

Regular Workshop – December 12, 2016  
Agenda Item 7

Agenda Item: Proposed Ordinance 2016-32, Amending Chapter 158, Zoning Code, Article III, Site and Development Plans, Division 1, Planned Unit Developments (PUD)

Presenter: Town Manager and Staff

Summary: Staff has worked with Consultants Calvin, Giordano & Associates, Inc. and the Planning & Zoning (P&Z) Board to develop a new Zoning Code for Planned Unit Developments.

The P&Z Board recommended approval of Ordinance 2016-32 at their November 15, 2016 Regular Meeting. Staff and consultants will present the new PUD Zoning Code to the Town Commission for consideration.

Attachments: 12-2-16 Memo, PZB Director to Manager;  
12-5-16 Memo, P&Z Board Chair to Town Commission;  
11-2-16 Staff Report, PZB Director to P&Z Board;  
PowerPoint Presentation;  
11-15-16 P&Z Board Regular Meeting Minutes;  
Proposed Ordinance 2016-32.

Recommended

Action: Pending discussion, forward Ordinance 2016-32 to the January 9, 2017, Regular Meeting for first reading and public hearing.

## M E M O R A N D U M

**DATE:** December 2, 2016

**TO:** Dave Bullock, Town Manager

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

**SUBJECT:** Proposed Ordinance 2016-32, Amending Chapter 158, Zoning Code, Article III, Site and Development Plans, Division 1, Planned Unit Developments (PUD)

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### **Background**

Staff has worked with Consultants Calvin, Giordano & Associates, Inc. (CGA) and the Planning and Zoning (P&Z) Board 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 Town Commission and the P&Z Board:

- 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 P&Z Board and Town Commission during 2015. This new section is the first step in the complete rewrite of the Town's LDC, which is currently underway.

### **History and Purpose of Planned Units Developments**

PUDs originally gained popularity beginning in the 1960s and were promoted by the Urban Land Institute, the American Society of Planning Officials, and many other organizations. Unlike standard Euclidian zoning, which sets forth very specific development regulations, PUDs are intended to encourage creative development and provide greater regulatory flexibility. This flexibility is often used to obtain additional density, additional height, and other allowances, in exchange for meeting or exceeding other requirements or goals set forth by the jurisdiction, such as solutions to transit issues, additional open space, affordable housing, and other needs or goals specific to a community.

PUDs are frequently used as “floating zones,” which are not placed upon a specific property until a land owner makes the request for a rezoning into a PUD zoning district. This means that a PUD zoning district will not appear on a zoning map, unless and until a request is made by a property owner and ultimately granted by the governing body. Therefore, the PUD zoning district “floats” until an application is approved which sets

the PUD zoning onto a piece of property with development standards specific to that property and the intended goals of the community.

The use of PUDs is not intended as a method for circumventing the Zoning Code, but should, instead, encourage a more efficient use of land, utilize imagination and ingenuity to address challenges specific to the site or area, result in more creative design, and provide greater amenities and benefits to the community that may not be possible under standard zoning. The result should be a development that not only meets the overall goals of the community, but in many cases exceeds them.

PUDs are often used as an incentive to foster redevelopment. They also encourage cohesive development that provides an increased level of amenities. PUDs are also often used to provide mixed-use development with walkable amenities, something that is often difficult to achieve under standard zoning.

### **From “Process” to “Zoning District”**

Unlike the current PUD section of the Town’s Zoning Code, this new PUD code will not simply be a *process* for gaining site plan 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 new code includes two new Zoning Districts:

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

### **Compliance with Comprehensive Plan**

Before being rezoned into either a PUD-OA or PUD-SP Zoning District, a property must first be moved into one of the Comprehensive Plan’s Opportunity Area Future Land Use Categories. This ensures that any PUD-OA or PUD-SP development complies with the intent of the Opportunity Areas, as established by the Comprehensive Plan. The amendment would change the Town’s Future Land Use Map to reflect the appropriate designation for the specific property.

### **Conforming Existing Nonconforming Density**

One of the major goals of the new PUD Zoning Districts was to provide a method for those properties with nonconforming density to become conforming. Under the new code, once a PUD-OA or PUD-SP Zoning District is approved for a specific property, the density allowed for that property is established and memorialized within the standards of the PUD regulations; thus the density becomes legally conforming.

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.*

### **Potential Additional Density**

While the new PUD-OA Zoning District allows properties to redevelop at their existing nonconforming density, and thus become legally conforming, it also provides a method for potentially obtaining additional density. Any such request for additional density must first achieve voter approval through the Town Charter referendum process and then successfully gain approval of the Town Commission. The rezoning process would then establish the new density as the legally conforming density for that property.

### **Historic Tourism Balance**

The Board expressed interest in defining and preserving the historic balance between tourism and residential uses. An appropriate balance between these uses generally means that a sufficient population, both year-round and seasonal, will exist to support the desired level of commercial uses in the community.

