

MEMORANDUM

DATE: August 15, 2016

TO: Planning and Zoning Board

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

SUBJECT: Planned Unit Development Code

Background

For the last several months, Staff has worked with Consultants Calvin, Giordano & Associates, Inc. (CGA) to develop a new section of the Land Development Code (LDC) for Planned Unit Developments (PUD). The purpose of the new PUD is as follows and is based on direction from the Planning & Zoning Board (Board) and the Town Commission:

- Allow properties that are nonconforming for density to redevelop at their existing density and become conforming under a new PUD Zoning District;
- Allow an opportunity for properties that are nonconforming for density, but may not desire to redevelop, to become conforming under a new PUD Zoning District; and
- Allow new development to utilize creative and flexible design parameters.

This direction was developed over numerous joint meetings between the Board and Town Commission. This new section is the first step in the complete rewrite of the Town's LDC.

Major Elements

From “Process” to “Zoning District”

Unlike the Town's current PUD section, this new section will not simply be a *process* for gaining development approval, but will be an actual new *Zoning District*. Any property that rezones into a PUD will be represented as such on the Town's Zoning Map.

The draft includes two new Zoning Districts:

- Planned Unit Development Zoning (PUD): Designed for redevelopment of properties with existing nonconforming density or new development
- Planned Unit Development – Special Purpose (PUD-SP): Designed for properties that are nonconforming for density and want to become conforming, but do not want to redevelop

Density

For properties currently developed in excess of their allowed density, the new PUD Zoning District will allow properties to redevelop at their existing nonconforming density. It also allows development with density which may be approved through the Town Charter referendum process.

The PUD-SP Zoning District allows properties to become conforming for density, but do not seek to redevelop, thus removing the nonconforming label that can create difficulties relating to financing, real estate transactions, and other issues.

These new Zoning Districts conform to Ordinance 2015-02, which revised the Comprehensive Plan Future Land Use Element Policy 1.1.5 to state:

The Land Development Code will specify standards for redeveloping lawfully existing property that does not currently conform to the future land use density and building volume limits provided elsewhere in this Plan – and may establish standards to conform certain property with lawfully existing nonconforming density.

Mixed Uses

The new PUD Zoning District will allow a mixture of uses, which will allow a more creative use of space. These uses will be determined based on the applicable Future Land Use Category and complimentary uses approved through the rezoning process.

Height

The draft PUD Code contains a provision which would allow a certain amount of additional height to be granted for the purpose of increasing ceiling height for redevelopment. The draft Code currently suggests an increase up to 30 percent, but this is a policy decision the Board should discuss to develop an appropriate parameter.

Outline Development Plans

The draft Code eliminates the use of an Outline Development Plan (ODP) for properties that rezone into the new PUD Zoning District. Instead, the use of “Concept Plan” and “Final Site Plan” are utilized, thus bringing the new Code into conformance with nationally recognized vernacular and criteria.

Mixed-Use Community Districts

The new PUD and PUD-SP Zoning Districts will not incorporate the existing Mixed-Use Community (MUC) Districts, thus providing a separation between the new districts and the existing MUC Districts. Considering the existing MUC Districts are subject to certain judicial orders, Staff and the consultants felt it was best to allow the existing MUC Districts to be placed in a completely separate part of the LDC.

Beach Access

As a factor in allowing flexible design standards for proposed PUDs located west of Gulf of Mexico Drive, the draft Code requires a minimum of one (1) public beach access of at least five (5) feet in width to be provided.

Path Forward

Staff and the CGA team will present the draft ordinance, discuss the components included within the new provisions, and answer any questions the Board may have. Staff and CGA will then make any necessary revisions and bring the draft Code back to the Board as an ordinance at the September 20th meeting for the Board's consideration and potential recommendation to the Town Commission.

