it would be advisable for the town to routinely prepare and adopt them anyway. This approach would avoid an obvious legal vulnerability if findings of fact were not prepared in a particular case. The town could still prepare and adopt findings of fact as a part of normal business and thus be in a better position to defend its zoning actions from the other potential legal challenges described in Judge Haworth's order.

- In (C), the standards for approving or disapproving a PUD have been consolidated and modified slightly. Subsection (C)(9) has been added to respond to the following language in the judge's order:

  > *The court declares that the Town may not adopt or amend outline development plans for any MUC zone district until the Town . . . provides clear and direct standards to guide whether the identified uses should be permitted under a particular outline development plan application.*

  The new language in (C)(9) addresses the critical question of whether proposed land-use changes in the MUC-1 or MUC-2 zoning districts would match the historic land-use pattern or be a harmonious evolution of the historic pattern, versus being an intrusive or incompatible change in pattern.

- Two new standards in (C)(10) would be applied to requests for building heights above four stories in the MUC-2 zoning district.

- In (D), the standards for approving or disapproving departures are being modified, responding to the final judgment's direction "*... to provide clear and direct criteria that the Town Commission must consider and apply in determining whether to grant or deny a request for a departure.*" Vague language that the judgment specifically criticized would be removed (e.g., "as deemed applicable to the request by the

town"; "promote the most appropriate use of the land").

- (E) describes two regulations that the town commission is currently allowed to modify without meeting the standards for departures. These regulations are being moved to their own subsection to minimize future confusion.
- Revised language in (H) changes how long an ODP/PUD approval remains valid without an extension being granted by the Town Commission. The general rule on Longboat Key is for final site plans to be guaranteed for 2 years before being subject to re-review (see 158.099(F)). The existing code mentions 5 years for an entire PUD plan in a convoluted sentence in 158.067(H); that period is not specific to the MUC zoning districts. This ordinance proposes that the 2-year period in 158.099(F) for final site plans be increased to 4 years for ODP/PUD approvals to reflect the extra public scrutiny of those processes, and to 10 years in the MUC-1 and MUC-2 zoning districts provided two or more types of substantial progress has been made in developing the land. The review and extension procedures in 158.099(H) would still apply at the end of those periods.

SECTION 11. The minimum sizes for PUDs is being decreased from 10 to 2 acres in residential zoning districts and from 5 to 0.5 acres for all other zoning districts. Given the town's reliance on the PUD process for dealing with non-conformities, the previous size standards would make this potential route for relief unavailable for many smaller properties.

SECTION 12. The table in 158.070 that lists special density caps for PUDs in each zoning district is being updated to reflect the final judgment's distinction between dwelling units and tourism units. The table now also includes the "overall density" terminology being used in other portions of the revised code and the same footnotes as in Section 7 (from the table in 158.008).

SECTION 13. The phrase "average overall density" is being replaced by "overall density."

SECTION 14. The word "departure" appears twice in section 158.097 even though the code does not allow departures to be granted during the standard final site plan approval process. This ordinance would replaced the word "departure" in this context with "waiver."

SECTION 15. The current code is ambiguous regarding how certain ratios are to be measured in the MUC-1 and MUC-2 zoning districts: "maximum floor area ratio," "living space ratio," and "open space ratio."

New language proposed for 158.102(C)(1)(a) would clearly allow the inclusion of land under common ownership even when it is separated by an intervening privately owned street. The relevant example here is Longboat Club Road, a privately owned street that separates the Islandside golf course from the development sites that benefit from the golf course. The effect of including the golf course land in the denominator of this ratio is to increase the allowable floor area on the development sites across Longboat Club Road, dramatically so because of the golf course's large size.

Similar changes to 158.102(C)(2) would have the same effect for "living space ratio" and "open space ratio."

These changes are consistent with the philosophy behind density measurements in the MUC-1 and MUC-2 zoning districts, where clustering of density on development sites is encouraged to maximize shared open spaces such as the golf course.

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SECTION 16. New language for 158.102(L) would allow less stringent front setbacks for land in the MUC-2 zoning district along Longboat Club Road and Gulf of Mexico Drive where land across those street is designated open space and recreational lands.

SECTION 17. This section amends the schedule of uses in 158.125. The most important change is to expand the lists of permitted uses in response to the final judgment's conclusion that "...the town may not adopt or amend outline development plans for any MUC zone district until the Town amends the Zoning Code to identify the particular uses that may be permitted in the MUC zoning districts...." Exhibit "B" of this ordinance shows all of the changes.

For the MUC-1, MUC-2, and MUC-3 zoning districts:

- The "overall density" terminology is being used to maintain consistency with other parts of the revised code.
- The purpose statements are being expanded to match section 158.009.
- In MUC-1 and MUC-2, the uses permitted WITHOUT site plan review are being expanded to match the "mixed residential" zoning districts (R-3MX, R-4MX, and R6-MX), with the exception of two-family dwellings.
- The uses permitted WITH site plan review are being modified substantially. First, the PUD reference is being eliminated, because PUD is an optional site plan review process and not a permitted use itself; a corresponding change has been made to 158.067(A). Second, a list of uses is being added that corresponds to the existing uses in each district. Third, the new "pre-existing legal uses" category would be applied to any existing hotels, motels, timeshare units, and restaurants. Fourth, the phrase "Uses allowed in the MUC-_ district pursuant to §158.009(L)" would be eliminated because that wording is ambiguous and unnecessary.

For the C-3 zoning district:

- The special exception for hotels and motels is being deleted in response to this conclusion from the final judgment:

  "Except for tourism uses or density that may be authorized pursuant to the Town's 2008 referendum for 250 tourism units, the Town may not approve any tourism units or density for lands in the C-3 zoning district until it secures voter approval for such uses and density pursuant to Article II, §22 of the Town Charter."

  Section 158.180 could allow some of the 250 additional tourism units to be used in the C-3 zoning district, but tourism units cannot be permitted through the special exception process, absent voter approval.

For the T-3 and T-6 zoning districts:

- The density column will now reflect the distinction between dwelling and tourism units.
- Typographical errors in the permitted use columns are being corrected.

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SECTION 18. Section 158.128(K) of the existing code provides screening requirements for parking garages. Changes are now being proposed to clarify and strengthen the screening requirements. New language for 158.128(K) would require 90% of visible facades of parking garages to be screened; this figure is fairly strict and the Town Commission may wish to lower it, perhaps to 75% or 80%.

SECTION 19. This section updates obsolete language that could be interpreted to forbid tourism uses at the Longboat Key Club. The existing language could also be interpreted to allow tourism uses in some or all planned unit developments regardless of the underlying zoning district. In addition, some redundant language is being eliminated and a cross-reference is being added to section 158.180 which allows additional tourism in zoning districts not currently listed in 158.132.

SECTION 20. This section adds a description of "pre-existing legal uses" (a term newly defined in Section 4 of this ordinance) into the zoning code's section about nonconformities.

SECTION 21. This section amends the schedule of lot, yard, and bulk regulations in 158.145. A new subsection (B) adds language that protects any building in the MUC-1, MUC-2, and MUC-3 zoning districts that might otherwise become nonconforming as a result of the new lot, yard, and bulk regulations for these districts. The most important change resulting from Section 21 is to assign specific lot, yard, and bulk regulations in response to the final judgment's conclusion that:

> *"...the Town may not adopt or amend outline development plans for any MUC zone district until the Town amends the Zoning Code to identify the minimum lot sizes, widths and depths, and minimum front, side and rear yards, that may be permitted in the MUC zoning districts...."*

Exhibit "C" of this ordinance shows all of the changes.

For the MUC-1, MUC-2, and MUC-3 zoning districts:

- Prior footnote (g) delayed the assignment of dimensional regulations until the ODP stage; in place of that footnote, specific dimensional regulations are being placed into this schedule for all three MUC zoning districts. The dimensions are comparable to those in other Longboat Key zoning districts, except for specific modifications made in this ordinance.
- The density column would no longer refer solely to residential density, and the "overall density" terminology would be added to maintain consistency with other parts of the zoning code.

SECTION 22. This section amends three footnotes to the schedule of lot, yard, and bulk regulations, as shown in Exhibit "C." The elimination of footnote (g) was discussed earlier; the two other amendment are merely for consistency with other changes being made through this ordinance.

SECTION 23. This section aligns the meaning of "lot width" and "lot depth" with the definitions of those terms in the subdivision regulations and the zoning code (including the modifications contained in earlier sections of this ordinance).

SECTION 24. This section aligns the meaning of "maximum coverage of buildings" with other references in this code to "coverage," "lot coverage," or "land coverage."

SECTION 25. This section would no longer forbid public beach access parking from being placed in gulf and pass waterfront yards (waterfront setback areas).

SECTION 26. This section reconciles minor inconsistencies within the code.

EXHIBIT "A" Exhibit "A" is the map discussed in Section 6.

EXHIBIT "B" This chart shows amendments to the schedule of uses in 158.125, as discussed in Section 17 above. The most important change is to expand the lists of permitted uses in response to the final judgment's conclusion that:

> *"...the town may not adopt or amend outline development plans for any MUC zone district until the Town amends the Zoning Code to identify the particular uses that may be permitted in the MUC zoning districts...."*

Several other minor changes have also been made to keep the language in this table internally consistent.

EXHIBIT "C" This chart shows amendments to the schedule of lot, yard, and bulk regulations 158.145, as discussed in Sections 21 and 22 above.

cc: Maggie Mooney-Portale
Kelly Fernandez
Dave Bullock

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ORDINANCE 2013-20

AN ORDINANCE AMENDING CHAPTER 33, *BOARDS AND COMMISSIONS*, CHAPTER 157, *SUBDIVISION REGULATIONS*, AND CHAPTER 158, *ZONING CODE*, OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA; AMENDING SECTION 33.25, *PUBLIC HEARINGS*; AMENDING SECTION 157.03, *DEFINITIONS*; AMENDING SECTION 158.006, *DEFINITIONS*; AMENDING SECTION 158.007(A), *ZONING MAP ADOPTED, INTERPRETATION*; ADOPTING REVISIONS TO THE OFFICIAL ZONING MAP AND MAP LEGEND TO REFLECT THE NEW ZONING DISTRICT NAMES FOR THE PLANNED DEVELOPMENT (PD), GULF PLANNED DEVELOPMENT (GPD), AND NEGOTIATED PLANNED DEVELOPMENT (NPD); AMENDING SECTION 158.008, *ESTABLISHMENT OF DISTRICTS*; AMENDING SECTION 158.009(L), *DESCRIPTION OF DISTRICTS AND DISTRICT POLICIES*; AMENDING SECTION 158.065, *PURPOSE*; AMENDING SECTION 158.067, *REVIEW AND APPROVAL PROCEDURE*; AMENDING SECTION 158.068, *MINIMUM AREA;* AMENDING SECTION 158.070, *RESIDENTIAL DENSITY*; AMENDING SECTION 158.071, *PROPOSED LAND USES*; AMENDING SECTION 158.097(U), *APPLICATION FOR SITE PLAN APPROVAL*; AMENDING SECTION 158.102(C), *MAXIMUM FLOOR AREA RATIO*; AMENDING SECTION 158.102(L), *SUPPLEMENTAL CONTROLS FOR MULTIFAMILY RESIDENTIAL OR TOURISM USES;* AMENDING SECTION 158.125, *SCHEDULE OF USE REGULATIONS;* AMENDING SECTION 158.128(K), *UTILIZATION OF PARKING STRUCTURES*; AMENDING SECTION 158.132, *TOURISM USES*; AMENDING SECTION 158.138, *STATUS OF NONCONFORMITIES*; AMENDING SECTION 158.145, *SCHEDULE OF LOT, YARD AND BULK REGULATIONS*; AMENDING SECTION 158.147, *LOT DIMENSIONS*; AMENDING SECTION 158.149, *MAXIMUM COVERAGE BY BUILDINGS*; AMENDING SECTION 158.150, *YARD REGULATIONS*; AMENDING SECTION 158.180, *DISTRIBUTION OF 250 TOURISM UNITS*; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key ("Town") adopted amendments to its Comprehensive Plan through Ordinance 2011-28 on August 10, 2011; and

WHEREAS, through Ordinance 2011-28 the Town amended Policy 1.1.10, Table 1, and the Future Land Use Map of the Future Land Use Element of the Town of Longboat Key Comprehensive Plan, and renamed the Planned Development (PD), Gulf Planned Development (GPD), and Negotiated Planned Development (NPD) future land use designations as Mixed Use Community - Bay Isles (MUC-1), Mixed Use Community - Islandside (MUC-2), and Mixed Use Community - Water Club/Promenade (MUC-3), respectively; and

WHEREAS, the Town administratively revised the official zoning map and legend to reflect the new names and to be consistent with the renamed future land use designations in the Comprehensive Plan, and now desires to formally adopt a revised official zoning map and

map legend and amend Section 158.007(A) of the Zoning Code to delete the reference to Ordinance 2005-13 that had adopted an earlier official zoning map; and

WHEREAS, the Town previously adopted amendments to its Zoning Code through Ordinance 2012-08 on July 2, 2012, to maintain consistency with the Comprehensive Plan and to provide additional clarity for the planned unit development (PUD) review and approval process; and

WHEREAS, further amendments to the Town's Zoning Code are required to comply with the final judgment in Islandside Property Owners Coalition, LLC, et al. v. Town of Longboat Key, et al., Case No. 2010 CA 007913 NC, that was issued on November 13, 2012 and amended on December 4, 2012; and

WHEREAS, the Town adopted initial amendments to its Zoning Code through Ordinance 2013-07 on March 4, 2013, to update the criteria and procedures regarding the eligibility for and allocations of the 250 additional tourism units authorized by a referendum held on March 18, 2008; and

WHEREAS, after review of the sections and subsections within Chapter 157 *Subdivision Regulations* and Chapter 158 *Zoning Code*, the Town determined that additional amendments were necessary to Sections 33.25, 157.03, 158.006, 158.007, 158.008, 158.009, 158.065, 158.067, 158.068, 158.070, 158.071, 158.097, 158.102, 158.125, 158.128, 158.132, 158.138, 158.145, 158.147, 158.149, 158.050, and the official zoning map; and

WHEREAS, at a duly noticed public hearing on May 27, 2014, the Planning and Zoning Board found the subject Zoning Code amendments and Zoning Map amendments to be consistent with the Town's Comprehensive Plan and recommended that the Town Commission approve the amendments; and

WHEREAS, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on June 16, 2014, and on June 30, 2014, considered the proposed Zoning Code amendments and Zoning Map amendments as recommended by the Planning and Zoning Board; and

WHEREAS, the Town has received and considered comments from the public; and

WHEREAS, the Town Commission of the Town of Longboat Key, after review of the recommendations of the Planning and Zoning Board, comments made at public hearings, and careful consideration of the issues, finds that the proposed Zoning Code and Zoning Map amendments are consistent with the Comprehensive Plan and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 33, *Boards and Commission*, Section 33.25, *Public hearings*, Subsection 33.25(B)(3) is hereby amended as follows:

(B) Any changes in land use and zoning initiated by the town, and changes in land use and zoning not initiated by the town, including, without limitation, development agreements and adoption or amendments to outline development plans, if not initiated by the town, shall be at the petitioner's or applicant's expense. Notice of such public hearing shall:

(1) Be published at least seven days prior to the hearing in a newspaper of general circulation within the town; and

(2) Be published at least four days (including weekends and holidays) prior to the public hearing, in a publication generally circulated weekly within the town in a format similar to F.S. § 166.041(3) (c)2.b., as may be amended.