Staff conducted research to determine the time period when the commercial businesses on the island seemed to peak and determined that the late 1990s to early 2000s seems to be the period when the most commercial uses were available to the community. During that time period, the island maintained a ratio of approximately 80 percent residential units to 20 percent tourism units. The total number of tourism units during that time period was approximately 1,800. Staff recommended including the 80/20 ratio in the new PUD code. The Board ultimately recommended including both the ratio and a total number of tourism units.

### **Mixed Uses**

The new PUD-OA Zoning District will provide the potential for a mixture of complimentary uses, which will allow a more creative use of space and provide greater availability of on-site amenities. These uses will be determined based on the applicable Future Land Use Category and complimentary uses approved through the rezoning process.

Much discussion took place during the P&Z Board's consideration of the PUD code regarding the preservation of tourism uses. Most of the P&Z Board's concerns centered around properties that might consist of a mixed-use development intended for both tourism and residential uses, where the residential uses might be built first and then the remainder of the development does not get built. To prevent such a scenario, the proposed PUD-OA Zoning District regulations include a requirement for a mixed-use development with both tourism and residential uses to build the tourism uses prior to issuance of Certificates of Occupancy for the residential uses.

## **Height**

The P&Z Board has recommended that any new development or redevelopment in a PUD-OA be limited to a maximum of 80 feet over parking. This equates to approximately 7-stories maximum over parking.

Additional height, over and above the height allowed under the existing zoning for a property, would also be subject to increased open space and/or setbacks. Additional height would also be required to be situated on a property so as to improve the scenic vistas from neighboring properties.

## **Outline Development Plans**

The proposed Code eliminates the use of an Outline Development Plan (ODP) for properties that rezone into the new PUD-OA or PUD-SP Zoning Districts. 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.

## **Preserving Mixed-Use Community Districts**

Ordinance 2016-32 includes a crucial element of “housecleaning” pertaining to the Town’s existing PUD regulations. As has been previously discussed, the existing PUD section of the Land Development Code (Section 158.065) is a *process*, not an actual *zoning district*. That existing process is heavily tied to all previous approvals within the Mixed-Use Community (MUC) zoning districts and involves an approval method utilizing an ODP. The MUCs are subject to numerous court orders and the ODP process is referenced throughout those court documents pertaining to the MUC districts. Therefore, the existing PUD section of the Code is retained, but has been revised to limit it to the MUC districts. This serves to ensure the MUCs remain under the existing PUD/ODP process and will continue to comply with all court orders pertaining to the MUC districts. All other properties proposed for a PUD would request either a PUD – OA or PUD – SP Zoning District.

## **Next Steps**

The following schedule is anticipated:

**January 9, 2017:** Town Commission first reading and public hearing for Ordinance 2016-32.

**March 6, 2017:** Town Commission second reading and public hearing of Ordinance 2016-32 (one-month delay is due to the coordination with Ord. 2016-35, which is the Comprehensive Plan amendment related to the Opportunity Areas. This provides for completion of the State-level review so that both Ordinances can be adopted together).

## **Remainder of Zoning Code**

As mentioned above, work on the remainder of the Zoning Code is currently underway. Elements of this work will be brought forward to the Planning and Zoning Board over the next couple of months. The work for the entire rewrite of the Zoning Code is currently on schedule to be complete by the end of 2017, as originally planned.

## MEMORANDUM

**DATE:** December 5, 2016

**TO:** Honorable Mayor and Town Commission

**THROUGH:** Dave Bullock, Town Manager

**FROM:** Jim Brown, Chair  
Planning and Zoning Board

**SUBJECT:** Proposed Ordinance 2016-32, Amending Chapter 158, Planned Unit Development

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During the public hearing held on November 15, 2016, the Planning and Zoning Board recommended APPROVAL of Ordinance 2016-32, with amendments. The specific motion from the November 15, 2016, meeting of the P&Z Board is as follows:

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-32 WITH THE AMENDMENTS AS STATED BY STAFF, SPECIFICALLY REGARDING THE REFERENDUM LANGUAGE, MAXIMUM HEIGHT, AND OTHER ITEMS SUGGESTED TO STAFF. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SYMANSKI, NO.**

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

1. Ordinance 2016-32;
2. Staff Report, dated 11-02-2016, PZB Director to P&Z Board;
3. PowerPoint presentation; and
4. Draft minutes from the 11-15-2016 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.

JB/dmc



# **Ordinance 2016-32**

# **Planned Unit Development**

# **Zoning Code**

Town Commission Regular Workshop  
December 12, 2016



## Joint Town Commission and PZ Board Direction – November 2015

- Allow properties that are nonconforming for density to redevelop at their existing density and become conforming under new Planned Unit Development (PUD) Zoning Districts;
- Provide method(s) to request additional density for properties that wish to redevelop under a PUD;
- Allow redevelopment to utilize creative and flexible design parameters; and
- Provide method for properties that are nonconforming for density, but may not desire to redevelop, to become conforming.