158.34– Planned Unit Development (PUD) Zoning

- (A) **Intent.** The provisions of this district are intended to apply to new development or to the redevelopment of existing residential, tourism, commercial, or mixed use projects, or any project within an underlying Opportunity Area Future Land Use designation consistent with the standards of this section. The district is intended to offer flexibility of design and to encourage imaginative, functional, high-quality land planning developments which are compatible with adjacent and nearby lands and activities. Properties approved under the PUD site plan process of article III, division 1 of this chapter are not superseded or considered non-conforming by the provisions of this section.
- (B) **Uses Permitted.** The principal uses that are allowed in PUD zoning districts are those that are consistent with the applicable Future Land Use designation of the Comprehensive Plan. In addition, the PUD district permits the replacement of any legally established principal use that is not currently conforming to the applicable Future Land Use designation of the Comprehensive Plan without regard to the Redevelopment Standards of section 158.140. For development within an underlying Opportunity Area Future Land Use designation, other uses may also be allowed up to a percentage or amount equal to the principal uses as approved by the Town Commission.
- (C) **Procedures for Approval.**
- (1) **In General.** The following steps shall be followed to request a change in zoning to PUD. A PUD zoning map amendment shall not be established unless and until an associated concept plan is simultaneously approved by the town commission. Applications for a change in zoning to PUD that require an increase in density above the existing density allowed by the Future Land Use designation may be filed and reviewed concurrently with the necessary Future Land Use map amendment.
 - (2) **Pre-Application Conference.** A pre-application conference with the planning and zoning official, or designee, is required, at which time the request will be reviewed for eligibility to apply for the PUD zoning designation consistent with the standards of this section and with the provisions of the Comprehensive Plan. For the pre-application conference, applicants must specify in writing the existing and proposed uses and the existing and proposed density and intensity of the development, as well as any other necessary information as determined by the planning and zoning official to determine eligibility to apply for a change in zoning to PUD. Applications will not be processed unless they are determined by the planning and zoning official, or designee, to be eligible to apply for the PUD zoning designation.
 - (3) **Formal Application.** The application for a PUD shall be filed with the planning and zoning official. An application for site plan approval for all or a portion of the PUD may be filed and reviewed concurrently with the concept plan and PUD application. The application for site plan approval shall be processed in accordance with article III, division 2 of this chapter. Upon receipt of the application the planning and zoning official shall review the application to determine its appropriateness and completeness in respect to the requirements of this section,

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, including findings of fact as to the consistency of the application with the Land Development Code and the Comprehensive Plan, 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 PUD 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 cycle shall be September through June of the following 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.

- (4) **Planning and Zoning Board Public Hearing.** Upon receipt of the application from the planning and zoning official, the planning and zoning board shall, in a quasi-judicial proceeding, review the PUD application and make recommendations to the town commission that are based on competent, substantial evidence of record. The planning and zoning board may also formulate findings of fact as to the consistency of the application with the Land Development 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 denial 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 the 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.
- (5) **Town Commission Public Hearing.** A public hearing on the PUD zoning application, conducted as a quasi-judicial proceeding, shall be held by the town commission upon the commission's receipt of the application from the planning and zoning board. Public notice of such hearing shall be given in accordance with the provisions of applicable Florida Statutes, the Town Charter and this chapter. For purposes of this section, the town commission shall receive an 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. 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.

- (6) **Town Commission Decision Procedures.** At the conclusion of the public hearing, the town commission shall review the PUD application and either approve it as submitted, approve it with changes or special conditions, or deny it. The applicant may request that the application be withdrawn or that the hearing be continued if the applicant does not accept the changes or special conditions recommended by the town commission. 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 PUD application.
- (a) 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) In the event a PUD 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 for the entire PUD was approved concurrently with the PUD, the ordinance does not need to specify a time period.
- (7) **Filing with the Town Clerk.** Within seven days after the adoption of the ordinance provided for in section 158.034(C)(5) above, it shall be certified by the town clerk and shall be filed in the clerk's office, and a certified copy shall be mailed to the applicant. A PUD upon approval and acceptance, as provided herein, is defined as running with the land; however, an applicant may apply for a revision to the concept plan in accordance with the procedures of Section 158.034(H). Upon approval and acceptance, if applicable, the town clerk shall file with the clerk of the court the concept plan to record it in the official records of the county in which the property is located.
- (D) **PUD Zoning Development Standards.** A PUD shall be permitted only upon an order of the town commission approving the PUD concept plan and development standards. No PUD shall be approved unless it complies with the following standards:
- (1) **Height and Lot Coverage.** The proposed height and lot coverage shall not exceed the maximum height and lot coverage allowed by the applicable future land use designation, or the height and lot coverage of the existing development that is proposed for redevelopment, whichever is greater. The town commission may, at the applicant's request, approve increases in building height by up to 30 percent above this maximum as long as the number of stories does not exceed the maximum allowed by the applicable future land use designation, or of the existing development that is proposed for redevelopment, whichever is greater.
- (2) **Density.** The proposed density shall not exceed the total density of the existing development that is proposed for redevelopment, without regard to unit type, or the maximum density allowed by the underlying future land use designation and/or zoning category, whichever is greater.