(3) A copy of the notice shall be sent by certified mail 14 days prior to the hearing to all owners of property involved in the petition or application, to all owners of property in the same MUC zoning district for applications that would add dwelling or tourism units to the subject property, to all owners of property immediately adjacent to and within 500 feet of the perimeter of the subject property, and to each homeowners', property owners' or condominium association which annually registers with the planning, zoning and building department to receive such notice by first class mail. The guide for the mailing requirement to owners shall be the most recent town or county assessment roll.

SECTION 3. Chapter 157, *Subdivision Regulations,* Section 157.03, *Definitions*, is hereby amended to modify the following definitions for consistency with Sections 157.45 and the appendix to chapter 157 and with Sections 158.006 and 158.147:

"Lot depth." The distance measured by a straight line from the midpoint of the front lot line to its intersection with the midpoint of the rear lot line. ~~in the mean direction of the side line of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.~~

"Lot width." The ~~horizontal~~ distance between the side lot lines measured along the minimum street setback (yard) line as required for the district in which it is located. ~~at right angles to the lot depth along a straight line parallel to the front lot line at the minimum required setback at the front building setback line.~~ This measurement is illustrated for rectangular and non-rectangular lots in the appendix to chapter 157.

SECTION 4. Chapter 158, *Zoning Code,* Article I, *General Provisions*, Section 158.006, *Definitions*, is hereby amended as follows:

"Binding concept plan." A general graphic delineation and informational description ~~representation or depiction~~ of ~~the~~ a proposed conceptual program of development or a development phase that is submitted with an outline development plan. The binding concept plan shall in its entirety indicate the existing and proposed uses and structures, lots, streets, and other physical aspects of the proposed development and as enumerated in sections 158.067 and 158.102. Binding concept plans are required as part of outline development plans (ODP) that are submitted for planned unit development (PUD) approval, except where this code explicitly allows a final site development plan to replace a binding concept plan (see, for instance, sections 158.067(B)(1) and 158.180(F)). Binding concept plans become an integral part of ODP/PUD approvals.

"*Building coverage.*" *Building coverage* has the same meaning as *lot coverage* and *land coverage.*

"Bulk." Height and percentage of land or lot coverage of a building.

"Columbarium." A final resting place for containers of cremated remains.

"Density, overall." The maximum allowable number of tourism and dwelling units divided by the acreage of all property included respectively in the MUC-1, MUC-2, or MUC-3 zoning districts, including associated recreational areas, open space areas, road rights-of-way, wetland areas, and other nonresidential lands in each respective district. (See section 158.009(L).)

"Density, maximum gross ~~residential~~." The maximum allowable number of dwelling or tourism units per acre of gross land area, as determined by this Zoning Code. (See "Gross Land Area.")

"Departure." A departure is a type of formal modification of a standard or constraint of this code that may be approved by the town commission when considering an application for a planned unit development. A departure is not a variance and thus need not be predicated on conditions peculiar to the property or require a showing of unnecessary and undue hardship. See section 158.067(D).

"Golf course." A tract of land improved with tees, greens, fairways, and hazards and maintained for playing the game of golf. Golf courses with at least eighteen holes may contain accessory uses such as clubhouses, restaurants, shelters, and spas.

"Gross land area." Those contiguous land areas under common ownership with the following provisions and exceptions:

(1) In cases where land abuts the tidal waters of the Gulf of Mexico, Sarasota Bay, and all bayous, estuaries, tributaries and manmade canals thereof, the boundary of the land shall be delineated as established by F.S. ch. 177, pt. II, Coastal Mapping, or as may be amended.

(2) No submerged land or aquatic areas waterward of the boundary above-described, shall be included as land under this definition. Submerged land or aquatic areas shall include both tidal waters as well as nontidal rivers, streams, lakes, and lands beneath the same. The upper limit of these water bodies is the mean high tide line in tidal areas and the ordinary high-water line in nontidal areas.

(3) No land areas proposed to be allocated to nonresidential uses shall be included as residential land area under this definition. Such nonresidential land shall not be calculated in density calculations, excepting contiguous areas under unity of title which are stipulated for use as:

(a) Infrastructure required to support the proposed residential development; ~~and~~ or

(b) Recreational lands for the primary use of on-site residents.

"Hotel" or "motel." A building or structure under a common or multiple ownership interest and single management that ~~which~~ is designed, used, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants. A

hotel or motel, with or without individual kitchen or cooking facilities, may have accessory uses including meeting rooms, conference facilities, and one or more dining rooms, restaurants, cafes, or cocktail lounges where food and drink are served.

"Liner building." A building or portion of a building constructed in front of a parking garage, cinema, supermarket, or similar building to conceal large expanses of blank wall area with a facade that has doors and windows.

"Lot coverage." That percentage of the lot area covered or occupied by principal and accessory ~~the~~ buildings ~~or any part of the buildings~~, excluding roof overhangs not to exceed three feet, as verified by a licensed design professional. *Lot coverage* has the same meaning as *building coverage* and *land coverage*.

"Lot depth." The depth of a lot is the distance measured by a straight line from the midpoint of the front lot line to its intersection with the midpoint of the rear lot line. ~~in the mean direction of the side line of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.~~

"Lot width." The width of a lot is the distance between the side lot lines measured along the minimum street setback (yard) line as required for the district in which it is located. ~~front building line between the side lot lines of a lot.~~ This measurement is illustrated for rectangular and non-rectangular lots in the appendix to chapter 157.

"Outline development plan." The documents submitted for planned unit development (PUD) approval are known as an outline development plan (ODP). Outline development plans include a proposed site plan, generally a binding concept plan but under some circumstances a final site development plan. See sections 158.067(B)(1) and 158.180(F).

"Planned unit development (PUD)." A development review and approval process that allows approval of a conceptual site plan, known as a binding concept plan, prior to preparation and submission of a detailed site plan known as a final site development plan. The PUD process also allows landowners to seek departures from certain provisions of this code at the conceptual design stage. The documents submitted for PUD approval are known as an outline development plan. PUD approval does not change a property's zoning district, but most density limits are reduced by section 158.070 and the terms of the outline development plan become binding on the property after PUD approval.

"Planning and zoning board." The Longboat Key Planning and Zoning Board, the legally constituted membership of the Planning and Zoning Board of Longboat Key, Florida, as referenced in this chapter and appointed by the town commission in accordance with chapter 33 of the town's code of ordinances.

"Pre-existing legal use" A use of land listed in section 158.125 that lawfully existed on January 1, 2014. A use that qualifies as a "pre-existing legal use" may also be classified as a nonconforming use, but by virtue of its listing in section 158.125, it shall be afforded the privileges of a permitted use and may be reconstructed up to its pre-existing density in accordance with all applicable current regulations, but only on the specific parcel on which it is located.

"Site plan, final." A detailed site plan that must be approved before building permits can be obtained for land uses listed as "Permitted uses with site plan review" in section 158.145. A final site plan is also known as a site development plan or final site development plan.

"Site development plan." Site development plan has the same meaning as final site plan.

"Variance." A variance is a type of formal modification of ~~departure from~~ the dimensional or numerical requirements of the zoning code ~~where such variance will~~ not ~~be~~ contrary to the public interest ~~and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship~~. A variance is authorized only for height, area, and size of structure or size of yards and open spaces, due to conditions peculiar to the property and not the result of the actions of the applicant, where a literal enforcement of the chapter would result in unnecessary and undue hardship, to the extent that such variance is consistent with the comprehensive plan.

"Waiver." A grant of permission~~, which is authorized under this chapter~~ that authorizes an applicant to deviate from specific standards or provisions of these regulations. Under the following circumstances, waivers may be granted in accordance with the cited code provisions:

(1) For dredging, granted by the town manager or designee (section 152.06).
(2) For daylight plane regulations, granted by the zoning board of adjustment pursuant to sections 158.026 and 158.153.
(3) For supplemental controls on multifamily residential or tourism uses, granted by the town commission (section 158.102(L)).
(4) For parking, granted by the planning and zoning board (section 158.128(O).
(5) For landscaping and screening, granted by the town commission, (section 158.154).
(6) For commercial revitalization, granted by the planning and zoning board or by the planning, zoning and building director (section 158.178).

"Zoning board of adjustment." A board appointed by the town commission; see section 158.026.

SECTION 5. Chapter 158, Section 158.007, *Zoning Map Adopted; Interpretation*, is hereby amended as follows to delete the reference to a prior ordinance that had adopted an earlier official zoning map:

(A) The official zoning map of the town is hereby divided into zones or districts as shown on the official zoning map that ~~which~~, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map shall be identified by the signature of the mayor~~,~~ and attested by the town clerk. ~~, and bearing the seal of the town under the following words:~~ It shall state: "This is to certify that

this is the official zoning map ~~referred to in Ordinance No. 05-13~~ of the Town of Longboat Key, Florida~~.~~" and shall state the date of the certification and bear the seal of the town.

SECTION 6. The legend of the Town of Longboat Key's official zoning map is hereby amended to change the names of the Planned Development (PD), Gulf Planned Development (GPD), and Negotiated Planned Development (NPD) zoning districts to Mixed Use Community - Bay Isles (MUC-1), Mixed Use Community - Islandside (MUC- 2), and Mixed Use Community - Water Club/Promenade (MUC-3), respectively. The Town of Longboat Key's official zoning map and legend is hereby amended as depicted on Exhibit "A" attached hereto.

SECTION 7. Chapter 158, Section 158.008, Establishment of districts, is hereby amended as follows:

158.008 Establishment of zoning districts.

For the purpose of protecting, promoting, and improving the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the community, the town is hereby divided into the following zoning districts, with the stated densities, and intensities as regulated by sections 158.125, 158.145, and other provisions of this Zoning Code.

ZONING DISTRICT TYPE (MAXIMUM ALLOWABLE DENSITY)[1]	
OS	Open Space District (no density ~~0 U./A.~~)
INS	Community Facility Institutional District (no density ~~0 U./A.~~)
R-1IP	Island Preserve Residential District (1 D.U./5A)
R-1SF	Single-Family Low-Density Estate Residential District (1 D.U./A.)
R-2SF	Single-Family Low-Density Residential District (2 D.U./A.)
R-3SF	Single-Family Low-Medium-Density Residential District (3 D.U./A.)
R-4SF	Single-Family Medium-Density Residential District (4 D.U./A.)
R-6SF	Single-Family High-Density Residential District (6 D.U./A.)
R-3MX	Low-Medium-Density Mixed Residential District (3 D.U./A.)
R-4MX	Medium-Density Mixed Residential District (4 D.U./A.)
R-6MX	High-Density Mixed Residential District (6 D.U./A.)
MUC-1	Mixed Use Community - Bay Isles (3.26 D.U./A. overall density)
MUC-2	Mixed Use Community - Islandside (5.05 U./A. overall density)
MUC-3	Mixed Use Community - Promenade/Water Club (11.26 D.U./A. overall density)
OI	Office-Institutional District (no density ~~0 U./A.~~)
C-1	Limited Commercial District (no density ~~0 U./A.~~)
C-2	General Commercial District (no density ~~0 U./A.~~)
C-3	Highway-Oriented Commercial District (no density) ~~(3 tourism U./A.)~~
M-1	Marine Commercial Service District (1 accessory D.U. located on the same lot)

T-3	Low-Medium-Density Tourist Resort Commercial District (3 D.U./A. or 3 T.U./A.)
T-6	High-Density Tourist Resort Commercial District (6 D.U./A. or 6 T.U./A.)

Notes:

[1] Dwelling units per acre D.U./A ~~(du/ac)~~ refers to residential units; tourism units per acre T.U./A. ~~(u/ac)~~ refers to ~~include both~~ tourism units ~~and residential units~~; units per acre (U./A) refers to total allowed residential units and tourism units.

SECTION 8. Chapter 158, Section 158.009, *Description of districts and district policies,* subsection (L) is hereby amended as follows:

(L) Mixed Use Community - Bay Isles (MUC-1), Mixed Use Community - Islandside (MUC-2), and Mixed Use Community - Promenade/Water Club (MUC-3). MUC districts allow ~~Allows~~ a mix of residential and nonresidential uses in planned communities developed through the planned unit development procedures and standards contained in section 158.065 through 158.071. Notwithstanding the terms of any other section of this Zoning Code related to the calculation of density for residential or tourism uses, density in each MUC district cannot exceed the ~~density is calculated on the basis of the average~~ overall density of tourism and dwelling units per acre established by section 158.008 and cannot exceed any further limitations on the overall density that may be established by the town commission for an MUC district during the planned unit development process. When computing overall density in an MUC district, ~~of~~ all property is counted, ~~included in the respective MUC,~~ including recreational areas, open space areas, road rights-of-way, wetland areas and other nonresidential lands. An updated land intensity schedule shall be approved with each amendment to a MUC district. Clustered development patterns are encouraged to maximize shared open spaces, ~~and~~ thus ~~the density of separate~~ a specific parcel or parcels within a given ~~each~~ MUC district may be more dense than ~~exceed~~ the ~~average~~ overall density of the MUC district.

The approval of units on any parcel beyond those units authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

~~Provided the total amount of nonresidential development does not exceed the maximums stated herein, designated nonresidential development may be relocated to other sites within the planned unit development and the types of approved nonresidential uses may be changed to other nonresidential uses.~~ No boundary of any existing MUC district may ~~shall~~ be expanded to include additional land~~s~~. ~~unless contiguous to the boundaries of the MUC as it existed on December 31, 2010~~. ~~Redevelopment may occur up to the maximum densities authorized for each MUC and consistent with the public health, safety and welfare, quality design, expanded recreational and open space amenities, and adequate public infrastructure and services. Within the acreage allocated for nonresidential uses, additional lot coverage and height may be authorized pursuant to section 158.067(D)(3)(i) and (j).~~

The Town shall not use the ODP/PUD process to approve new tourism units in the MUC-2 zoning district without voter approval, unless voter approval is prohibited by applicable Florida law.

A minimum of 50% of the total property within each ~~the~~ MUC district shall be maintained in open space. Acreage for recreational uses is not limited. Any changes to existing land-use patterns require approval through the ODP/PUD process and shall be in accordance with the schedule of uses in section 158.125 and shall meet the approval standards in section 158.067(C). The general mix of uses within the boundaries of each MUC district, as calculated prior to the application of the 50% open space requirement, is allocated as follows:

(1) **Mixed Use Community – Bay Isles (MUC-1).** This district ~~category~~ encompasses the Bay Isles community approved by Resolution 75-27 as it has been and may be amended from time to time. ~~Average~~ Overall density within the boundaries of the MUC-1 district shall not exceed 3.26 dwelling units per acre.

Use	**Maximum Percent of Total Property Within MUC-1**
Residential	37%
Tourism (units and associated resort/tourism uses)	0%
Commercial/Office	4%
Institutional	2.5%

(2) **Mixed Use Community – Islandside (MUC-2).** This district ~~category~~ encompasses the Islandside community approved by Resolution 76-7 as it has been and may be amended from time to time. ~~Average~~ Overall density within the boundaries of the MUC-2 district shall not exceed 5.05 units per acre, including tourism units.