## Process to Date

- December 2015 – May 2016: Procurement process and contract negotiations to secure consultant for LDC rewrite. Calvin, Giordano & Associates, Inc. (CGA), selected.
- June – July 2016: Coordination between Town Staff and CGA.
- August 2016: First draft of PUD Code provided to P&Z Board.
- September 2016: Second draft of PUD Code provided to P&Z Board.
- October 2016: Third draft of PUD Code provided to P&Z Board.
- November 2016: Planning & Zoning Board recommends approval of PUD Code



## History and Purpose of PUDs

- Successfully established as valid zoning tools through multiple court decisions since the 1960s.
- Provide more flexibility and creativity than standard zoning, while meeting or exceeding community goals; not meant to circumvent Zoning Code.
- Often used as “floating zones;” do not appear on a zoning map until specific properties are rezoned using the PUD Zoning District.
- Often used to encourage redevelopment.



## From “Process” to “Zoning District”

- Current PUD section of Town Code is a process for gaining Site Plan approval; not a zoning district.
- New PUDs will be Zoning Districts and will appear as such on the Town’s Zoning Map.
- Development parameters, meeting or exceeding the stated intent and goals for each PUD, will be established in that PUD Zoning District.



## New PUD Zoning Districts

- The new code includes two new Zoning Districts:
  - Planned Unit Development – Opportunity Area Zoning District (PUD-OA): Designed for redevelopment of properties with existing nonconforming density or for new development.
  - Planned Unit Development – Special Purpose Zoning District (PUD-SP): Designed for properties that are nonconforming for density and want to become conforming, but do not want to redevelop.



## Compliance with Comprehensive Plan

- Before being rezoned into either a PUD-OA or PUD-SP Zoning District, a property must first be moved into one of the Comprehensive Plan's Opportunity Area Future Land Use Categories.
- Ensures that any PUD-OA or PUD-SP development complies with the intent of the Opportunity Areas, as established by the Comprehensive Plan.
- Town's Future Land Use Map would change to reflect the appropriate designation for a specific property.



## Conforming Existing Nonconforming Density

- Once a PUD-OA or PUD-SP Zoning District is approved for a specific property, the density allowed for that property is established and memorialized within the standards of the PUD regulations.
- Stated density for the property becomes the legally conforming density.
- Complies with Comprehensive Plan Policy 1.1.5., related to providing method for conforming legal nonconforming density.



## Potential Additional Density

- PUD-OA Zoning District provides method for potentially obtaining additional density.
- Any such request for additional density must first achieve voter approval through the Town Charter referendum process and then successfully gain approval of the Town Commission.
- The rezoning process would then establish the new density as the legally conforming density for that property.



## Historic Tourism Balance

- P&Z Board expressed interest in defining and preserving the historic balance between tourism and residential uses.
- Appropriate balance between these uses generally means a sufficient population, both year-round and seasonal, will exist to support desired level of commercial uses in the community.
- Research shows the peak time period for commercial uses on the island was the late 1990s to early 2000's, with approximately 80% residential to 20% tourism (approx. 1,800 tourism units at that time).
- Board recommended including both the 80:20 ratio and the total number of tourism units.



## Mixed-Uses

- New PUD-OA Zoning District will provide the potential for a mixture of complimentary uses.
  - Allows creative use of space and provide greater availability of on-site amenities.
  - Uses will be determined based on the applicable Future Land Use Category and complimentary uses approved through the rezoning process.
  - Board recommended including both the 80:20 ratio and the total number of tourism units.
  - PUD-OA Zoning District regulations includes requirement for mixed-use development with both tourism and residential uses to build the tourism uses prior to issuance of Certificates of Occupancy for the residential uses; prevents the residential component from being built first and potential abandonment of the tourism component.



# Height

- Board recommended that any new development or redevelopment in a PUD-OA be limited to a maximum of 80 feet over parking.
- Equates to approximately 7-stories maximum over parking.
- Additional height required to be mitigated with additional open space and/or setbacks.
- Height must be creatively situated on property so as to improve scenic vistas from neighboring properties.



## Outline Development Plans

- Proposed PUD Code eliminates the use of an Outline Development Plan (ODP) for properties that rezone into the new PUD-OA or PUD-SP Zoning Districts.
- The use of “Concept Plan” and “Final Site Plan” are utilized for the PUD-OA and PUD-SP Zoning Districts.
- Brings the new Code into conformance with nationally recognized vernacular and criteria.



# Preserving Mixed-Use Community

- Existing PUD/ODP process is heavily tied to all previous approvals within the Mixed-Use Community (MUC) zoning districts.
- MUCs are subject to numerous court orders and the ODP process is referenced throughout those court documents pertaining to the MUC districts.
- The existing PUD section of the Code is retained, but has been revised to limit it to the MUC districts.
- Ensures the MUCs remain under the existing PUD/ODP process and continue to comply with all court orders pertaining to the MUC districts.