- (3) **Building Setbacks.** The proposed building setbacks, as measured from the boundaries of the PUD, shall not be less than the minimum setbacks of the applicable future land use designation, or the setbacks of the existing development that is proposed for redevelopment, whichever is less.
 - (4) **Off-Street Parking.** Off-street parking shall meet the standards and requirements of section 158.128 of the Land Development Code. The town commission may reduce the number of required parking spaces upon submittal by the applicant of a parking study demonstrating a reduction in parking need. The parking study shall be based on competent, substantial evidence which may include, but is not limited to, utilization of professional standards, formulas or studies from sources such as the Urban Land Institute (ULI), the Institute of Transportation Engineers (ITE), or similar organizations. Documented patron surveys and other data gathering methodologies and sources may also be considered by the commission.
 - (5) **Beach Access.** For proposed PUDs located west of Gulf of Mexico Drive, a minimum of one public beach access of at least 5 feet in width shall be provided, and in no case shall the number of beach access points be decreased below the number existing at the time of the PUD application. All beach access points shall be recorded by easement to the public.
 - (6) **Natural Shoreline.** For proposed PUDs located east of Gulf of Mexico Drive, the same percentage of natural shoreline area as a percentage of the total shoreline as it exists at the time of PUD application shall be preserved or provided.
- (E) **Application Contents and Submittal Requirements.** An application for a PUD, 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(s) by an authorized agent, with the planning and zoning official. The purpose of the associated concept 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 PUD in order for the town to evaluate the impact of the development to the town. Any application for a PUD 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:
- (1) 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.
 - (2) 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.
 - (3) A verified statement, including a certificate of ownership, showing each and every 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.

- (a) For applications filed on behalf of an association, the applicant's attorney shall certify in writing that the association is legally authorized to represent the interest of all owners of property subject to the application.
- (4) 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.
- (5) 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), including the extent and type of wetlands in accordance with the town's Comprehensive Plan.
- (6) A concept plan that depicts the proposed development and is intended to become an integral part of a PUD approval. At an applicant's discretion, a final site plan may be submitted for approval concurrently with the concept plan. The concept plan shall show the existing and proposed uses and structures, lots, streets, and other physical aspects of the proposed development as enumerated. The concept plan shall at a minimum include the following:
 - (a) 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.
 - (b) A zoning table that describes the total site and each component of the site in terms of acreage and percentage of total site area, land uses, number and type of dwelling units, square feet of all nonresidential buildings, residential and tourism unit density, and other information that is descriptive of the proposal.
 - (c) Proposed development standards for each component of the project including building setbacks, building coverage, building floor area, building height, and maximum impervious area.
 - (d) Parking standards for each component and/or land use proposed for the project.
 - (e) Special design standards, if any, for each component of the project and for proposed common areas and rights-of-way, such as architectural, sign, enhanced landscaping, and buffering standards.
 - (f) 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.
- (7) 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 surfaces available for maneuvering vehicles.

- (8) Such additional data and information as the applicant may believe is pertinent to the plan of development.
- (9) Such additional relevant data and information the town may reasonably require.
- (10) A written statement by the applicant describing fully the character and intended use of the PUD and setting forth the reasons why, in his opinion, a PUD would be in the public interest and would be consistent with the intent of this section.