Use	**Maximum Percent of Total Property Within MUC-2**
Residential	33%
Tourism (units and associated resort/tourism uses)	12%
Commercial/Office	1.5%
Institutional	0%

(3) **Mixed Use Community – Promenade/Water Club (MUC-3).** This district ~~category~~ encompasses the Promenade/Water Club communities approved by Resolution 81-8, as it has been and may be amended from time to time. ~~Average~~ Overall density within the boundaries of the MUC-3 district shall not exceed 11.26 dwelling units per acre.

Use	**Maximum Percent of Total Property Within MUC-3**
Residential	100%
Tourism (units and associated resort/tourism uses)	0%
Commercial/Office	0%
Institutional	0%

SECTION 9. Chapter 158, Section 158.065, *Purpose,* is hereby amended and retitled as follows:

Article III. Site and Development Plans

Division 1. Planned Unit Developments (PUD)

158.065 ~~Purpose~~ Overview of planned unit developments (PUD).

(A) ***Optional process.*** Planned unit development (PUD) regulations provide an optional review and approval process for landowners who seek to develop or redevelop parcels in most zoning districts. In the MUC zoning districts, the PUD process establishes development rights on specific parcels, thus the PUD process is the only process that landowners in those zoning districts can use to request changes to the development plans for those parcels. The PUD process allows approval of a conceptual site plan, known as a binding concept plan, prior to preparation and submission of a final site development plan. The PUD process also allows landowners to seek departures from certain provisions of this code at the conceptual design stage. Landowners must conform to the approved binding concept plan when they submit final site development plans in accordance with section 158.067(F).

(B) ***Effect on zoning district.*** The PUD process requires the submission of an outline development plan (ODP), which becomes an integral part of a PUD approval. Planned unit development approval does not change the underlying zoning district, nor does it add permitted uses to those specified for each zoning district in the table accompanying section 158.125, the schedule of use regulations.

(C) ***Where permissible.*** PUD approval may be requested in any zoning district, provided the minimum area requirements in section 158.068 are met for the following zoning districts:

(1) INS;
(2) R-1IP, R-1SF, R-2SF, R-3SF, R-4SF, and R-6SF;
(3) R-3MX, R-4MX, and R-6MX;
(4) MUC-1, MUC-2, and MUC-3;
(5) OI, C-1, C-2, C-3, and M-1; and
(6) T-3 and T-6.

(D) ***Density.*** Planned Unit Developments (PUD) approvals shall comply with the special density provisions found in section 158.070.

(E) ***Intent.*** ~~The purpose of~~ Planned unit developments ~~(PUD) regulations~~ are intended: ~~is~~ to~~:~~ encourage flexibility in the design and development of land ~~in order to promote its most appropriate use~~; ~~to~~ facilitate the adequate and economical provision of streets, utilities, and public spaces; and ~~to~~ preserve the natural and scenic qualities of open areas. The PUD application, review and approval procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, comfort, order, appearance, convenience, morals and general welfare~~, both in the use and occupancy of buildings and facilities in planned groups~~.

(F) ***Site plans.*** A PUD is approved through the adoption of an outline development plan (ODP)~~, which~~. Binding concept plans are required as part of outline development plans, except where this code explicitly allows a final site development plan to replace a binding concept plan (see, for instance, sections 158.067(B)(1) and 158.180(F)). Binding concept

plans become an integral part of ODP and PUD approvals. Binding concept plans (and final site development plans) may be subsequently amended in accordance with the standards and procedures in section 158.067.

SECTION 10. Chapter 158, Section 158.067, Review and approval procedure, is hereby amended as follows:

158.067 Review and approval of planned unit developments ~~procedure~~.

(A) ***Approving authority.*** Planned unit developments are ~~a permitted use with review, and shall be~~ subject to the approval of the town commission after review and recommendation by the planning and zoning board and after public hearings are held by the town commission in accordance with law.

(B) ***Applications.*** In order to provide an expeditious method for processing an outline development plan application for a planned unit development, under the terms of this chapter, it is hereby declared to be in the public interest that all procedures with respect to the review, approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following provisions:

(1) ***Application requirements.*** An application for an outline development plan for a planned unit development, including full payment of an application fee as set forth by resolution of the town commission, shall be filed and signed by or on behalf of the landowner by an authorized agent, with the planning and zoning official. The purpose of the outline development plan is to provide the town with information with respect to the type, character, scale, and intensity of development as well as the time phasing of the proposed planned unit development in order for the town to evaluate the impact of the development to the town. Any application for outline development approval shall be submitted on a form provided by the town and in addition shall include at a minimum the following information, unless the planning and zoning official determines in writing that one or more of the following elements do not apply to the particular application:

(a) A scaled drawing delineating the relationship of the site to existing development in the area, including streets, utilities, residential and commercial development, and important physical features in and adjoining the project, including ecological features.

(b) A scaled drawing delineating the approximate location and dimensions of all boundary lines of the development, and of any contiguous lands, including those separated only by a street, canal or similar feature, in which the developer or property owner presently has any legal interest.

(c) A verified statement, including a certificate of ownership, showing each and every individual person having a legal ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.

(d) A scaled drawing delineating the approximate location, nature and extent of all existing easements, streets, buildings, land uses, zoning, tree groupings, watercourses, uplands, wetlands, and topographic contours (i.e., at six-inch intervals with reference to mean sea level), on the site; the existing zoning and land use for all contiguous property; and flood protection elevation data and flood zones ~~delineated, if applicable~~.

(e) Tabulations by acreage and percentage as to the amount of the site that is uplands and wetlands, indicating those wetlands landward and seaward of the mean high-water line (MHWL)~~. Additional related information shall~~ includeing the extent and type of wetlands in accordance with the town's comprehensive plan.

(f) A scaled drawing delineating the approximate locations, intensity and acreages of general land uses (proposed), including dwelling types and units and general types of nonresidential uses, open spaces, recreational facilities and other proposed uses.

(g) A traffic impact analysis shall be provided, except for voluntary reconstruction without additional dwelling or tourism units, to ensure that the adopted level of service standards are not exceeded before capacity-related improvements are implemented~~.~~; and a scaled drawing delineating a circulation facilities plan indicating approximate locations and types of proposed streets, bicycle paths, pedestrian walks, and emergency vehicle access points, including all curb cuts, driveways, off-street parking and loading areas and off-street ~~vehicular~~ surfaces available for maneuvering vehicles ~~shall be provided~~.

(h) Tabulations of total project acreage and proposed densities for each tourism and dwelling unit type and total number of tourism and dwelling units by type.

(i) Tabulations demonstrating compliance with the floor area ratio provisions of section 158.102(C), including floor area ratios for all land uses and approximate square footage of gross area for all nonresidential buildings by general type (e.g., offices, limited commercial, etc.). ~~Compliance with the floor area ratio provisions of section 158.102(C) shall be demonstrated.~~

(j) A proposed development schedule indicating approximate starting and completion dates for the entire project and any phases thereof, together with appropriate identification and description of such phases.

~~(k) Such additional data, maps, plans or statements as may be required for the particular uses or activity involved.~~

(k) ~~(l)~~ Such additional data~~,~~ and information as the applicant may believe is pertinent to the plan of development ~~plan~~.

(l) ~~(m)~~ Such additional relevant data ~~material~~ and information the town may reasonably require.

(m) ~~(n)~~ A written statement by the landowner or any other entity having a cognizable interest in the land, describing fully the character and intended use of the planned unit development and setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes of a ~~on~~ planned unit development.

(n) ~~(o)~~ A statement specifically indicating any requested departures from article IV of this chapter and section 158.102, and a statement of any existing hardship and/or clear and specific statement of how the code departures are necessary or desirable to accomplish ~~one or more of the stated purposes of the~~ a planned unit development ~~as set forth in section 158.065.~~ under sections 158.065 through 158.071. The statement shall include the applicant's position as to why each requested departure

either meets or has no material adverse effect on each of the departure criteria in section 158.067(D).

(o) A binding concept plan, which is a conceptual site plan that depicts the proposed development and is intended to become an integral part of a planned unit development approval. The binding concept plan shall show the existing and proposed uses and structures, lots, streets, and other physical aspects of the proposed development as enumerated in sections 158.067 and 158.102. At an applicant's discretion, a final site plan may be submitted for approval concurrently with the outline development plan, thus eliminating this requirement for a binding concept plan.

(p) Additional requirements for applications for voluntary reconstruction of nonconformities:

1. ~~shall include~~ A statement specifically indicating modifications and adjustments from the requirements of this Code of Ordinances which would otherwise be applicable to the project if voluntary reconstruction were not granted by the town ~~and~~.
2. A clear and specific statement of any hardship ~~which might~~ that exists making the modifications and adjustments from the Code necessary ~~or~~.
3. A clear and specific statement of how the modifications and adjustments are necessary or desirable to accomplish one or more of the stated purposes of the voluntary reconstruction provisions ~~ordinance as set forth~~ in section 158.140.

(2) ***Application procedures.*** The application for an outline development plan of a planned unit development shall be filed with the planning and zoning official. As an alternative to submitting a binding concept plan, the applicant may concurrently file an application for site plan approval. If filed, the application for site plan approval shall be processed in accordance with article III, division 2, herein. Upon receipt of the application the planning and zoning official shall review the application to determine its appropriateness and completeness and accept or reject it in writing. Upon acceptance of the application, the town's administrative staff shall refer the application, together with all supporting documentation and a staff report, to the Planning and Zoning Board for its review and recommendations. The planning and zoning board and town commission shall not receive, review, make recommendations or act on applications for outline development plan approval except during the town's annual site and development plan season. During the review process, the Town may retain consultants to assist in the review. The cost of retaining the consultants shall be borne by the applicant. For purposes of this chapter, the annual site and development plan season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the required processing times set forth in this section for the planning and zoning board and the town commission, the period of time from July 1 through August 31 shall not be counted in said computation.

(3) ***Planning and zoning board public hearing.*** Upon receipt of the application from the planning and zoning official, the planning and zoning board shall review the outline development plan and make recommendations to the town commission. ~~The planning and zoning board shall~~ that are based ~~its recommendations~~ on competent, substantial evidence of record~~, but shall not be required to make written findings of fact to support its decision~~. The planning and zoning board may also formulate findings of fact as to

the consistency of the application with this code and with the comprehensive plan. The board shall recommend approval of the application as submitted, approval of the application with changes or special conditions, or disapproval of the application. The determination and recommendations of the planning and zoning board shall be advisory only and shall not be binding upon the town commission. For purposes of this section the planning and zoning board shall receive an outline development plan application from the planning and zoning official at the board's next regular meeting where a quorum is present following the planning and zoning official's submittal of the application to the board. The planning and zoning board is specifically authorized to continue its deliberations, reasonably request additional relevant materials, and elicit expert testimony to aid in its deliberations.

~~(C)~~ (4) ***Town commission public hearing.*** A public hearing on the planned unit development application shall be held by the town commission upon the commission's receipt of the application from the planning and zoning board, public notice of which shall be given in accordance with the provisions of the Charter and this chapter. For purposes of this section, the town commission shall receive an outline development plan application from the planning and zoning board at the commission's next regular meeting where a quorum is present, following the submittal of the board's action on the application to the commission. A transcript of the hearing may be caused to be made by the town commission at the cost of the applicant, copies of which shall be made available at cost to any party to the proceedings; and 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. ~~During the review process, the Town may retain consultants to assist in the review of an outline development plan. The cost of retaining the consultants shall be borne by the applicant.~~ The town commission is specifically authorized to continue its deliberations, request additional materials and elicit expert testimony to aid in its deliberations, and may, at its sole discretion, remand the application to the planning and zoning board for additional hearing and consideration. If changes are made to the application, accompanying plans or conditions of approval after review by the planning and zoning board, the commission may, at its sole discretion, remand the application back to the board, but is not required to do so.

~~(D)~~ (5) ***Town commission decision procedures.*** ~~The town commission shall, following~~ At the conclusion of the public hearing, the town commission shall review the outline development plan application and either approve it as submitted, approve it with changes or special conditions, or disapprove it. The action taken by the Town Commission shall be by ordinance. The Town Commission may unilaterally extend the time for final action where the commission determines additional time is necessary to properly and completely review the outline development plan application.

(a) ~~(1)~~ In the event approval is granted, the Town Commission shall, as part of its ordinance, specify the drawings, plan sheets, renderings, specifications, and form of performance and maintenance bonds that shall be considered part of the final approval.

(b) ~~(2)~~ In the event approval is granted subject to changes or special conditions, the applicant shall, within 30 calendar days after receiving a copy of the ordinance of the town commission, notify the town commission in writing of the applicant's acceptance or refusal of all the conditions. In the event the applicant refuses to accept all the conditions or fails to reply within 30 calendar days, the applicant shall be deemed to have withdrawn the plan. Nothing contained herein shall prevent the town commission and the applicant from mutually agreeing to a change

in the conditions, or an extension of the time during which the applicant shall notify the town commission of acceptance or refusal of the conditions.

(c) In the event an outline development plan is granted approval, the town commission shall set forth in the ordinance the time within which an application for final site plan approval, or applications in the case of a phased development, shall be filed. However, if a final site plan was approved concurrently with the outline development plan, the ordinance does not need to specify a time period.

~~(3)~~ (C) ***Standards for approval or disapproval of application.*** The town commission shall base its decision on each outline development plan application on competent, substantial evidence of record~~, but shall not be required to make~~ and shall include conclusions but may also include written findings of fact related to the specific proposal and shall set forth the reasons for the grant of ~~to support~~ approval, with or without changes or special conditions, or for the disapproval of an outline development plan application. The commission's approval, approval with changes ~~conditions~~ or special conditions, or disapproval of an outline development plan application, shall be based on the application, evidence and testimony presented in the public hearing, and the following standards:

(1) ~~(a)~~ In what respects the outline development plan is or is not consistent with the ~~statement of objectives of the~~ intent of a planned unit development as provided in section 158.065. ~~and~~

(2) Whether the plan is consistent with the town's comprehensive plan.

(3) ~~(b)~~ The extent to which the plan meets the ~~departs from~~ zoning and subdivision regulations otherwise applicable to the subject property without departures, waivers, or variances.

(4) ~~(c)~~ The purpose, location and amount of common open space in the plan~~ned unit development~~, the ~~reliability~~ adequacy or inadequacy 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 development.

(5) ~~(d)~~ The physical design of the plan and the manner in which the design makes adequate provision for public services, provides adequate control over vehicular traffic and parking, and enhances ~~furthers~~ the amenities of light and air, recreation and visual enjoyment.

(6) ~~(e)~~ The relationship, beneficial or adverse, of the proposed plan~~ned unit development~~ to the neighborhood in which it is proposed to be established.

(7) ~~(f)~~ In the case of a plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect ~~the interest of~~ the public interest and of the residents and owners of the planned unit development in the faithful completion ~~integrity~~ of the plan.

(8) *[moved from 158.067(D)(3)(h)]* The extent to which the plan provides for an effective and unified ~~treatment of the~~ development ~~possibilities~~ on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.

(9) For the MUC-1 and MUC-2 zoning districts only, whether the plan's assignment and placement of the permitted uses listed in section 158.125 either matches the historic land-use pattern in that district or is a evolution in harmony with that pattern, versus being an intrusive or incompatible change in

pattern. The plan's assignment of uses shall be consistent with the principles and percentages set forth in section 158.009(L).