# Preserving Mixed-Use Community

- Existing PUD/ODP process is heavily tied to all previous approvals within the Mixed-Use Community (MUC) zoning districts.
- MUCs are subject to numerous court orders and the ODP process is referenced throughout those court documents pertaining to the MUC districts.
- The existing PUD section of the Code is retained, but has been revised to limit it to the MUC districts.
- Ensures the MUCs remain under the existing PUD/ODP process and continue to comply with all court orders pertaining to the MUC districts.



## Recommendation

The Planning and Zoning Board recommended approval of Ordinance 2016-32 at their meeting on November 15, 2016.



## Path Forward

- The following schedule is anticipated:
  - January 9, 2017: Town Commission first reading for Ordinance 2016-32.
  - March 6, 2017: Town Commission second reading and public hearing of Ordinance 2016-32 (one-month delay is due to the coordination with Ord. 2016-35, which is the Comprehensive Plan amendment related to the Opportunity Areas, so that the State-level review will be completed and both ordinances can be adopted together).
- Work on the remainder of the Zoning Code is currently underway and will be brought forward to the Planning and Zoning Board over the next couple of months.
- Rewrite of the Zoning Code is currently on schedule to be complete by the end of 2017, as originally planned.

## MEMORANDUM

**DATE:** November 2, 2016

**TO:** Planning and Zoning Board

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

**SUBJECT:** Proposed Ordinance 2016-32: Amending Chapter 158, Zoning Code, Article III, Site and Development Plans, Division 1, Planned Unit Developments

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### **PROGRESS TO DATE**

**November 2015:** Direction received from Town Commission and Planning and Zoning Board (P&Z Board) regarding nonconforming properties, Planned Unit Developments (PUD), and Land Development Code rewrite process. PUD zoning was established as first priority.

**December 2015 – May 2016:** Procurement process and contract negotiations to secure consultant for LDC rewrite. Calvin, Giordano & Associates, Inc. (CGA), selected.

**June – July 2016:** Coordination between CGA and Town Staff.

**August 2016:** First draft of PUD Code provided to P&Z Board.

**September 2016:** Second draft of PUD Code provided to P&Z Board.

**October 2016:** Third PUD Workshop to establish direction on five outstanding issues.

### **PLANNING AND ZONING BOARD DIRECTION AND RESPONSE**

At their October meeting, the Planning & Zoning Board reached consensus on the following items and the method for carrying out this direction is described below:

1. **CONSENSUS DIRECTION:** Allow both redevelopment and new development (raw land) to utilize the PUD-OA Zoning.

**RESPONSE:** Ordinance 2016-32 reflects this direction.

2. **CONSENSUS DIRECTION:** Encourage the preservation of the historic balance of tourism and residential uses on the island.

**RESPONSE:** Ordinance 2016-32 incorporates language to reflect the encouragement of a historic balance between Residential and Tourism Uses.

3. **CONSENSUS DIRECTION:** Bring forward a Comprehensive Plan amendment to remove the word “dynamic” and reconsider the term “Opportunity.”

**RESPONSE:** Ordinance 2016-35, Comprehensive Plan Future Land Use Amendment, has been drafted to address this direction. The Staff Report and materials provided with Ordinance 2016-35 also includes information on the consideration of alternate terminology to “Opportunity Area.”

4. **CONSENSUS DIRECTION:** Enhance PUD Intent section to specify that the intent is to utilize creative and innovative approaches/designs to address challenges related to changing markets, building trends, and environmental conditions, while remaining compatible with the overall character of the island.

**RESPONSE:** Ordinance 2016-32 includes language to meet this direction. This language is also included in Ordinance 2016-35, to provide additional guidance and intent through the Comprehensive Plan.

5. **CONSENSUS DIRECTION:** Do not include criteria for properties that might be eligible for an Opportunity Area. Require the applicant to demonstrate why their property might be suitable to be changed from their existing Future Land Use Category to an Opportunity Area Category.

**RESPONSE:** This direction has been incorporated into Ordinance 2016-32, which includes language placing the burden on the applicant to prove how the proposed development is superior to that which could be accomplished under standard zoning.

6. **CONSENSUS DIRECTION:** Do not place a specific limit on the maximum density that may be requested, recognizing that other controls will exist.

**RESPONSE:** This direction has been incorporated into Ordinance 2016-32, which recognizes that control such as required Open Space, Setbacks, view preservation techniques, traffic impact mitigation requirements, and other required elements will place restrictive parameters on the amount of density that could be supported on a given property.

7. **CONSENSUS DIRECTION:** Require that specific uses be requested through the Future Land Use Amendment process, rather than the PUD.

**RESPONSE:** Ordinance 2016-35 reflects this direction. Additional guidance and intent regarding uses in the Opportunity Areas has also been provided in Ordinance 2016-32, Comprehensive Plan Future Land Use Amendment.

8. **CONSENSUS DIRECTION:** Allow residential and tourism uses within the same development, but stipulate that it must not result in the loss of existing tourism units and construction must be phased so that construction begins on the tourism uses and associated amenities first.