(F) **Review Criteria.** The town commission shall base its decision on each PUD application on competent, substantial evidence of record 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 approval, with or without changes or special conditions, or for the denial of a PUD application. The commission's approval, approval with changes or special conditions, or denial of a PUD application, shall be based on the application, evidence and testimony presented in the public hearing, and all of the following standards:

- (1) In what respects the PUD is or is not consistent with the intent of a PUD zoning district as provided in this section.
- (2) The purpose, location and amount of common open space in the plan, the adequacy or inadequacy of the proposal 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 it relates to the proposed density and type of development.
- (3) 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 addresses the amenities of light and air, recreation and visual enjoyment.
- (4) The positive or negative impacts of the proposed plan on the surrounding neighborhood.
- (5) For phased developments, the plan must provide sufficient safeguards to protect the public interest, and the residents and owners of the PUD through the completion of the project.
- (6) The extent to which the plan provides for an effective and unified development on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.
- (7) The extent to which the visual character and community amenities of the proposed redevelopment are equal or better in quality than the existing development.

(G) **Effect of Approval.** Approval of a PUD zoning map amendment and concept plan does not convey any rights for development. Development may only occur after approval of a final site plan, subdivision, and/or other development approvals and permits, as applicable, consistent with the approved concept plan, the Land Development Code, and the Comprehensive Plan.

- (1) An application for final site plan approval may be for all the land included in a concept plan or for a portion of the land as set forth in the PUD approval.

- (2) 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 PUD and required by subsection 157.31(B).
- (3) 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.
- (4) PUD applications may include a request for final site plan approval at the same time as concept plan approval; see subsection 158.034(C)(3).
- (5) An application for approval of a final site plan for a portion of or all of a PUD shall be in compliance with the approved concept plan with respect to open space and lot, yard and bulk regulations.
- (6) 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 concept plan through the process provided in section 158.034(H) in order to achieve compliance.
- (7) Notwithstanding the 24-month period specified in subsection 158.099(E), final site development plan approval for a PUD 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.
- (8) 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 zoning—shall comply with chapter 157 of the Land Development Code and all other applicable ordinances.

(H) Revisions to Concept Plan.

- (1) **Revocation for Deviation from Plan.** Any unauthorized deviation from the approved concept plan shall cause the planning and zoning official to immediately revoke the PUD approval until such time as the deviations are corrected or revisions approved.
- (2) **Periodic Review.** The town commissioners may initiate a review of the PUD and may revise the concept plan and specifications as needed to protect the public health, safety, or welfare and to ensure compliance with the Comprehensive Plan and the Land Development Code.
- (3) **Minor Revisions of Concept Plan.** Changes to an approved concept plan that are minor in nature are changes which do not affect the overall character of the PUD. Minor revisions of a concept plan may be approved administratively by the planning and zoning official. The following shall be presumed to be minor revisions: changes in alignment location direction, or length of local streets which do not substantially alter traffic circulation within the project; changes to building setbacks or building heights of not more than 10 percent or changes to accessory uses.
- (4) **Major Revisions of Concept Plan.** Major revisions to an approved concept plan are changes which affect the overall character of the PUD. Major revisions to concept plan shall require submittal of a new PUD application meeting the requirements of this section. Major revisions shall be processed as a new PUD in

accordance with the requirements of section 158.034(C) the Land Development Code. The following shall be presumed to be major revisions: any changes involving additional acreage or to the dimensions or boundaries of the PUD; any increases in density or intensity; any change in the approved land use(s) including the amount, configuration, and location thereof; any decreases in open space; any proposed principle uses not previously considered; minor street relocation or any change to streets significantly altering the general distribution of traffic; any change affecting a condition of approval made by the town commissioners; changes to building setbacks or building heights of more than ten percent; or any other changes deemed to have a major impact to surrounding properties or to public facilities.