(10) The additional criteria listed below apply to requests for buildings taller than four stories in the MUC-2 zoning district:

(a) Yard sizes (building setbacks) are greater than required by section 158.145; and

(b) The taller buildings are consistent with the intent of the district and compatible with similar existing uses within the overall district.

(D) ***Standards for approval or disapproval of departures.*** ~~(g)~~ Planned unit development applications may be accompanied by requests for ~~The~~ departures from specific ~~the~~ standards of article IV of this chapter and from the standards of section 158.102 ~~which would otherwise be applicable to the planned unit development if the plan were not approved~~, whether the application for final site plan approval is concurrently filed or not. However, departures may not be granted to add uses that are not listed in the schedule of uses in section 158.125 for the zoning district underlying the planned unit development. Before approving a departure, the town commission ~~must~~ shall determine by competent, substantial evidence of record that each departure is consistent with the Longboat Key comprehensive plan and shall decide whether each ~~that the requested~~ departures either meets or has~~ve~~ no material adverse effect on the following criteria, except where clearly inapplicable to the requested departure: ~~as deemed applicable to the request by the town commission:~~

(1) ~~i.~~ The departure is no less consistent with the health, safety, and welfare of abutting landowners and the general public than the standard from which the departure is being requested, and the departure ~~Promote the most appropriate use of the land upon which the project is to be located,~~ adequately protects~~ting~~ against adverse impacts to adjacent parcels and the surrounding area.

(2) ~~ii.~~ The departure preserves or enhances ~~the~~ natural or ~~and~~ scenic qualities ~~of open areas~~ or preserves a larger percentage of open space than required by the Zoning Code or preserves higher quality natural areas or more attractive and useful public spaces.

(3) ~~iii.~~ The departure facilitates desirable infrastructure, storm water retention, or parking facilities ~~and public spaces~~.

(4) ~~iv.~~ The departure reduces traffic impacts or improves traffic circulation.

(5) ~~v.~~ The departure enhances the project's character and compatibility within the development and with adjacent developments.

(6) ~~vi.~~ The departure allows the project to add or improve on-site amenities and recreational opportunities serving the development and the community.

(7) ~~vii.~~ The departure helps ~~allow~~ the project ~~to~~ promote walkability, offers multimodal transportation options, improves access to existing commercial or other amenities, or improves ~~proximity or~~ connections to beach or bay accesses.

~~viii. The criteria listed below shall apply to applicants requesting building height departures:~~

~~(a) The building setbacks as set forth in section 158.145 are greater than that which is required by the Zoning Code.~~

~~(b) There is adequate distance from other structures on the site and adjacent properties.~~

~~(c) There is adequate distance from rights-of-way.~~

~~(d) The requested additional height is appropriate in relation to the height of on- and off-site structures.~~

~~(h) The extent to which the plan provides for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.~~

(E) ***Modified standards for planned unit developments.*** Lot coverage and building standards in article IV of this code are modified for planned unit developments as follows:

(1) ~~(i)~~ If the plan is for land within the T-3, T-6, MUC-1, MUC-2, INS, OI, C-1, C-2, C-3, or M-1 district, lot coverage may exceed the standard lot coverage provided by section 158.145 by up to 10% to encourage flexibility in design and development without the requirement for a departure pursuant to subsection (D) above. The density/intensity table in the comprehensive plan authorizes these increases for PUDs only. The increases are reflected in the table accompanying section 158.145 of this code; further increases are not allowed by the comprehensive plan. ~~(g) above when three or more of the following conditions are met and public health, safety, comfort, order, appearance, convenience, and general welfare is preserved:~~

~~i. It promotes the most appropriate use of the land;~~

~~ii. It facilitates the adequate and economical provision of infrastructure and public spaces;~~

~~iii. It preserves or enhances the natural and scenic qualities of open areas; and~~

~~iv. It improves site qualities.~~

(2) ~~(j)~~ If the plan is for property within the T-3, T-6, or MUC-1 district, building height may exceed the standard height provided by section 158.145 by one story at a maximum of 15 feet., ~~and in~~ If the plan is for property within the MUC-2 district, the height for buildings with tourism units may be a maximum of 12 stories at a maximum of 130 feet, and the height of other uses may be a maximum of eight stories at a maximum of 87 feet, provided the standards in section 158.067(C) are met. The density/intensity table in the comprehensive plan authorizes these increases for PUDs only. The increases are reflected in the table accompanying section 158.145 of this code; increases beyond those heights are not allowed by the comprehensive plan. ~~to encourage flexibility in design and development without the requirement for a departure pursuant to subsection (g) above, when two or more of the following conditions are met and public health, safety, comfort, order, appearance, convenience, and general welfare is preserved:~~

~~i. It promotes the most appropriate use of the land;~~

~~ii. It facilitates the adequate and economical provision of infrastructure and public spaces;~~

~~iii. It preserves or enhances the natural and scenic qualities of open areas; and~~

~~iv. It improves site qualities.~~

~~(4) In the event an outline development plan is granted approval, the town commission shall set forth in the ordinance the time within which an application for final site plan approval, or applications in the case of a phased development, shall be filed.~~

(F) ***Actions after decision.*** ~~(E)~~ Within seven days after the adoption of the ordinance provided for in subsection (D) above, it shall be certified by the town clerk and shall be filed in his office, and a certified copy shall be mailed to the applicant. ~~Where approval of an outline development plan has been granted, the same shall be noted on the zoning map maintained in the office of the town clerk.~~ An outline development plan upon approval and acceptance, as provided herein, is defined as running with the land; however, an applicant may apply for a revision to the outline development plan in accordance with the procedures for an original submission, review and approval. Approval of an outline development plan shall not qualify a plat of the planned unit development for recording purposes or authorize development or the issuance of any building permits. Upon approval and acceptance, if applicable, the town clerk shall file with the clerk of the court the outline development plan to record it ~~for recordation~~ in the official records of the county in which the property is located.

(G) ***Final site plan required.*** ~~(F)~~ An application for final site plan approval may be for all the land included in an outline development plan, or to the extent set forth in the outline development plan approval, for a section thereof.

(1) The final site plan application shall include any drawings, plan sheets, renderings, specifications, covenants, easements, conditions, and form of performance and maintenance bonds as were set forth by the town commission in the ordinance approving the outline development plan and required by subsection 157.31(B).

(2) The submission, review and approval of an application for final site plan approval shall be subject to the procedures and provisions of a site plan review as set forth within sections 158.095 through 158.103.

(3) Planned unit development applications may include a request for final site plan approval at the same time as outline development plan approval; see section 158.067(B)(1).

(4) ~~(G)~~ An application for approval of a final site plan for a portion of or all of an outline development plan shall be in compliance with the approved outline development plan with respect to open space and lot, yard and bulk regulations.

(5) If the final site plan is not in compliance, the applicant shall revise the final site plan, apply for a Site Plan Exemption, or amend the outline development plan through the outline development process provided herein, in order to achieve compliance.

~~(H) An outline development plan or any part thereof that has been given final approval by the town commission shall be so certified without delay by the town clerk and a record plan may be filed on record forthwith in the office of the appropriate county clerk in accordance with the state plat law or other applicable state statutes and chapter 157 before any development whatsoever shall take place in accordance therewith.~~

(H) ***Length of approval.*** ~~Pending completion within five years of the planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the outline development plan, or part thereof, as finally approved, shall be made, nor shall it be impaired by act of the town except with the consent of the applicant or successors.~~

(1) Notwithstanding the 24-month period specified in Section 158.099(F), final site development plan approval for a planned unit development runs with the land for a period not to exceed four calendar years from the date of the ordinance adopting the final site development plan.

(2) For planned unit developments in the MUC-1 and MUC-2 zoning districts, this period shall be increased to ten calendar years provided the developer meets at least two of the following criteria:

(i) commenced site preparation work and maintained substantial progress during the initial four-year period affecting 33% or more of the acreage of the PUD development parcel, or if the PUD approval includes phases, affecting 66% of the acreage of the initial phase;

(ii) commenced site preparation work and completed at least one critical element of the required infrastructure to serve the PUD development parcel;

(iii) commenced site preparation work and constructed at least one principal building (not including a temporary building) within the PUD development parcel; or

(iv) paid all impact fees for development authorized by the site development plan.

(3) The Town reserves the right to change or reformat the provisions of this code and adopted PUD ordinances or resolutions; such changes will not alter any rights granted by unexpired site development plan approvals.

(I) ***Conformance with subdivision regulations.*** ~~The planned unit development shall conform with chapter 157 and all applicable ordinances in respect to the design, construction and guarantee of completion and maintenance of all required physical improvements, including but not limited to, streets, drainage, water supply and sewage collection.~~ The design, construction, and guarantee of completion and maintenance of all physical improvements—including, but not limited to, streets, drainage, potable water, and sewage collection required by a PUD—shall conform with chapter 157 of this code and all other applicable ordinances.

SECTION 11. Chapter 158, Section 158.068, *Minimum area,* is hereby amended as follows:

158.068 Minimum area.

A planned unit development shall include not less than two ~~ten~~ acres of contiguous land in any residential zoning district, and not less than one-half acre ~~two acres~~ for all other zoning districts. In the case of voluntary reconstruction in accordance with section 158.140, the existing development site area is ~~acreage shall be~~ acceptable.

SECTION 12. Chapter 158, Section 158.070, *Residential density,* is hereby amended as follows:

158.070 Tourism and residential density.

(A) Planned unit developments shall have densities no greater than that permitted for a PUD within the zoning district in which it is located as shown below:

Districts	Maximum PUD Density[1]
R-1IP	0.75 dwelling unit/5 acres
R-1SF	0.75 dwelling unit/acre

R-2SF	1.50 dwelling units/acre
R-3SF	2.25 dwelling units/acre
R-4SF	3.00 dwelling units/acre
R-6SF	4.50 dwelling units/acre
R-3MX	2.25 dwelling units/acre
R-4MX	3.00 dwelling units/acre
R-6MX	4.50 dwelling units/acre
MUC-1	3.26 dwelling units/acre overall density
MUC-2	5.05 ~~tourism and dwelling~~ units/acre overall density
MUC-3	11.26 dwelling units/acre overall density
T-3	2.25 tourism ~~and~~ or dwelling units/acre
T-6	4.50 tourism ~~and~~ or dwelling units/acre

Notes:
[1] Dwelling units per acre refers to residential units; tourism units per acre refers to tourism units; units per acre refers to total allowed residential units and tourism units.

(B) In any event a planned unit development shall be consistent with the comprehensive plan for the town and the zoning district in which it is located in respect to design compatibility, use and height regulations.

SECTION 13. Chapter 158, Section 158.071, *Proposed land uses,* is hereby amended as follows:

158.071 Proposed land uses.

(A)
(1) Proposed land uses shall not adversely affect surrounding development and shall be consistent with the town's comprehensive plan.
(2) Recreational uses, as defined in section 158.006, shall not be included in the computation of permitted nonresidential areas of a planned unit development.

(B) In cases where land proposed for a planned unit development is zoned for both residential and nonresidential uses, a mix of residential and nonresidential land uses may be approved by the town commission through the outline development plan review process in order to achieve the purposes of the planned unit development as set forth herein.

(C) In cases where land is proposed for planned unit development and where the existing zoning district(s) comprising the entire land area of the planned unit development is nonresidential, a nonresidential planned unit development may be approved by the town commission through the outline development plan review process in order to achieve the purposes of the planned unit development as set forth herein.

(D) Once development rights, whether residential or nonresidential, have been assigned to a parcel within a planned unit development, any subsequent request for new or

additional residential or tourism density shall be considered a transfer of density under the governing resolutions and ordinances of the planned unit development which shall require amendment of the outline development plan for the planned unit development in accordance with the procedures of section 158.067. In no event shall the ~~average~~ overall density of a planned unit development exceed the maximum ~~average~~ overall density set forth in this Code or the comprehensive plan for the planned unit development.

SECTION 14. Chapter 158, Section 158.097, *Application for site plan approval,* is hereby amended as follows:

158.097 Application for site plan approval.

(U) A list of all waivers ~~departures~~ from the supplemental controls set forth in subsection 158.102(L) and a clear description of the nature and extent of the requested waiver ~~departure~~ and a statement specifically indicating the factual basis for any hardship claimed by the applicant and/or a statement of the facts constituting the basis for a request for a waiver of the supplemental controls as set forth in subsection 158.102(L).

SECTION 15. Chapter 158, Section 158.102(C), *Maximum floor area ratio*, is hereby amended as follows:

(C) *Maximum floor area ratio.*

(1) The total square footage of floor area permitted in any zone shall be determined as a ratio to the total square footage of the gross land area of the site.
   (a) When computing gross land area for this ratio in the MUC-1 and MUC-2 zoning districts, the gross land area includes land under common ownership even if separated by an intervening privately owned street.
   (b) The ratio in residential or tourism facilities shall be determined from the table shown in subsection (C)(2) below, and shall be based on the maximum gross residential density (see section 158.006) of the site.
   (c) The floor area shall be the sum of areas for residential and tourism use on all floors of the building measured from the outside faces of the exterior walls, including halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, and below-grade floor areas used for habitation and residential access, excluding parking garages.
   (d) Commercial space and nonresidential space such as open terraces, garages, common use areas and nonhabitable basement spaces are noncountable.

(2) For the purpose of the table below, the following definitions shall apply:

"Living space ratio". The minimum square footage of nonvehicular outdoor space required for each square foot of floor area. When computing this ratio in the MUC-1 and MUC-2 districts, nonvehicular outdoor space includes gross land area under common ownership even if separated by an intervening privately owned street.

"Open space ratio". A minimum square footage of lot area not covered by buildings (excluding parking structures) required for each square foot of floor area. When computing this ratio in the MUC-1 and MUC-2 districts, open space includes gross land area under common ownership even if separated by an intervening privately owned street.

"Recreation space ratio". The minimum square footage of active recreation space required for each square foot of floor area. Active recreation space shall be measured as the area contained within the limits of physical recreation facilities such as swimming pools and decks, tennis courts, shuffleboard courts and the like.

Land Use Intensity Table						
Units Per Acre	**4**	**5**	**6**	**8**	**11**	**14/NPD**
Floor area ratio	0.22	0.27	0.32	0.44	0.59	0.76
Open space ratio	3.2	2.7	2.2	1.6	1.2	1.2
Living space ratio	2.2	1.7	1.5	0.90	0.65	0.65
Recreation space ratio	0.17	0.16	0.15	0.13	0.11	0.11

SECTION 16. Chapter 158, Section 158.102(L), *Supplemental controls for multifamily residential or tourism uses,* is hereby amended as follows:

(L) *Supplemental controls for multifamily residential or tourism uses.* In reviewing the proposed site plan for ten or more multifamily or tourism units, the town shall be guided by the following controls. The supplemental control relating to the maximum length of buildings, as provided for in subsection (3) of this section, shall be taken as a mandatory requirement which cannot be waived by the town commission. The remaining controls in this section shall be taken as mandatory requirements, except that the town commission may waive one or more of these requirements where it determines a hardship exists Notwithstanding any provision of this section to the contrary, for properties located in a planned unit development, the town commission may consider and grant a departure, under the standards for a requested departure as outlined in subsection ~~158.067(D)(3)(g)~~ 158.067(D), for one or more of the supplemental controls of this subsection 158.102(L), including subsection (3) for the maximum length of buildings.