**RESPONSE:** Provisions have been included in Ordinance 2016-35, specifying the phased construction of projects containing both tourism and residential uses, so as to ensure the tourism uses are constructed in the initial

phase of the project. Also, language has been added to both Ordinance 2016-35 and Ordinance 2016-32 to address the preservation of tourism uses.

9. **CONSENSUS DIRECTION:** Allow building height at the existing building height or the maximum height allowed under the current zoning, whichever is greater, and include provision that additional height may be granted at a ratio of 1 foot of additional height for each additional 2 feet of setback or 2 percent of open space provided (as discussed, this will also act as a control as to how much density could fit on a property, since additional units would likely result in a request for increased height and would require larger setbacks and/or significantly increased open space).

**RESPONSE:** This direction has been included in Ordinance 2016-35.

### **PROPOSED ORDINANCE 2016-32**

As noted above, proposed Ordinance 2016-32 incorporates the consensus direction provided by the Planning & Zoning Board from their October meeting.

Ordinance 2016-32 also includes a crucial element of “housecleaning” pertaining to the Town’s existing PUD regulations. As has been previously discussed, the existing PUD section of the Land Development Code (Section 158.065) is a *process*, not an actual *zoning category*. That existing process is heavily tied to all previous approvals within the Mixed-Use Community (MUC) zoning districts and involves an approval method known as an Outline Development Plan (ODP). The MUCs are subject to numerous court orders and the ODP process is referenced throughout those court documents pertaining to the MUC districts. As such, the existing PUD section of the Land Development Code could not simply be removed, since it must continue to govern any development within the MUC districts.

Ordinance 2016-32 retains Section 158.065 of the Land Development Code, but restricts its use to properties within the MUC districts only. This serves to ensure the MUCs remain under the existing PUD/ODP process and will continue to comply with all court orders pertaining to the MUC districts. All other properties proposed for a PUD would request either a PUD – Opportunity Area Zoning or a PUD – Special Purpose Zoning.

### **PATH FORWARD**

The following schedule is anticipated:

**November 2016:** Planning & Zoning Board recommendation to the Town Commission for Ordinance 2016-32.

**December 2016:** Town Commission Workshop to consider Ordinance 2016-32.

**January 2017:** First Reading and public hearing of Ordinance 2016-32.

**February 2017:** Second Reading and adoption of Ordinance 2016-32.

Staff and CGA are also coordinating for the complete rewrite of the LDC and will begin bringing forward those components.

Agenda Item 6  
Ordinance 2016-32 – Amending Chapter 158, Planned Unit Development

Pursuant to published notice, the public hearing was opened.

Luis Serna, Calvin, Giordano & Associates, Inc., the Town's consultant, provided an overview of their presentation outlining:

- They had changed the section numbers
- There was a current PUD process that was contained within Section 158.065 – 158.071
- Proposal to add Sections 158.063 – 158.064 in the Land Development Regulations (LDRs)
  - Provides new zoning districts: Planned Unit Development – Opportunity Area (PUD-OA) and Planned Unit Development – Special Purpose (PUD-SP)
  - The PUD-OA would be for new development or redevelopment of existing project; and PUD-SP would be for existing non-conforming projects that wished to memorialize what currently existed
- the Future Land Use (FLU) designation would determine the uses that were allowed on the property
- the intent language has been revised, and when it comes to standards, they mentioned that this will be to maintain a historic balance between tourism and residential units
- reviewed the process for submitting for a PUD, the PUD development standards, and the review criteria
- There were three types of PUDS - PUD-OA (PUD-Opportunity Area); PUD-SP (PUD Special Purpose) and PUD-MUC (PUD Mixed Use Community)

Mr. Symanski referred to page 2 of 3 (staff report), Item 8, and asked how it would work. Mr. Serna noted this would not be for the pure commercial tourism opportunity area; this would be for one of the mixed use categories. Ms. Ray included it was for one of the commercial residential mixed use 'Opportunity' areas. Mr. Symanski believed the Board specified no residential in the tourism, but it can be done in the second. Ms. Ray explained it was the direction from the Board during their October meeting to allow that within the mixed use 'Opportunity Area.' There was a concern there would be an instance where someone might build the residential component first and not build the tourism units; the board directed staff to include language that the tourism units had to be constructed first, or at least, be substantially underway. Mr. Symanski thought it had been removed. Ms. Ray commented it was existing in the Comprehensive Plan. Mr. Symanski noted he did not support the mixing. Mr. Schneier pointed out if there was a property that wished to redevelop as commercial-tourism, then they would file for a PUD 'Opportunity Area,' such as the Commercial Tourism Destination Opportunity (CTDO) area. Ms. Ray replied correct; if someone wished to develop a pure tourism area, they would apply for the CTDO, and then apply for the PUD. She noted that if someone

wished to apply for a mixed use, then they would apply for the PUD-OA-Mixed Use area.