DRAFT

158.035 – Planned Unit Development – Special Purpose (PUD-SP) Zoning

- (A) **Intent.** The provisions of this district are intended to apply to existing residential, tourism, or mixed use projects that were legally established prior to March 12, 1984 which do not comply with the existing maximum density provisions of the Comprehensive Plan. The intent of the PUD-SP zoning district is to allow such uses, through the process specified in this section, to establish zoning district standards with which the project is currently and will continue to comply. The PUD-SP zoning district is not to be applied to new development on vacant land or to redevelopment exceeding 50 percent of the market value of existing development. Properties approved under the PUD site plan process of article III, division 1 of this chapter are not superseded or considered non-conforming by the provisions of this section.
- (B) **Uses Permitted.** The PUD-SP shall only allow the continuance of uses that were legally established prior to March 12, 1984 and that remained in existence at the time of application for rezoning to the PUD-SP zoning district.
- (C) **Procedures for Approval.**
- (1) **In General.** The following steps shall be followed to request a change in zoning to PUD-SP. A PUD-SP zoning map amendment shall not be established unless and until an associated existing site development plan is simultaneously approved by the town commission.
 - (2) **Pre-Application Conference.** A pre-application conference with the planning and zoning official, or designee, is required, at which time the request will be reviewed for eligibility to apply for the PUD-SP zoning designation consistent with the standards of this section and with the provisions of the Comprehensive Plan. For the pre-application conference, applicants must specify in writing the existing uses, density, and intensity of the development, as well as any other necessary information as determined by the planning and zoning official, or designee, to determine eligibility to apply for a change in zoning to PUD-SP. Applications cannot proceed unless and until they are determined by the planning and zoning official, or designee, to be eligible to apply for the PUD-SP zoning designation.
 - (3) **Formal Application.** The application for a PUD-SP rezoning shall be filed with the planning and zoning official. Upon receipt of the application the planning and zoning official shall review the application to determine its appropriateness and completeness in respect to the requirements of this section, 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, including findings of fact as to the consistency of the application with the Land Development Code and the Comprehensive Plan, 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 PUD-SP rezoning 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 cycle shall be September through June of the following 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.

- (4) **Planning and Zoning Board Public Hearing.** Upon receipt of the application from the planning and zoning official, the planning and zoning board shall, in a quasi-judicial proceeding, review the PUD-SP rezoning application and plans and make recommendations to the town commission that are based on competent, substantial evidence of record. The planning and zoning board may also formulate findings of fact as to the consistency of the application with the Land Development 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 denial 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 PUD-SP rezoning 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.
- (5) **Town Commission Public Hearing.** A public hearing on the PUD application, conducted as a quasi-judicial proceeding, 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 a PUD-SP 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. 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.
- (6) **Town Commission Decision Procedures.** At the conclusion of the public hearing, the town commission shall review the PUD-SP rezoning application and either approve it as submitted, approve it with changes or special conditions, or deny it. The applicant may request that the application be withdrawn or that the hearing be continued if the applicant does not accept the changes or special conditions recommended by the town commission. 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 PUD-SP application.

- (a) In the event approval is granted, the town commission shall, as part of its ordinance, specify the drawings, plan sheets, renderings, and specifications that shall be considered part of the final approval.
- (b) 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.

(7) **Filing with the Town Clerk.** Within seven days after the adoption of the ordinance provided for in section 158.035(C)(5) above, it shall be certified by the town clerk and shall be filed in the Clerk's office, and a certified copy shall be mailed to the applicant. An existing development plan upon approval and acceptance, as provided herein, is defined as running with the land. Upon approval and acceptance, the town clerk shall file with the clerk of the court the existing development plan to record it in the official records of the county in which the property is located.

(D) **PUD-SP Zoning Development Standards.** The development standards for a PUD-SP shall be established through the process specified in this section and shall be based on the existing, lawfully established development. Development standards shall include, but not be limited to, the following: Maximum height, maximum lot coverage, maximum density, principal and accessory uses, and building and parking setbacks.

(E) **Application Contents and Submittal Requirements.** An application for a PUD-SP rezoning, 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(s) by an authorized agent, with the planning and zoning official. Any application for a PUD-SP rezoning 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:

- (1) 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.
- (2) A scaled drawing delineating the 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.
- (3) A verified statement, including a certificate of ownership, showing each and every 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.