In any development order approving a site plan, the town commission shall make specific findings of facts constituting a hardship, if a hardship is found to exist, and shall make specific findings of any facts constituting the basis for a waiver of these supplemental controls.

The provisions of section 158.029 shall apply in determining whether a waiver shall be granted upon a finding that a hardship exists, except that the town commission, rather than the zoning board of adjustment, shall determine whether a hardship exists or not. The facts forming the basis for the grant of a waiver under the provisions of this section shall be specifically set forth in the development order.

(1) *Minimum street yards (front setbacks).*

(a) The distance measured perpendicularly from any front lot line to the nearest surface of a building shall not be less than twice the height of the building, which height shall be measured from the lowest visible elevation under the building to the highest part of the building.

(b) Development lots in certain locations within the MUC-2 zoning district shall observe the following street yard (front setback) standards in lieu of the general standard above:

i. All buildings must be set back at least 100 feet from Gulf of Mexico Drive, except that a covered entrance portico that is attached to a building can be as close as 50 feet to Gulf of Mexico Drive.

ii. Development lots that are separated by a private street from an adjacent lot that is permanently restricted as open space or golf course shall have the minimum street yard (front setback) measured as follows:

i. Buildings must be set back from the private street at least a distance equal to their height, but never more than 100 feet.

ii. If the front of a building has two or more vertical planes, the setback distances apply to each plane. For example, a building with a two-story podium and six stories above the podium must have its podium set back at least a distance equal to the podium's height and the remainder of the building must be set back at least a distance equal to the height of all eight stories, but never more than 100 feet.

iii. These private street setbacks shall be measured to the edge of the street's pavement.

(2) *Distance between buildings.* No building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings (measured from the lowest visible elevation under each building), nor shall any structure be located closer to a site lot line than a distance equal to 70 percent of the building height (measured from the lowest visible elevation under the building). In addition, the front or rear of any building may be no closer to the front or rear of any other building than 40 feet. The side of any building should be no closer to the side, front or rear of any other building than 30 feet.

As to subsections (L) (1) and (2), "visible elevation" shall not include elevator shafts, stairwells and other mechanical equipment areas, so long as such areas do not exceed ten percent of the area under the building.

(3) *Maximum length.* No portion of any individual building shall extend beyond a line drawn from the front lot line 30 degrees either side of a line through the building and perpendicular to the front lot line.

(4) *Distance between buildings and driveways.* No driveway or parking lot should be closer than 25 feet to the front of any building or ten feet to the side or rear of any building except where parking under or within the building is proposed or in the case of a front entrance to a building.

SECTION 17. Chapter 158, Section 158.125, *Schedule of use regulations,* is hereby amended for the MUC-1, MUC-2, MUC-3, C-3, T-3, and T-6 zoning districts as shown in Exhibit "B" attached herein, in addition to the deletion of the phrase "Planned unit

development overlays (see sections 158.065 through 158.071)" from the column titled "PERMITTED USES WITH SITE PLAN REVIEW" for the following zoning districts:

R-1IP, R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX, and R-6MX.

SECTION 18. Chapter 158, Section 158.128(K), *Utilization of parking structures*, is hereby amended as follows:

(K) *Utilization of parking structures.* When off-street parking facilities are located within a separate parking structure or are integrated into another building, the following conditions and restrictions shall apply:

(1) The parking structure shall conform to all lot, yard and bulk requirements of the district in which it is located;
(2) The parking facilities shall be designed to conform to all other provisions of this chapter and all other ordinances of the town;
~~(3) All nonstructural portions of the exterior elevations, except for vehicular ingress and egress areas, shall be screened by a four-foot-high wall of at least 60 percent solidity that covers the entire length of the structure areas between deck levels;~~
~~(4) When parking facilities are located on the roof of a parking structure, a four-foot sight block shall be provided in accordance with subsection (K) (3) above. The definition for height of building in section 158.006 shall be applied;~~
~~(5) Carports shall be computed in the total percentage of lot coverage.~~
(3) Parking facilities that are visible from a street or public waterway or that are enclosed by a solid wall without openings must contain architectural features such as windows, decorative grillwork, planter boxes, mosaics, vertical trellises, sculptures, or similar decorative treatments that together cover 90% of each visible facade. Other screening methods including berms, trees, hedges, and vines may be used to accomplish the same result.

SECTION 19. Chapter 158, Section 158.132, *Tourism uses,* is hereby amended as follows:

158.132 Tourism uses.

(A) ***Purpose.*** The purpose of this section is to:
(1) Preserve and enhance the residential character of the Town of Longboat Key;
(2) Preserve and protect the character and viability of the commercial districts of the Town of Longboat Key;
(3) Promote the public health, safety and general welfare of the Town of Longboat Key;
(4) Expressly prohibit tourism use of property for remuneration~~,~~ except where the property is: ~~not~~
(a) located within the T-3 or T-6 zoning districts;
(b) explicitly approved by the Town Commission for tourism uses in the MUC-2 zoning district; or ~~of the Town of Longboat Key; and~~

(c) approved for additional tourism units pursuant to section 158.180(B).

(5) Prohibit unauthorized time-share uses in any district of the Town of Longboat Key.

~~(B) Tourism use of property for remuneration is allowed within T-3 and T-6 zoning districts or as may be permitted in a planned unit development within the Town of Longboat Key.~~

~~(C) Except as provided in subsection (B) above, tourism use of property for remuneration is prohibited in all other zoning districts of the Town of Longboat Key.~~

(B) ~~(D)~~ Tourism uses that ~~which~~ were legally conforming as of October 6, 1982, but were rendered legal nonconforming uses by virtue of Ordinance No. 82-10, shall maintain their legal nonconforming use status provided that the use has not been abandoned or terminated as provided in this Code.

(C) ~~(E)~~ Any use of facilities and accommodations located within the Town of Longboat Key that ~~which~~ constitutes a time-share plan or multi-site time-share plan regulated by F.S. ch. 721, ~~must~~ shall be qualified under and comply with all requirements of that chapter and all other requirements of this Code.

(D) ~~(F)~~ ***~~Penalties for~~ Violations.***

(1) Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who arranges or negotiates for the use of property in violation of the provisions of this section is guilty of an infraction for each date for which such property is used or allowed to be used in violation of this section.

(2) Any person who uses or allows the use of property in violation of the provisions of this section is guilty of an infraction for each day for which such property is used or allowed to be used in violation of this section.

(3) The remedies and penalties provided in this section are cumulative and not exclusive.

SECTION 20. Chapter 158, Section 158.138, *Status of nonconformities,* is hereby amended to add Subsection (B)(9) as follows:

158.138 Status of nonconformities.

(B) The following policies ~~shall~~ determine the management of nonconformities:

(9) *Pre-existing legal uses.* Certain uses of land that cannot be added under current regulations are legal because they lawfully existed on January 1, 2014, and are authorized as "pre-existing legal uses" on the schedule of uses in section 158.125. "Pre-existing legal uses" uses may also be classified as nonconforming uses, but by virtue of their listing in section 158.125 shall be afforded the privileges of permitted uses and may be reconstructed up to their pre-existing density in accordance with all applicable current regulations, but only on the specific parcels on which they are located. The abandonment and

termination provisions in subsection (B)(8) do not apply to uses that qualify as "pre-existing legal uses."

SECTION 21. Chapter 158, Section 158.145, *Schedule of lot, yard and bulk regulations,* is hereby amended for the MUC-1, MUC-2, MUC-3, T-3, and T-6 zoning districts as follows and as shown in Exhibit "C" attached herein.

158.145 Schedule of lot, yard and bulk regulations.

The restrictions and controls intended to regulate development in each zoning district are set forth in the schedule below and in the schedule in section 158.125, which are supplemented by other sections of this chapter.

(A) Where there is more than a single building on a single lot, but fewer than ten dwelling units, the minimum distance between buildings must ~~shall~~ be equal to the combined (both) side yards requirement for that zoning district and use.

(B) Any building that lawfully existed on January 1, 2014, in the MUC-1, MUC-2, and MUC-3 zoning districts shall not be deemed nonconforming as a result of the lot, yard, and bulk regulations that were adopted for these districts in 2014. Any such building may be reconstructed in its current configuration in accordance with all other applicable current regulations, but only on the specific parcel on which it is located.

(C) Calculations of lot coverages shall be verified by a licensed design professional.

SECTION 22. Chapter 158, Section 158.145, *Schedule of lot, yard and bulk regulations* is hereby amended as shown in Exhibit "C" attached herein.

SECTION 23. Chapter 158, Sections 158.147(A) and (B), *Lot dimensions; reduction prohibited*, is hereby amended as follows:

158.147 Lot dimensions; reduction prohibited.

(A) The minimum lot width of any lot ~~shall be~~ is measured between the side lot lines along the minimum street ~~building~~ setback (yard) line as required for the district in which it is located. This measurement is illustrated for rectangular and non-rectangular lots in the appendix to chapter 157.

(B) The minimum lot depth of any lot ~~shall be~~ is measured by a straight line from the midpoint of the front lot line ~~and~~ to its intersection with the midpoint of the rear lot line.

SECTION 24. Chapter 158, Section 158.149, *Maximum coverage by buildings,* is hereby amended to conform with Section 158.006 as follows:

158.149 Maximum coverage by buildings.

Land or lot coverage by principal and accessory buildings ~~or structures~~ on each lot, excluding roof overhangs not to exceed three feet, shall not be greater than is permitted in the district, as set forth in section 158.145, where the principal and accessory buildings are located. The calculation of land (lot) coverage shall be verified by a licensed design professional.

SECTION 25. Chapter 158, Sections 158.150(D), *Required waterfront yard requirements*, is hereby amended as follows:

158.150 Yard Regulations.

(D) ***Required waterfront yard requirements.***

(1) **Required gulf waterfront yard.** Every lot which abuts the Gulf of Mexico or an established erosion control line shall have, on the gulfside, a required gulf waterfront yard. The required gulf waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the yard from which the depth shall be measured shall be the mean high-water line; except that, where an erosion control line has been established, the depth shall be measured from that line.

(b) No structures, buildings, swimming pools (except as proved in section 158.127), drives, vehicular parking, walls and fences may be built within the required gulfside waterfront yard except for beach shelters, beach access parking on land owned or controlled by the public, pool fences and windwalls, as defined in section 158.006, and dune walkover structures, sand fences, accessory decks or marine structures as authorized in chapter 151.

(2) **Required pass waterfront yard.** Every lot which abuts New Pass or Longboat Pass shall have, on the pass side, a required pass waterfront yard. The required pass waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the required yard from which the depth shall be measured shall be the mean high-water line, except that, where an erosion control line has been established, the depth shall be measured from that line. The landward edge of the required yard shall be determined in the same manner as the required gulf waterfront yard, in accordance with subsection (D) of this section [subsection (1)(d) of this subsection (D)]. No structures, buildings, swimming pools (except as provided in section 158.127), drives, vehicular parking, walls, and fences may be built within the required pass waterfront yard except for beach shelters as defined in section 158.006, beach access parking on land owned or controlled by the public, dune walkover structures, accessory decks, outdoor dining areas as defined in section 158.006 and in compliance with section 158.136, a dock access ramp or stairs, a ladder or other device pursuant to subsection 158.151(F)(2), or marine structures as authorized in chapter 151. Subject to site plan review, the required pass waterfront yard may be used for other purposes if it lies within an M-1 district. No variance shall be granted from these requirements; however, a variance for a single-family dwelling may be permitted by the board of adjustment where the setback requirement cannot be applied, but can never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward.

SECTION 26. Chapter 158, Section 158.180(B), *Distribution of 250 tourism units*, is hereby amended as follows:

158.180 Distribution of 250 tourism units.

(B) *Eligible properties.* The following properties are eligible to apply for additional tourism units based upon applicable conditions as described under this section:

(1) T-3 and T-6 zoned properties may be eligible for additional tourism units. Two or more contiguous T-3 or T-6 properties may be merged to create one larger development lot.

(2) Residentially zoned properties with an existing legal tourism use may be eligible for additional tourism units. Two or more contiguous nonconforming tourism used properties may be merged to create one larger development lot.

(3) OI, C-1, C-2, C-3, and M-1 zoned property with a conforming principal use may be eligible for additional tourism units.

(a) For commercial and office zoned property, the tourism use shall not exceed that allowed for an accessory use, as defined.

(b) For M-1 zoned property, a marina shall ~~must~~ be its principal use, and no more than 33 percent of the buildable land area shall be allowed for total floor area of the tourism use. The total allowable floor area shall include the square footage of common use areas and open terraces, but not garages and nonhabitable basement spaces.

(4) Additional tourism units under this section are not permitted in OS-A, OS-P, OS-C, MUC-1, ~~MUC-2~~, and MUC-3 zoning districts.

(5) Additional tourism units in the MUC-2 zoning districts are governed by the provisions of section 158.009(L).

(6) ~~(5)~~ Properties with existing PUD overlays may be eligible for additional tourism units based upon the underlying zoning district. All property owners within the PUD overlay shall ~~must~~ join in an ODP amendment application in order for the application to be processed by the town.

SECTION 27. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 28. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 29. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading and public hearing the _____ day of _____, 2014.

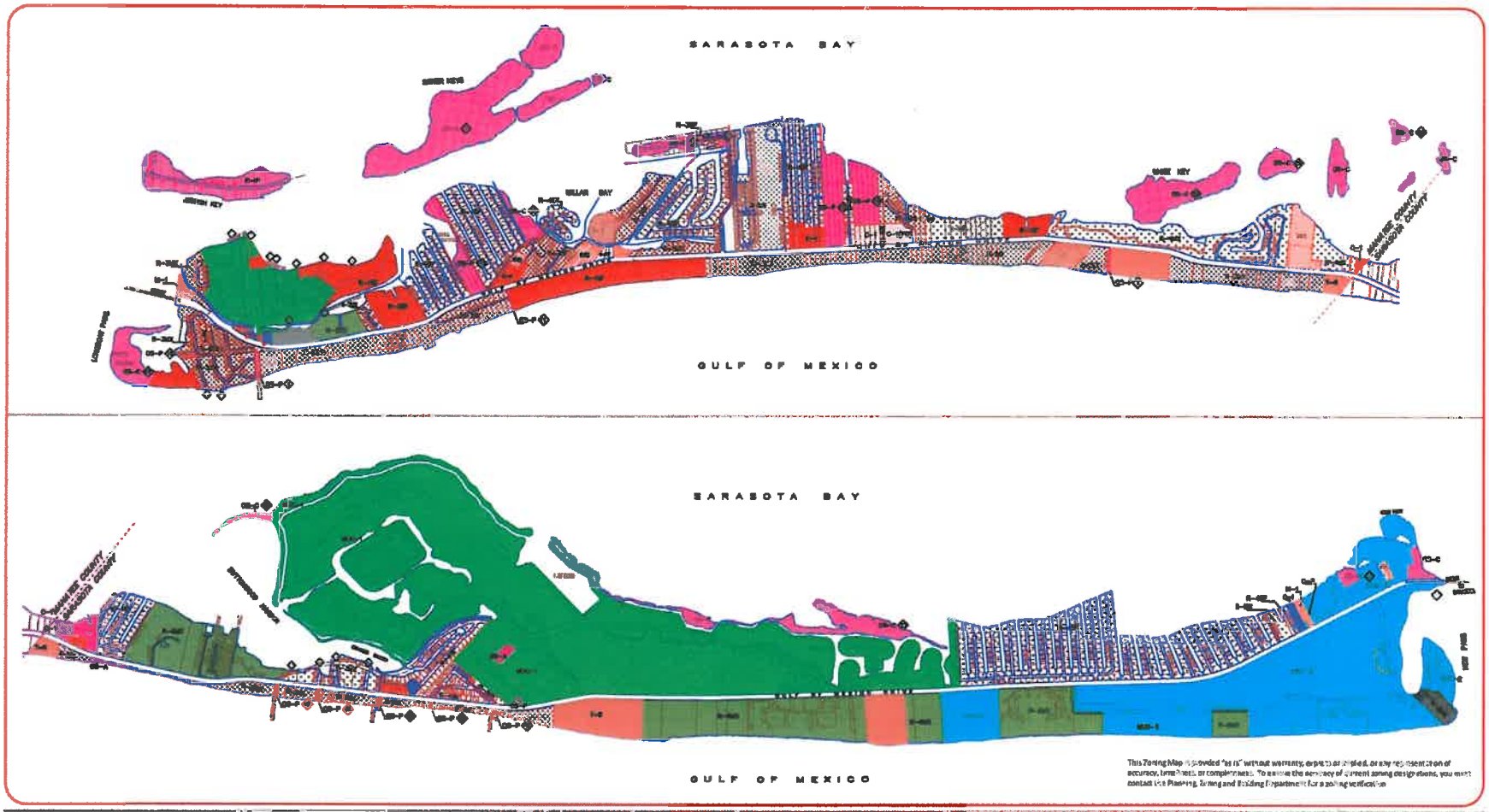
Adopted on the second reading and public hearing the _____ day of _____, 2014.