Concerning the requirement where it gave a foot of height for two feet of setback or two percent of open space increase, Mr. Schneier questioned if it had been tested to see whether the type of properties that might use it could do that. Ms. Ray explained that including those types of criteria was a standard thing; it placed that parameter on it, because there was only so much height they could get without narrowing the building envelope to a point where it was not feasible. Chair Brown referred to page 3 of the ordinance, specifically the PUD-OA district. Ms. Ray noted if there was a non-conforming use now, they could embed that use as an allowed use in their PUD. Chair Brown discussed the notification on page 4 of 25 and wondered if there was a need to include neighborhood meetings in the requirements. He voiced concern with scheduling the meetings during times when people were not on the island. Ms. Bishop understood the concern, but if an owner received notice, they could contact staff, the applicant, or their neighbors to gather more information. She believed they should leave the language in place. Mr. Symanski suggested it could be removed, because a good developer would proceed with neighborhood meetings. Mr. Haycock and Mr. Garner believed the language should remain.

**There was consensus to retain the neighborhood meeting language in the ordinance.**

Mr. Symanski discussed the bottom of page 3 of 25 of the ordinance, last sentence, "Approval of a referendum for increased density..." and pointed out he would add some language to state, "*Approval of a referendum for increased density is merely permission for consideration of a proposal and does not guarantee approval...*" Chair Brown mentioned that in several locations it noted that 'once the voters have approved the density,' and it implied the voters were approving the density. Attorney Mooney-Portale requested the language be revised to state, "...consideration of an application" versus 'approval.'

Ms. Ray confirmed that the Board wished to revise the language to state, "*Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD-OA rezoning process.*"

Chair Brown referred to page 6 of 25, Item 1, Height, and pointed out if there was an existing project, and it exceeded the 50-65 foot height, then they could retain that height. He reviewed the maximum height referenced in the paragraph commenting there should be a limit, and he suggested the limit should not exceed 80 feet. Ms. Bishop agreed. Mr. Garner noted he had raised the issue in the previous language, and noted that setting that criteria would not work, because there were so many variables that contribute; they could not tie a setback to the height of a building – they were not interrelated. Ms. Bishop asked if Mr. Garner concurred there should be a maximum allowable height. Mr. Garner agreed. Mr. Haycock questioned what was the criteria used. Discussion ensued on the 1984 Charter change concerning density.

Ms. Bishop suggested that they amend the language to incorporate a maximum height of 80-85 feet, allowing those who currently have over 100 feet, but noting that if they redevelop, they could not exceed the existing height. Chair Brown took into account they had discussed where if there were requirements by Code that pushed them up, he did not believe they could limit that. He pointed out that most of the tall development was on the south end of the island, and the south end was more planned development than on the north end of the island. Discussion ensued on setbacks from Gulf of Mexico Drive with Ms. Ray noting that staff could include additional language in the code that stated, *“preference will be given to building placement that improved scenic views from adjacent properties and maintains the character and separation from neighboring properties on Gulf of Mexico Drive.”*

**There was consensus to set the maximum height at 80 feet.**

Concerning lot coverage, Chair Brown discussed they did not wish to over increase the density, and suggested language to state, *“additional units may only be approved if the proposed development meets height, lot coverage, and open space requirements in Table 1.”* Ms. Ray suggested that staff could add that it must meet open space, height, and lot coverage requirements. Mr. Serna noted that Table 1 was in the Comprehensive Plan, and did not include those maximums for the ‘Opportunity Area’ designations. Mr. Symanski reiterated his request to amend the language that the referendum was only merely permission. Ms. Ray responded that staff would review and make those changes where it was referenced. She also noted that they would remove reference for a neighborhood meeting in this language, but the applicant would still be required to have a pre-application meeting with staff.

Mr. Schneier left the meeting at 11:44 AM.

Chair Brown referred to page 15, Section 158.025, noting it was not new, but re-designated. Ms. Ray discussed the MUC districts were subject to court orders, but staff wished to isolate those areas; they were not mixed with the new zoning districts. Chair Brown commented on page 23, Section 158.068, it denoted the PUD acreage of two acres. Ms. Ray pointed out that was currently existing in the Code. Chair Brown asked if they should set PUDs at a larger site area. Discussion ensued on setting a minimum on acreage for a PUD and Section 158.069 (Open Space). Ms. Ray noted that staff would remove the last underlined sentence in Section 158.069.

Chair Brown raised the issue of the referendum language in Section 158.070. Ms. Ray mentioned that staff would replace with the previous referendum language that was discussed.

Chair Brown commented on the chart of footnotes. Ms. Ray pointed out those were to address the MUC zoning districts. Attorney Mooney-Portale clarified the table with Mr. Spikowski, the Town’s previous planning consultant; the language in the footnote was crafted during the Longboat Key Club rewrite effort and was in response to a judicial order. Chair Brown suggested clear language in ‘(B)’ on page 24 and in Section 158.071(c)

Commissioner Phill Younger requested permission to address the Board. There were no objections to allowing Commr. Younger to speak.