- (a) For applications filed on behalf of an association, the applicant's attorney shall certify in writing that the association is legally authorized to represent the interest of all owners of property subject to the application.
- (3) 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), including the extent and type of wetlands in accordance with the town's Comprehensive Plan.
- (4) A scaled drawing delineating the locations, intensity and acreages of general land uses (existing), including dwelling types and units and general types of nonresidential uses, open spaces, recreational facilities and other existing uses.
- (5) A zoning table that describes the total site and each component of the site in terms of acreage and percentage of total site area, land uses, number and type of dwelling units, square feet of all nonresidential buildings, residential and tourism unit density, and other information that is descriptive of the existing development.
- (6) Applicable development standards for each component of the project including building setbacks, building coverage, building floor area, building height, and maximum impervious area.
- (7) Parking standards for each component and/or land use for the project.
- (8) Special design standards, if any, for each component of the project and for common areas and rights-of-way, such as architectural, sign, enhanced landscaping, and buffering standards.
- (9) Such additional data and information as the applicant may believe is pertinent to the existing plan of development.
- (10) Such additional relevant data and information the town may reasonably require.
- (11) A written statement by the applicant describing fully the character and use of the existing development and setting forth the reasons why, in his opinion, a PUD-SP rezoning would be in the public interest and would be consistent with the town's statement of purposes of a PUD-SP zoning.
- (12) An existing site development plan, which is a site plan, drawn to scale, that depicts the existing development and is intended to become an integral part of a PUD-SP approval. The existing site development plan shall include the following:
- (a) The 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.
- (b) Architectural definitions for buildings in the development, including use, height, daylight plane, exterior construction material, exact number of dwelling units, sizes and types of buildings and dwelling units, together with typical floor plans of each type. The floor plans should indicate uses and square footage of each proposed use within each building or structure and all exterior dimensions of each type of building or structure.
- (c) The type and location of all existing trees protected by town regulations.

- (d) Location, design and character of all utilities.
 - (e) Location, height and general character of perimeter and ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
 - (f) Location of all pedestrian walls, malls and bike paths.
 - (g) Location and character of recreation areas and facilities and the disposition of all open space indicated on drawings. This information should include calculations, verified by a licensed designed professional, indicating how the town's opens space requirements are being met. If common facilities (such as recreation areas or structures, private streets, common open space, etc.) are provided for the development, statements as to how such common facilities are provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners associations, surety arrangements, or other legal instruments providing adequate guarantees to the town that such common facilities will not become a future liability of the town.
 - (h) Location and character of all outside facilities for waste disposal, storage areas or displays.
 - (i) Flood protection elevation data and flood zones delineated.
 - (j) All permits and supporting documentation, correspondence and any other material submitted to outside permitting agencies or received from such agencies.
- (F) **Review Criteria.** The town commission shall base its decision on each PUD-SP rezoning application and existing site development plan on competent, substantial evidence of record 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 approval, with or without changes or special conditions, or for the denial of a PUD-SP rezoning application. The commission's approval, approval with changes or special conditions, or denial of a PUD-SP rezoning application and existing site development plan, shall be based on the application, evidence and testimony presented in the public hearing, and the following standards:
- (1) In what respects the PUD-SP rezoning application and existing site development plan are or are not consistent with the intent of a PUD-SP zoning district as provided in this section.
 - (2) Whether and the extent to which the PUD-SP rezoning application and existing site development plan accurately depict the existing development that has occurred and currently exists on the site.

(G) Revisions to a PUD-SP Development Plan.

- (1) **Revocation for Deviation from Plan.** Any unapproved deviation from the approved existing site development plan shall cause the planning and zoning official to immediately revoke the PUD-SP approval until such time as the deviations are corrected or revisions approved.

- (2) **Periodic Review.** The town commissioners may initiate a review of the PUD-SP and may revise the plan and specifications as needed to protect the public health, safety, or welfare and to ensure compliance with the Comprehensive Plan and the Land Development Code.
- (3) **Minor Revisions to PUD-SP.** Changes to an approved PUD-SP that are minor in nature are changes which do not affect the overall character of the PUD-SP. Minor revisions to an existing development plan may be approved administratively by the planning and zoning official. The following may be considered to be minor revisions: changes to accessory structures, landscaping, or vehicular use areas that do not increase the extent of any non-conformity or affect surrounding property; and changes that do not qualify as major revisions as specified in section 158.035(G)(4). Routine maintenance and repair are permitted and shall not be considered revisions to a PUD-SP.
- (4) **Major Revisions to PUD-SP.** Changes that affect the overall character of an approved PUD-SP are not permitted under the PUD-SP designation. Such changes shall include, but are not limited to, redevelopment, any increases in density or intensity, changes in approved land uses, decreases in open space, alterations to the general distribution of traffic, changes affecting a condition of approval made by the town commission, changes to building setbacks or height, any other change deemed to have a substantial impact to surrounding properties or public facilities. Any such development shall require a rezoning to an appropriate designation that complies with the current Comprehensive Plan or to PUD as specified under section 158.034 of the Land Development Code.