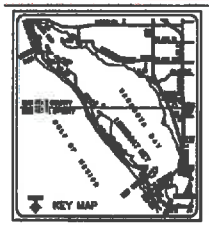
ATTEST: _____
James L. Brown, Mayor

_____
Trish Granger, Town Clerk

EXHIBITS: Exhibit "A" – Revised Official Zoning Map
Exhibit "B" – Amendments to the table accompanying Section 158.125 *Schedule of use regulations*
Exhibit "C" – Amendments to the table accompanying Section 158.145 *Schedule of lot, yard and bulk regulations*

Exhibit "A"
Revised Official Zoning Map





ZONING LEGEND

OS–A	OPEN SPACE – ACTIVE	MUC–1	MIXED USE COMMUNITY–BAY ISLES
OS–P	OPEN SPACE – PASSIVE	MUC–2	MIXED USE COMMUNITY–ISLANDSIDE
OS–C	OPEN SPACE – CONSERVATION	MUC–3	MIXED USE COMMUNITY – PROMENADE/WATER CLUB
R–P	ISLAND PRESERVE RESIDENTIAL DISTRICT	O–I	OFFICE INSTITUTIONAL DISTRICT
R–1SF	SINGLE–FAMILY LOW DENSITY ESTATE RESIDENTIAL DISTRICT	C–1	LIMITED COMMERCIAL DISTRICT
R–2SF	SINGLE–FAMILY LOW DENSITY RESIDENTIAL DISTRICT	C–2	GENERAL COMMERCIAL DISTRICT
R–3SF	SINGLE–FAMILY LOW–MEDIUM DENSITY RESIDENTIAL DISTRICT	C–3	HIGHWAY ORIENTED COMMERCIAL DISTRICT
R–4SF	SINGLE–FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT	M–1	MARINE COMMERCIAL SERVICE DISTRICT
R–6SF	SINGLE–FAMILY HIGH DENSITY RESIDENTIAL DISTRICT	INS	COMMUNITY FACILITY–INSTITUTIONAL DISTRICT
R–3MX	LOW–MEDIUM DENSITY MIXED RESIDENTIAL DISTRICT	T–3	LOW MED. DENSITY TOURIST RESORT/COMMERCIAL DISTRICT
R–4MX	MEDIUM DENSITY MIXED RESIDENTIAL DISTRICT	T–6	HIGH DENSITY TOURIST RESORT/COMMERCIAL DISTRICT
R–6MX	HIGH DENSITY MIXED RESIDENTIAL DISTRICT		

Exhibit "B"
Amendments to the table accompanying Section 158.125 *Schedule of use regulations*

158.125 Schedule of use regulations.

The restrictions and controls intended to regulate development in each zoning district are set forth in the schedule below and in the schedule in section 158.145, which are supplemented by other sections of this chapter.

DISTRICT (Maximum Gross ~~Residential~~ Density)	**PURPOSE**	**PERMITTED USES WITHOUT SITE PLAN REVIEW**	**PERMITTED USES WITH SITE PLAN REVIEW**	**ACCESSORY USES**	**SPECIAL EXCEPTION USES**
(MUC-1) Mixed Use Community – Bay Isles (overall density: 3.26 D.U./A.)	The purpose of this district is to recognize an area of the town approved by the town commission for a development with a mix of uses, encompassing the Bay Isles community approved by Resolution No. 75-27 as it has been and may be amended from time to time.	1. Single-family dwellings. 2. Multifamily developments with less than 10 dwelling units. 3. ~~1.~~ Essential services. 4. ~~2.~~ Community residential homes with six or fewer residents plus staff.	~~1. Planned unit development overlays (see §§ 158.065 through 158.071).~~ 1. Multifamily developments with 10 or more dwelling units. 2. Churches, synagogues and other houses of worship. 3. Golf course. 4. Marina, including wet storage, sale of marine fuels, boat or motor rental or maintenance, ship's store, yacht brokerage, but not including boat construction or dry storage of boats. 5. Parks and recreation areas. 6. Restaurants (pre-existing legal use only, except where permitted through a PUD). 7. Tennis courts and associated accessory uses. 8. Uses permitted with site plan review and special exception uses in OI and C-1 districts. 9. ~~2.~~ Government buildings and services. 10. ~~3.~~ Community residential homes. 11. ~~4.~~ Personal wireless services rooftop antennas and building or structure mounted antennas. ~~5. Uses allowed in the MUC-1 district pursuant to §158.009(L).~~ NOTE: See also sections	1. Other accessory uses customarily incidental to a permitted use, a use permitted with ~~the~~ site plan review, or a special exception use. 2. Private noncommercial dish antennas. 3. A columbarium is a permitted accessory use to a church, synagogue, or other house of worship.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross ~~Residential~~ Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
			158.009(L) and 158.067(C).		

DISTRICT (Maximum Gross ~~Residential~~ Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(MUC-2) Mixed Use Community - Islandside (overall density: 5.05 ~~D.~~U./A.)	The purpose of this district is to recognize an area of the town approved by the town commission for a development with a mix of uses, encompassing the Islandside community approved by Resolution No. 76-7 as it has been and may be amended from time to time.	1. Single-family dwellings. 2. Multifamily developments with less than 10 dwelling units. 3. ~~1.~~ Essential services. 4. ~~2.~~ Community residential homes with six or fewer residents plus staff.	~~1. Planned unit development overlays (see §§ 158.065 through 158.071).~~ 1. Multifamily developments with 10 or more dwelling units. 2. Golf course. 3. Hotels, motels, and other tourism and time-share tourism units (pre-existing legal use only, except where additional tourism units may be permitted by the town's charter and comprehensive plan). 4. Parks and recreation areas. 5. Restaurants (pre-existing legal use only, except where permitted through a PUD). 6. Tennis courts and associated accessory uses. 7. Business and professional offices. 8. ~~2.~~ Community residential homes.	1. Other accessory uses customarily incidental to a permitted use, a use permitted with ~~the~~ site plan review, or a special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

			9. ~~3.~~ Personal wireless services rooftop antennas and building or structure mounted antennas. ~~4. Uses allowed in the MUC-2 district pursuant to §158.009(L).~~ NOTE: See also sections 158.009(L) and 158.067(C).		
(MUC-3) Mixed Use Community – Promenade/ Water Club (overall density: 11.26 D.U./A.)	The purpose of this district is to recognize an area of the town approved by the town commission for a development with a mix of uses, encompassing the Promenade/Water Club communities approved by Resolution No. 81-8, as it has been and may be amended from time to time.	1. Essential services. 2. Community residential homes with six or fewer residents plus staff.	~~1. Planned unit development overlays (see §§ 158.065 through 158.071).~~ 2. Multifamily developments with 10 or more dwelling units. 3. ~~2.~~ Community residential homes. 4. ~~3.~~ Personal wireless services rooftop antennas and building or structure mounted antennas. ~~4. Uses allowed in the MUC-3 district pursuant to §158.009(L).~~	1. Other accessory uses customarily incidental to a permitted use, a use permitted with ~~the~~ site plan review, or a special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross ~~Residential~~ Density)	**PURPOSE**	**PERMITTED USES WITHOUT SITE PLAN REVIEW**	**PERMITTED USES WITH SITE PLAN REVIEW**	**ACCESSORY USES**	**SPECIAL EXCEPTION USES**
(C-3) Highway Oriented Commercial District	The purpose of this district is to delineate those areas suitable for highway-oriented commercial and related uses.	1. Essential services.	1. Uses permitted with site plan review and special exception uses in OI, C-I and C-2 districts. 2. Service stations and other minor retail sales, services and repairs oriented to the motoring public, excluding body repair	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to a permitted use, a use permitted with site plan review, ~~use~~ or a special exception use. 3. Private noncommercial dish	~~1. Hotel, motel accommodations, not exceeding three tourism units per acre.~~ 1. ~~2.~~ Windwalls. 2. ~~3.~~ Trellis, subject to the standards contained in

DISTRICT (Maximum Gross ~~Residential~~ Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
			and finishing. 3. Personal wireless services, rooftop antennas, and building or structure mounted antennas.	antennas.	§ 158.152(J). 3. ~~4.~~ Boat dock in excess of 500 square feet.
(T-3) Low-Medium Density Tourist Resort Commercial District (3 T.U. or 3 D.U./A.)	The purpose of this district is to implement the comprehensive plan through delineation of those areas suitable for low-medium-density tourist resort oriented facilities and multifamily residential uses.	1. Multifamily developments with less than 10 dwelling units. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Multifamily developments with 10 or more dwelling units. 2. Hotels, motels, and tourism and ~~3. Community resi-~~ timeshare tourism units. 3. ~~4.~~ Community residential homes. 4. ~~5.~~ Personal wireless services, rooftop antennas, and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incidental to a permitted use, a use permitted with site plan review, ~~use~~ or a special exception use. 6. Private noncommercial dish antennas.	1. Windwalls 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross ~~Residential~~ Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(T-6) High-Density Tourist Resort Commercial District (6 T.U. or 6 D.U./A.)	The purpose of this district is to implement the comprehensive plan through delineation of those areas suitable for high-density tourist resort oriented facilities and multifamily residential uses.	1. Multifamily developments with less than 10 dwelling units. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	~~1. Permitted uses with site plan review in T3 districts.~~ 1. ~~2.~~ Multifamily developments with 10 or more dwelling units. 2. ~~3.~~ Hotels, motels, and other tourism and time-share tourism units. 3. ~~4.~~ Community residential homes. 4. ~~5.~~ Personal wireless services, rooftop antennas, and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incidental to a permitted use, a use permitted with site plan review, ~~use~~ or a special exception use. 6. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

Exhibit "C"

Amendments to the table accompanying Section 158.145 *Schedule of lot, yard and bulk regulations*

DISTRICT	LOT				YARD			BULK* (i)		
District Uses	**Min. Area** (sq. ft.)	**Min. Width** (feet)	**Min. Depth** (feet)	**Max. Gross ~~Res.~~ Den.**	**Min. Street** (feet)	**Min. Side Yard** (both/one, feet)	**Min. Rear** (feet)	**Min. Floor Area** *(d) (sq. ft.)	**Max. Height** (stories/feet)	**Max. Coverage** (percent)
C-1	10,000	75	125	N.A.	45	15/15*(b)	20	N.A.	2/30	30 (40 with PUD/ODP)
C-2	30,000	150	200	N.A.	35	50/20*(b)	25	N.A.	3/40	30 (40 with PUD/ODP)
C-3*(f)	30,000	150	175	N.A.	35	50/20*(b)	25	N.A.	3/40	40 (50 with PUD/ODP)
M-1	30,000	150	175	1 accessory D.U. located on the same lot	45	50/20*(b)	25	N.A.	2/30	40 (50 with PUD/ODP)
OS-A	N.A.	N.A.	N.A.	N.A.	45	40/15	20	N.A.	2/30	30
OS-P	N.A.	N.A.	N.A.	N.A.	45	40/15	20	N.A.	1/15	15
OS-C	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0
MUC-1 Single-family Two-family Multifamily and other permitted buildings	~~*(g)~~ 10,000 15,000 30,000	~~*(g)~~ 100 125 150	~~*(g)~~ 100 100 150	(overall density: 3.26 D.U. /A.)	~~*(g)~~ 20 20 50	~~*(g)~~ 20/8 20/8 80/30	~~*(g)~~ 20 20 30	~~*(g)~~ 1,600 1,000/D.U 750/bedroom D.U. and 250 each addl' bedroom	4/50 (5/65 with PUD/ODP)	30*(e) (40 with PUD/ODP)
MUC-2	~~*(g)~~	~~*(g)~~	~~*(g)~~	(overall	~~*(g)~~	~~*(g)~~	~~*(g)~~	~~*(g)~~	4/50	30*(e)

DISTRICT	LOT				YARD			BULK* (i)		
District Uses	**Min. Area** (sq. ft.)	**Min. Width** (feet)	**Min. Depth** (feet)	**Max. Gross ~~Res.~~ Den.**	**Min. Street** (feet)	**Min. Side Yard** (both/one, feet)	**Min. Rear** (feet)	**Min. Floor Area** *(d) (sq. ft.)	**Max. Height** (stories/feet)	**Max. Coverage** (percent)
Single-family	10,000	100	100	density: 5.05 U. /A.)	20	20/8	20	1,600 1,000/D.U 750/bedroom D.U. and 250 each addl' bedroom	(up to 12/130 for tourism units and up to 8/87 for other units with PUD/ODP)	(40 with PUD/ODP)
Two-family	15,000	125	100		20	20/8	20			
Multifamily and other permitted buildings	30,000	150	150		(g)	80/30	30			
MUC-3	~~*(g)~~	~~*(g)~~	~~*(g)~~	(overall density: 11.26 D.U. /A.)	~~*(g)~~	~~*(g)~~	~~*(g)~~	~~*(g)~~ 750/bedroom D.U. and 250 each addl' bedroom	4/50 (10/120 with PUD/ODP)	30*(e)
Multifamily	30,000	150	150		50	80/30	30			

DISTRICT	LOT				YARD			BULK*(i)		
District Uses	**Min. Area** (sq. ft.)	**Min. Width** (feet)	**Min. Depth** (feet)	**Max. Gross ~~Res.~~ Den.**	**Min. Street** (feet)	**Min. Side Yard** (both/one, feet)	**Min. Rear** (feet)	**Min. Floor Area** *(d) (sq. ft.)	**Max. Height** (stories/feet)	**Max. Coverage** (percent)
T-3										
Multifamily	25,000	100	125	3 D.U. /A.	40	35/15	25	750/ bedroom D.U. and 250 each additional bedroom	3/40 (4/55 with PUD/ODP)	25 (35 with PUD/ODP)
Tourism Unit (including time-share Tourism Unit)	40,000	150	250	3 T.U. /A.	45	50/20	25	300/ bedroom D.U. and 125 each	3/40 (4/55 with PUD/ODP)	25 (35 with PUD/ODP)