Commr. Younger explained that the Board had spent a lot of time talking about having residential and tourism, and expressed a desire to not have them together. The PUD-mixed use was in total conflict with that statement, because it allowed tourism and mixed use. It negated what the Board previously stated. Chair Brown believed, in the discussion of the commercial tourism, they said it was limited to one manager's apartment, but did not eliminate a mixed use; they placed limits on it, and if it was existing tourism, they could not diminish the existing units. Commr. Younger believed the way he read the PUD-MUC was they could do exactly what the Board limited. Chair Brown noted they did not change any of the MUCs. Ms. Ray explained that under the commercial-residential mixed use, which was separate from the MUCs, during their October meeting, the Board proceeded and allowed mixed use that would allow tourism in residential, but placed a limitation in the language that it would not reduce the balance, and also that all proposed tourism units must be completed prior to Certificates of Occupancy (COs) for residential units. Mr. Symanski questioned where the zone came from. Ms. Ray responded that T-3 and T-6 zoning districts currently existed and allowed mixed use. Mr. Symanski pointed out that has been the problem historically (i.e. Holiday Inn), and suggested removal of that district. Chair Brown disagreed; the goal was to keep low-density, and restrict density over a certain amount. Ms. Ray pointed out that was the intention of the Board and Town Commission – to sell some residential units to provide financial incentive to build tourism units. Mr. Symanski suggested correction of the definition and the use of the word 'complimentary.' He also noted that the Town Commission should adopt the Comprehensive Plan amendment prior to the PUD District amendment.

Donald Hemke, attorney with Carlton-Fields, representing the Colony Beach & Tennis Association, commented the PUD was designed to be a flexible concept and provide flexibility for innovative solutions. He continued with discussing his concerns with: that the height would no longer be a flexible concept for a property and would become a mechanical formula; that it would not be a PUD-like category, but more towards the strict zoning categories; concern with a series of buildings higher than eight stories; and, believed the Town might be precluding certain things from happening if they embed all the rules being discussed into law. Chair Brown responded the Town wished to create limits; they were trying to provide guidelines for development.

Brenda Patten, discussed suggested amendments:

- height – provided chart comparing heights of condominiums on the south end of Longboat Key
- in the code amendment there was a need to provide appropriate flexibility
- page 6 – height – believed unfair and penalizes larger sites
- proposing leaving language about one-foot height for two feet setback, but proposing additional provision which would only apply to sites larger than a certain acreage.
- gives the Town the ability to consider the proposed amenities would justify and mitigate the additional height

Gerald Hamburg, Fair Oaks Way, voiced his concern with development and the traffic impact.

Mr. Symanski asked if staff had concerns with the percentage that the Town was using. Ms. Ray replied no. She explained that currently the Town required 30 percent open space on any site. Mr. Symanski pointed out the proposed language on page 6 of 25, submitted by Attorney Patten, provided possible extra height with parking and traffic mitigation, which was totally impossible to enforce or have staff address.

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-32 WITH THE AMENDMENTS AS STATED BY STAFF, SPECIFICALLY REGARDING THE REFERENDUM LANGUAGE, MAXIMUM HEIGHT, AND OTHER ITEMS SUGGESTED TO STAFF. MR. GARNER SECONDED THE MOTION.**

Mr. Symanski noted his intent to vote against the ordinance, specifically for the reason that he disagreed with the one zone relating to tourism.

**MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SYMANSKI, NO.**

**ORDINANCE 2016-32**

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, MODIFYING AND AMENDING TITLE 15 LAND DEVELOPMENT CODE, CHAPTER 158, ZONING CODE; MODIFYING AND AMENDING DIVISION I, PLANNED UNIT DEVELOPMENTS (PUD) WITHIN ARTICLE III, SITE & DEVELOPMENT PLANS; ADDING SECTION 158.062, OVERVIEW; ADDING SECTION 158.063, PLANNED UNIT DEVELOPMENT–OPPORTUNITY AREA ZONING; ADDING SECTION 158.064, PLANNED UNIT DEVELOPMENT–SPECIAL PURPOSE ZONING; AMENDING SECTION 158.065, OVERVIEW OF PLANNED UNIT DEVELOPMENTS; AMENDING SECTION 158.066, PREAPPLICATION CONFERENCE; AMENDING SECTION 158.067, REVIEW AND APPROVAL OF PLANNED UNIT DEVELOPMENTS; AMENDING SECTION 158.068, MINIMUM AREA; AMENDING SECTION 158.069, OPEN SPACE; AMENDING SECTION 158.070, TOURISM AND RESIDENTIAL DENSITY; AMENDING SECTION 158.071, PROPOSED LAND USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Town of Longboat Key (Town) is a barrier island with unique natural attributes and limited development; and

**WHEREAS**, the Town's Land Development Code serves to preserve and enhance the Town's character by ensuring that land uses are responsive to the social and economic needs of the community and are consistent with the support capabilities of the natural and manmade systems; and

**WHEREAS**, the Town's Land Development Code also serves to maintain an environment conducive to the health, safety, welfare of the Town's residents, and preserves and enhances property values within the Town; and