DISTRICT	LOT				YARD			BULK*(i)		
District Uses	**Min. Area** (sq. ft.)	**Min. Width** (feet)	**Min. Depth** (feet)	**Max. Gross ~~Res.~~ Den.**	**Min. Street** (feet)	**Min. Side Yard** (both/one, feet)	**Min. Rear** (feet)	**Min. Floor Area** *(d) (sq. ft.)	**Max. Height** (stories/feet)	**Max. Coverage** (percent)
								additional bedroom		
T-6										
Multifamily	30,000	150	150	6 D.U. /A.	50	80/30	30	750/ bedroom D.U. and 250 each additional bedroom	4/50 (5/65 with PUD/ODP)	30 (40 with PUD/ODP)
Tourism Unit (including time-share Tourism Unit)	55,000	175	300	6 T.U. /A.	50	80/30	30	300/ bedroom D.U. and 125 each additional bedroom	4/50 (5/65 with PUD/ODP) (j)	30 (40 with PUD/ODP)
R-3MX										
Single-family	10,000	100	100	3	20	25/10	25	1,600	2/30	25
Two-family	20,000	100	100	3	20	20/8	20	1,000/D.U	2/30	25
Multifamily	25,000	100	125	3	30	35/15	25	750/bedroom D.U. and 250 each addl' bedroom	2/30	20

DISTRICT	LOT				YARD			BULK*(i)		
District Uses	**Min. Area** (sq. ft.)	**Min. Width** (feet)	**Min. Depth** (feet)	**Max. Gross ~~Res.~~ Den.**	**Min. Street** (feet)	**Min. Side Yard** (both/one, feet)	**Min. Rear** (feet)	**Min. Floor Area** *(d) (sq. ft.)	**Max. Height** (stories/feet)	**Max. Coverage** (percent)
R-4MX										
Single-family	10,000	100	100	4	20	20/8	20	1,600	2/30	30
Two-family	15,000	100	100	4	20	20/8	20	1,000/D.U	2/30	25
Multifamily	25,000	100	125	4	40	35/15	25	750/bedroom D.U. and 250 each addl' bedroom	2/35	30
R-6MX										
Single-family	10,000	100	100	6	20	20/8	20	1,600	2/30	30
Two-family	15,000	125	100	6	20	20/8	20	1,000/D.U	2/30	25
Multifamily	30,000	150	150	6	50	80/30	30	750/bedroom D.U. and 250 each addl' bedroom	4/50	30
O-I	20,000	100	150	N.A.	45	40/15	20	N.A.	2/30	30 (40 with PUD/ODP)
INS	20,000	100	150	N.A.	45	40/15	20	N.A.	2/30	30 (40 with PUD/ODP)

(a) Density expressed in terms of dwelling <u>or tourism</u> units per acre is fractional and dependent upon lot sizes.

(b) If commercial use adjoins another commercial use or district, no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.

(c) In R-4SF districts all lots which existed on October 15, 1969, shall contain a minimum of 9,500 square feet of area with an average width between front and rear lines to be at least 80 feet with at least 40 feet fronting on the street.

(d) Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.

(e) The maximum ground coverage by all buildings or structures (principal and accessory) shall be limited to 15 percent when one or more of the buildings or structures on the lot is six or more stories in height.

(f) For minimum area, width, depth and special regulations governing service stations, see section 158.130.

(g) See subsection 158.102(L). ~~To be determined at the time of outline development plan approval and site plan approval.~~

(h) In the Special Canal Waterfront Yard District for all lots abutting privately owned manmade residential canals, credit shall be given for lot depth and area by measuring lot depth to the middle of the canal. Under these circumstances, the required lot depth shall be reduced to a minimum of 80 feet. For purposes of determining all other provisions of this Code, including, but not limited to, lot coverage and setbacks, the road right-of-way, mean high-water line, bulkhead and bulkhead line shall be used in accordance with this chapter in making those determinations.

(i) Pursuant to ~~sub~~sections 158.067 ~~(D)(3)(i) and (j)~~, additional lot coverage and height may be authorized through the outline development plan approval process.

(j) Additional story and height may also be approved through a site plan under section 158.180.

TOWN OF LONGBOAT KEY

Ordinance 2013-20
ODP/PUD Process

Town Commission
Workshop
June 16, 2014

SPIKOWSKI PLANNING ASSOCIATES

MEMORANDUM

TO: Alaina Ray, Director of Planning, Zoning & BUilding
FROM: Bill Spikowski
DATE: June 6, 2014
SUBJECT: Proposed Ordinance 2013-20, ODP Zoning Code Changes

Alaina, I'm attaching the latest draft of the ODP zoning code changes that were prepared in response to the final order by Judge Haworth. This draft also includes some refinements to clarify the code, eliminate inconsistencies, and address minor pressing issues.

The ODP process was designed for the incremental development of large master-planned communities. At this juncture on Longboat Key, the ODP process has about outlived its usefulness and is due for replacement with zoning techniques that focus on improvements and redevelopment. However, a Key Club expansion proposal is imminent; and the comprehensive plan should be amended to set the direction for larger code revisions before actual drafting begins. For these reasons, this ordinance is limited to clarifying and improving the existing ODP process and making it comply with Judge Haworth's decisions.

Town talks lawsuit fallout

'At times if you put layers upon layers upon layers, there comes a time when the code isn't what you want the town to be.'

MELISSA REID
Associate Publisher
mreid@bbtnews.com

Planning and Zoning Board members sought answers last week to questions on subjects including the recent Islandside Property Owner's Coalition's (IPOC) Declaratory Relief Action and how it will affect the Hilton's pending request for 250 additional tourism units.

On Tuesday, board members removed the second item on the agenda, which was the discussion of ordinance 2012-29, the town's new zoning map and zoning code amendments. Instead, Town Attorney David Persson clarified the changes that need to be made in the town code as a result of the IPOC Declaratory Relief Action.

Persson explained that the reason for the removal of the agenda item was to ensure that the town's response to the Judge's order was thoroughly considered.

"The reason Robin (Meyer) and I asked for the removal is that we want to make sure that the response to the Judge's order was as well thought out as possible. The Key Club plan had been passed and since then there have been patches placed upon patches to try and make the code say something that would aid that approval. This gives us an opportunity to, and requires us to think, how our code is doing and how it intends to do it," said Persson. "The code has existed since 1984, and we tried to make it something that it clearly wasn't intended."

IPOC's assertion that the code changes were illegal and not allowable under either the town's law or Florida's law was upheld by Judge Haworth last week. Haworth agreed with IPOC's contention that the town illegally amended its codes after approving the Longboat Key Club's plans. His ruling precludes the town from consider-

Lawsuit talk, page 2

Town attorney sums up significance of court case

The following letter was written by Town Attorney David Persson and is a detailed analysis of the meaning of the Town's

Assigning 250 tourism units

Ordinance 2013-07

Adopted on March 4, 2013

- **Clarify departure standards**
- **Land uses for MUC districts**
- **Lot sizes, setbacks for MUC districts**

Planning & Zoning Board:

- May 21, 2013
- March 18, 2014
- April 15, 2014
- May 27, 2014

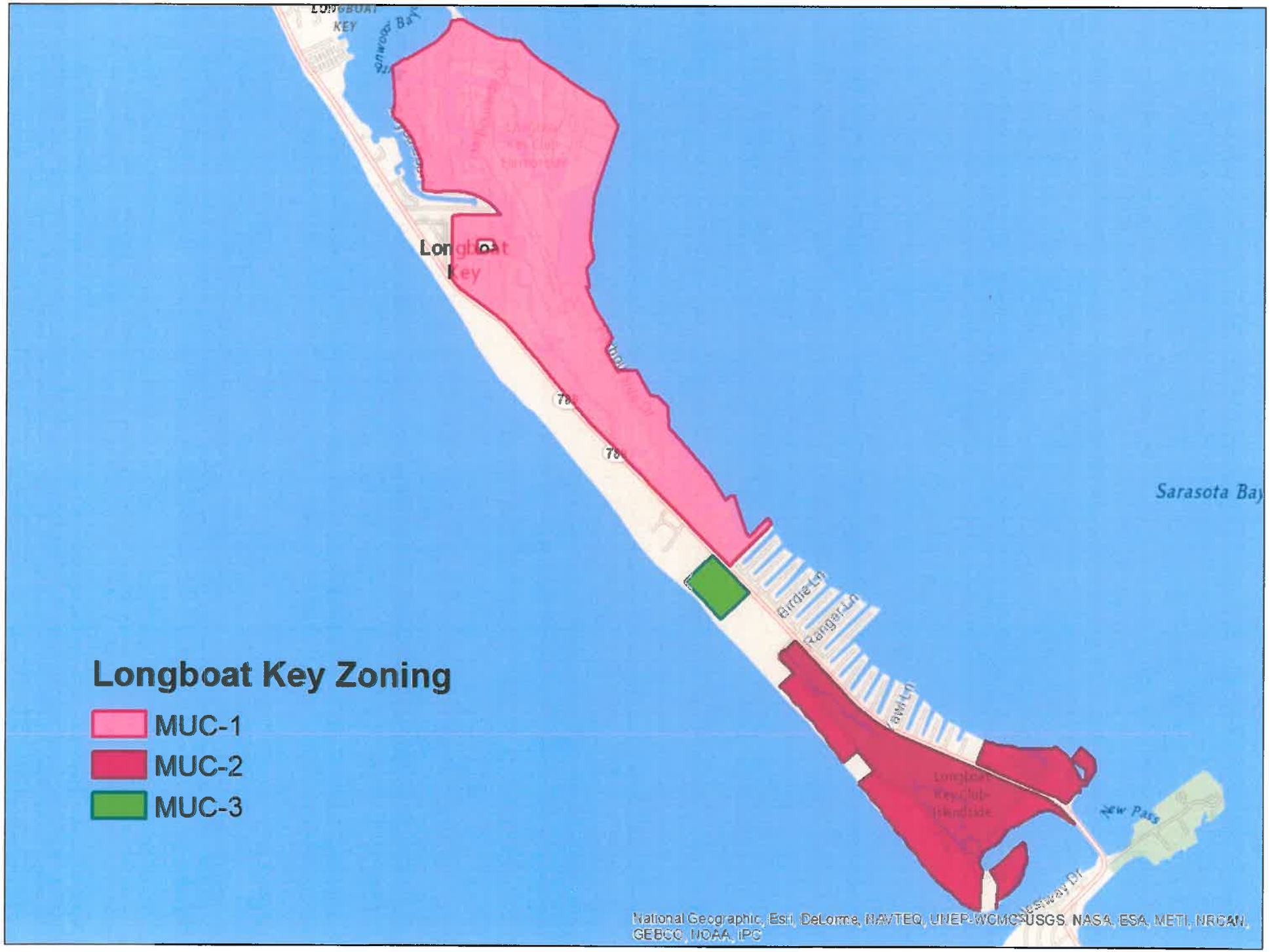
Ordinance 2013-20

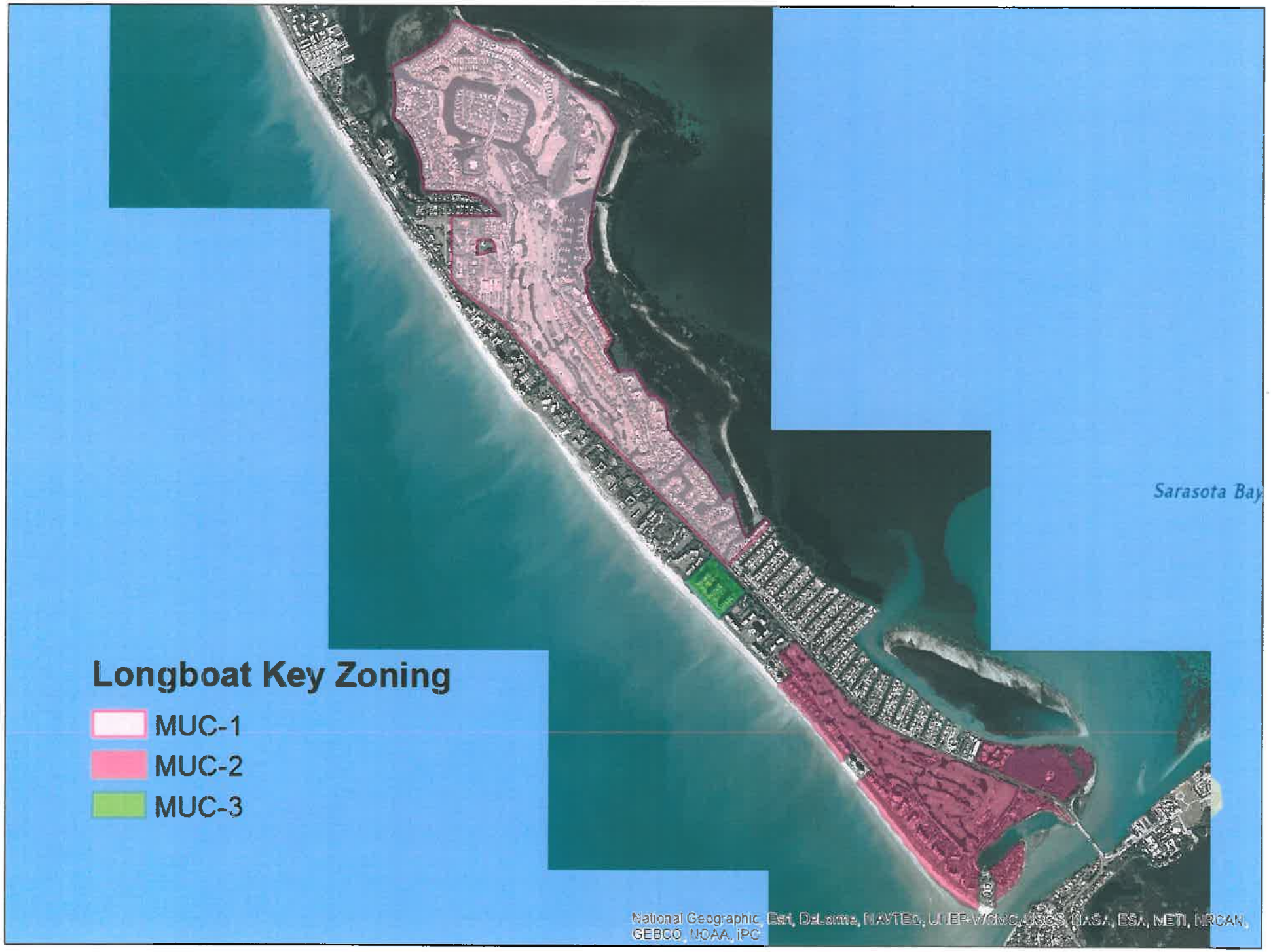
(proposed)

- MUC
- PUD
- ODP

- **MUC: Mixed-Use Community**
- **PUD: Planned Unit Development**
- **ODP: Outline Development Plan**

Longboat Key Zoning
MUC-1
MUC-2
MUC-3
Sarasota Bay
Longboat Key
Sarasota/Bradenton Int'l Airport
WHITE KEY
WHALE KEY
LONGBOAT KEY
Crane Bayou
Bishop Bayou
Tarawitt Dr
Title Row Dr
El Conquistador Pky
Bay Dr
Ohio Ave
Magellan Dr
Pearl Ave
Tallevast Rd
63rd Ave E
Bowlees Creek
14th St W
11th St E
12th St E
5th St W
683
41
789
52nd St
39th St
20th St
13th St
Sun Cir
Bay Shore Rd
Airport Cir
Bodey Ln
National Geographic, Esri, DeLorme, NAVTEQ, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, iPC


Longboat Key Zoning
MUC-1
MUC-2
MUC-3
Sarasota Bay
Birdie Ln
Ranger Ln
New Pass
National Geographic, Esri, DeLorme, NAVTEQ, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, iPC


Longboat Key Zoning
MUC-1
MUC-2
MUC-3
Sarasota Bay
National Geographic, Esri, DeLorme, NAVTEQ, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, iPC

- MUC: Mixed-Use Community
- **PUD: Planned Unit Development**
- ODP: Outline Development Plan

Planned Unit Development (PUD):

- A development review and approval process that allows approval of a conceptua site plan . . prior to preparation . . . of a final site development plan.
- The PUD process also allows landowners to seek departures from certain provisions of this code . . . .
- PUD approval does not change a property's zoning district . . . .

- **MUC:** Mixed-Use Community
- **PUD:** Planned Unit Development
- **ODP:** Outline Development Plan

Outline Development Plan (ODP):

- The documents submitted for planned unit development (PUD) approval are known as an outline development plan (ODP).

Section 8 – Additional units in MUC-2

Section 10 – New ODP approval standards

Section 10 – ODP departure standards

Section 10 – ODP expirations

Section 16 – Street setbacks in MUC-2

Section 18 – Parking structures

Section 20 – Pre-Existing Legal Uses

SECTION 8

Additional units in MUC-2

The approval of units on any parcel beyond those units authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

Overall Density: 5.05 units per acre

5.05 x 314.6 acres = 1,588 potential units

Longboat Key Zoning
MUC-1
Development Parcels
MUC-2
MUC-3

Considerable research was undertaken during this debate. Important data is presented in the table below, which begins with the comprehensive plan's maximum "overall density" ratio and the computed unit cap when that ratio is multiplied by the overall acreage. The table also shows the number of units that had initially been assigned to development parcels through the ODP process and the latest figure for units that were actually constructed (845, which includes one vacant single-family lot). In the last two columns, the table shows the difference between the computed cap and units initially assigned, and the difference between the computed cap and units actually constructed.

ZONING DISTRICT	*OVERALL ACRES*	*COMP PLAN OVERALL DENSITY*	*COMPUTED UNIT CAP*	*# OF UNITS INITIALLY ASSIGNED THROUGH ODP/PUD*	*# OF INITIALLY ASSIGNED UNITS ACTUALLY CONSTRUCTED*	*UNIT CAP MINUS UNITS INITIALLY ASSIGNED*	*UNIT CAP MINUS UNITS ACTUALLY CONSTRUCTED*
MUC-1	725.0	3.26 / ac.	2,363	1,267	1,251	1,096	1,112
MUC-2	314.6	5.05 / ac.	1,588	1,407	845	181	743
MUC-3	25.4	11.26 / ac.	286	286	286	0	0

SECTION 8

Additional units in MUC-2

The approval of units on any parcel beyond those units authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

SECTION 10

New ODP approval standards

Section 158.067(C) (page 18 of 43)

(9) For the MUC-1 and MUC-2 zoning districts only, whether the plan's assignment and placement of the permitted uses listed in section 158.125 either matches the historic land-use pattern in that district or is a evolution in harmony with that pattern, versus being an intrusive or incompatible change in pattern. The plan's assignment of uses shall be consistent with the principles and percentages set forth in section 158.009(L).

(10) The additional criteria listed below apply to requests for buildings taller than four stories in the MUC-2 zoning district:

(a) Yard sizes (building setbacks) are greater than required by section 158.145; and

(b) The taller buildings are consistent with the intent of the district and compatible with similar existing uses within the overall district.

SECTION 10

ODP departure standards

Section 158.067(D) (page 19 of 43)

SECTION 10 (ODP departure standards)

(1) ~~i.~~ The departure is no less consistent with the health, safety, and welfare of abutting landowners and the general public than the standard from which the departure is being requested, and the departure ~~Promote the most appropriate use of the land upon which the project is to be located,~~ adequately protects~~ting~~ against adverse impacts to adjacent parcels and the surrounding area.

(2) ~~ii.~~ The departure preserves or enhances ~~the~~ natural or ~~and~~ scenic qualities ~~of open areas~~ or preserves a larger percentage of open space than required by the Zoning Code or preserves higher quality natural areas or more attractive and useful public spaces.

(3) ~~iii.~~ The departure facilitates desirable infrastructure, storm water retention, or parking facilities ~~and public spaces~~.

(4) ~~iv.~~ The departure reduces traffic impacts or improves traffic circulation.

(5) ~~v.~~ The departure enhances the project's character and compatibility within the development and with adjacent developments.

(6) ~~vi.~~ The departure allows the project to add or improve on-site amenities and recreational opportunities serving the development and the community.

(7) ~~vii.~~ The departure helps ~~allow~~ the project ~~to~~ promote walkability, offers multimodal transportation options, improves access to existing commercial or other amenities, or improves ~~proximity or~~ connections to beach or bay accesses.

SECTION 10

ODP expirations

Section 158.067(H) (page 22 of 43)

SECTION 10 (ODP expirations)

(1) Notwithstanding the 24-month period specified in Section 158.099(F), final site development plan approval for a planned unit development runs with the land for a period not to exceed four calendar years from the date of the ordinance adopting the final site development plan.

(2) For planned unit developments in the MUC-1 and MUC-2 zoning districts, this period shall be increased to ten calendar years provided the developer meets at least two of the following criteria:

(i) commenced site preparation work and maintained substantial progress during the initial four-year period affecting 33% or more of the acreage of the PUD development parcel, or if the PUD approval includes phases, affecting 66% of the acreage of the initial phase;

(ii) commenced site preparation work and completed at least one critical element of the required infrastructure to serve the PUD development parcel;

(iii) commenced site preparation work and constructed at least one principal building (not including a temporary building) within the PUD development parcel; or

(iv) paid all impact fees for development authorized by the site development plan.

SECTION 16

Street setbacks in MUC-2

Section 158.102(L)(1) (page 27 of 43)

(1) *Minimum street yards (front setbacks)*.

(a) The distance measured perpendicularly from any front lot line to the nearest surface of a building shall not be less than twice the height of the building, which height shall be measured from the lowest visible elevation under the building to the highest part of the building.

(b) Development lots in certain locations within the MUC-2 zoning district shall observe the following street yard (front setback) standards in lieu of the general standard above:

i. All buildings must be set back at least 100 feet from Gulf of Mexico Drive, except that a covered entrance portico that is attached to a building can be as close as 50 feet to Gulf of Mexico Drive.

ii. Development lots that are separated by a private street from an adjacent lot that is permanently restricted as open space or golf course shall have the minimum street yard (front setback) measured as follows:

i. Buildings must be set back from the private street at least a distance equal to their height, but never more than 100 feet.

ii. If the front of a building has two or more vertical planes, the setback distances apply to each plane. For example, a building with a two-story podium and six stories above the podium must have its podium set back at least a distance equal to the podium's height and the remainder of the building must be set back at least a distance equal to the height of all eight stories, but never more than 100 feet.

iii. These private street setbacks shall be measured to the edge of the street's pavement.

SECTION 18

Parking structures

(3) Parking facilities that are visible from a street or public waterway or that are enclosed by a solid wall without openings must contain architectural features such as windows, decorative grillwork, planter boxes, mosaics, vertical trellises, sculptures, or similar decorative treatments that together cover 90% of each visible facade. Other screening methods including berms, trees, hedges, and vines may be used to accomplish the same result.

Section 158.128(K) (page 28 of 43)

SECTION 20

Pre-Existing Legal Uses

158.138 Status of nonconformities.

(B) The following policies ~~shall~~ determine the management of nonconformities:

(9) *Pre-existing legal uses*. Certain uses of land that cannot be added under current regulations are legal because they lawfully existed on January 1, 2014, and are authorized as "pre-existing legal uses" on the schedule of uses in section 158.125. "Pre-existing legal uses" uses may also be classified as nonconforming uses, but by virtue of their listing in section 158.125 shall be afforded the privileges of permitted uses and may be reconstructed up to their pre-existing density in accordance with all applicable current regulations, but only on the specific parcels on which they are located. The abandonment and termination provisions in subsection (B)(8) do not apply to uses that qualify as "pre-existing legal uses."

P&Z Board Recommendation

At their May 27, 2014, meeting, the P&Z Board, after considering the proposed Ordinance 2013-20, recommended APPROVAL of the Ordinance.

AGENDA ITEM 6
ORDINANCE 2013-20 AMENDING CHAPTER 158
OUTLINE DEVELOPMENT PLAN PROCESS

Pursuant to published notice, the public hearing was opened.

Bill Spikowski, Spikowski and Associates, reviewed the ordinance with the board. He, along with the Board discussed:

- Concerning notice, this version provided notice to all owners of property in the same MUC zoning district for applications that would add dwelling or tourism units to the subject property
- To notify every owner would lay groundwork for notice to be not completed properly
- Whether an error in notification would invalidate the application or hearing
- If notification to the condominium association was a legal process to simplify
- Reviewed the MUC table outlining density in those districts (Section 8)

Chair Bishop requested consensus on language for Alternative 3 (page 10 of 44) in Section 158.009. **A majority of the board members believed there was a need for additional language concerning compatibility.**

Mr. Symanski believed that once an applicant applied, and were granted an Outline Development Plan (ODP) approval, then that was a reasonable use, and in order to gain additional units, they would need to show what they were proposing was furthering the health, safety and welfare and not detrimental to the character of the neighborhood. Chair Bishop referred to the Longboat Key Club project and asked what language in the ordinance met the criteria of that level of MUC. Mr. Daly commented in looking at Ms. Ray's suggested language, he would add "*units must be compatible with existing uses and with historic uses in the district*," which would add a measure that was not in Alternative 3 (a compatible standard). Mr. Symanski voiced concern with the use of the word 'historic' and noted he was trying to avoid setting it up for a lawsuit. Mr. Daly agreed with Mr. Symanski and suggested deleting reference to 'historic.' Ms. Ray commented on removal of the words "*similar existing*." Discussion ensued on ways to phrase the language to remove doubt.

There was consensus to recommend Alternative 3 as written.

Discussion ensued on the following points:

- Concern with the word 'compatible' as each person would have a certain idea of what it meant; may not be the same
- Suggestion of the use of the word 'arrangement' versus 'assignment'
- On Page 19, that staff's recommendation for language made sense as it provided an amplification that was not in the Alternative 3 language

- Modifying the first alternative and not discussing the intent of the district, but suggest the units must be compatible with the existing units and perhaps, similar existing uses (page 19, Item 9)

Attorney Fernandez addressed page 19, Item 10, and disagreed with the board's interpretation of the language. Staff was stating that if they were attempting to build a hotel, then the proposal would be compared to any other similar hotels, and to the extent there was nothing similar, it would not preclude the applicant from constructing it, but it could not be incompatible. Mr. Schneier suggested inclusion of the words "if any" so it stated, "compatible with similar existing uses, **if any**, within the overall district." Chair Bishop asked how many members were comfortable with Item 9 and Item 10 (a) and (b). Six members noted they were comfortable with those items.

The following items were discussed:

- Whether there was confidence to place 892 units in the ordinance
- That the ordinance was an interim ordinance for the next phase
- What would happen if someone wished to develop in the MUC-2 district, and stated they believed there was a specific number of units available
- Section 15, new language allowing an applicant to count land in common ownership across a privately-owned street
- Whether there was a definition of 'hardship;' concern voiced if there was not a definition
- Inconsistencies with 'building height' (page 28 of 44)
- Staff noting there were a lot of areas that were inconsistent within the Code and trying to resolve the process as there were people that needed to file an application, but could not at this time
- Whether there was agreement on the language on page 29 under Section 18, Item (K)(3) (Utilization of parking structures), and if 90 percent was excessive
- Page 9, Mixed Use Community, and page 13, Intent, and belief flexibility was not built-in

Attorney Fernandez explained that the judge reviewed the Charter provision and found the 1984 Comprehensive Plan did not allow tourist uses. Mr. Hixon questioned how the referendum related to the new legislation. Attorney Mooney-Portale responded it would not affect it. The reason the referendum provision was still applicable to the Key Club property was because there was not a judge's decision speaking to that with the exception of Judge Haworth's decision. She explained that when Judge Dunnigan evaluated the 2013 legislation on the Town Charter, she reviewed it for 5440 Gulf of Mexico Drive and 521 Broadway Street, and specifically exempted out the Longboat Key Club property due to Judge Haworth's Order.

Robert White, Islandside Property Owners Coalition (IPOC), voiced his concerns:

- Related to density and requests that would allow more density on the south end, including expanding the floor area ratio

- The establishment of the maximum setback for buildings, regardless of their height, at 100 feet
- Believe allowing substantial increase in density on south end of key
- What is the amount of available units
- Should not take density that was given to certain parcels, and in some cases deeded to those parcels, and then stating if unused could be used for land that was already developed
- Needs to be language in the code that addressed assigned, but unused units
- "Timeshare" definition was not included in the code and believed it was a tourism use

Mr. Wild rejoined the meeting

Mr. White continued with reviewing various sections of the ordinance and its impact.

Mr. Symanski addressed the issue of departures on page 20 and voiced concern with the proposed language, "*except where clearly inapplicable to the requested departure.*" He had requested it state, "*if applicable.*" Mr. Spikowski noted that the issue was the 'applicable' language was currently in the code, and was explicitly noted by the judge as not being clear enough. Mr. Spikowski discussed Judge Haworth's Order and the definition of 'timeshare.'

Mark Walsh, Longboat Key Club, voiced his concern with page 19, Item 9, and that he would prefer language that was more descriptive as he did not believe it resolved the problem. He asked that the board consider the language that was provided at the April 2014 P&Z Board meeting by Ken Metcalf, planner representing Longboat Key Club.

Discussion ensued on Alternative 3 (page 10), with Mr. Walsh agreeing with the language presented by Ms. Ray. Mr. Symanski asked if the Longboat Key Club proposal for a hotel would exceed the height of the current hotel, which was at 120 feet. Ms. Ray explained that 120 feet was the highest they could go within that district. The proposed ordinance was not changing the height limits. Mr. Metcalf voiced concern this version of the ordinance had the same subjective nature as the previous version. His idea was to incorporate specific standards for compatibility.

Discussion ensued on:

- Innovativeness
- Recognizing the character of the district and stating such in the ordinance
- The Longboat Key Club proposal was to incorporate compatibility criteria
- Section 158.067(C)(9), Standards for approval or disapproval of application (page 18)

No one else wished to be heard, and the hearing was closed.

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2013-20 AS AMENDED. MR. HACKETT SECONDED THE MOTION.

The Board discussed Page 10, and leaving Alternative 3 as the stand-alone language, and Mr. Symanski's concern with page 19, Items 9 and 10.

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

End of Agenda Item