**WHEREAS**, the Town Commission seeks to amend the Town's Land Development Code to create new Planned Unit Development Zoning Districts to enable flexibility of design and to encourage imaginative, functional, high-quality land planning developments in designated zoning areas which are compatible with adjacent and nearby lands and activities and are consistent with the existing character of the Town, while also encouraging redevelopment of aging properties; and

**WHEREAS**, the Town Commission also seeks to provide a method to allow consideration of certain requests for additional density, while recognizing and keeping with the relatively low-density nature of the community; and

**WHEREAS**, the Town Commission seeks to preserve the existing provisions of the Land Development Code that regulate Mixed-Use Community zoning districts; and

**WHEREAS**, after due public notice, the Town’s Planning and Zoning Board held a public hearing on November 15, 2016, to consider the proposed Zoning Code amendments and provided recommendations to the Town Commission as the local governing body; and

**WHEREAS**, after due public notice, the Town Commission held a workshop on December 12, 2016, and considered the recommendations of the Town’s Planning and Zoning Board; and

**WHEREAS**, on \_\_\_\_\_, 201\_, the Town Commission conducted a duly noticed initial public hearing on the proposed Zoning Code amendments; and

**WHEREAS**, on \_\_\_\_\_, 201\_, the Town Commission conducted a duly noticed second public hearing on the proposed Zoning Code amendments and the Town Commission approved the amendments.

**THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, THAT:**

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. Chapter 158, Zoning Code, Article III, Site and Development Plans, Division 1, Planned Unit Developments, is hereby amended as follows:

**Chapter 158 Zoning Code**

**Article III. Site and Development Plans**

**Division 1. Planned Unit Developments (PUD)**

**158.062 – Overview**

This division is divided into three (3) Planned Unit Development categories: Planned Unit Development – Opportunity Area (PUD-OA), Planned Unit Development – Special Purpose (PUD-SP), and Planned Unit Development – Mixed-Use Community (PUD-MUC).

The PUD-OA and PUD-SP categories described herein are zoning districts. The development standards for properties within the PUD-OA and PUD-SP zoning districts must conform to the appropriate Future Land Use designation in the Comprehensive Plan, the provisions specified herein as being applicable to these zoning districts, the provisions established in the approval documents for the PUD-OA or PUD-SP, and all other applicable development regulations in this Code.

The PUD-MUC is not a zoning district, but is instead a process by which the properties within the Mixed-Use Community (MUC) zoning districts have historically been developed. The properties within the PUD-MUC are regulated by the MUC Future Land Use designation in the Comprehensive Plan, the development standards specified by this code for the MUC zoning districts, the provisions established through the PUC-

MUC and Outline Development Plan approval process, and all other applicable development regulations in this Code.

Properties within the MUC zoning districts cannot be rezoned to the PUD-OA or PUD-SP zoning districts. Also, the PUD-MUC provisions, including the Outline Development Plan process, are not applicable to properties that rezone to a PUD-OA or PUD-SP zoning district.

### **158.063– Planned Unit Development-Opportunity Area (PUD-OA) Zoning**

(A) *Intent.* The provisions of this zoning district are intended to apply to new development or to the redevelopment of existing residential, tourism, commercial, or mixed use projects within an underlying Opportunity Area Future Land Use designation consistent with the standards of this section, or within the Whitney Beach Overlay. 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, are in keeping with the low density character of the Town, and maintain the historic balance between tourism and residential units, equating to approximately 80 percent residential uses and 20 percent tourism uses, or approximately 1,800 tourism units. PUD-OAs should additionally utilize creative and innovative approaches and design to address challenges related to changing markets, building trends, and environmental conditions, while remaining compatible with the overall character of the island. Redevelopment proposed under the PUD-OA rezoning process shall not be subject to the Redevelopment Standards of section 158.140, however, the proposed development must demonstrate that the standards proposed will enable a development that is superior to a development that could be permitted under standard zoning. Properties approved under the PUD-OA 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 and accessory uses that are allowed in PUD-OA zoning districts are those that are consistent with the applicable Opportunity Area Future Land Use designation of the Comprehensive Plan as further described below:

*Multi-Family Residential Opportunity Area (MFRO).* Intended for multi-family residential developments and associated accessory uses and amenities that are limited to use by residents and guests of the development.

*Commercial Tourism Destination Opportunity Area (CTDO).* This category is intended for tourism units in destination resort developments with resort amenities and uses which enhance the purpose of the tourism use. Residential uses are not permitted, except that a limited number of residential units may be permitted for on-site personnel. Additional development criteria, parameters, and standards are provided in the land development regulations.

*Commercial/Residential Mixed Use Opportunity Area (CRMO).* Intended for developments that contain a complementary mixture of commercial, tourism,

and residential uses that have been planned in a manner that takes advantage of the complementary nature of the uses and their proximity to one another. This category encourages the vertical mixture of residential and nonresidential uses.

Commercial Opportunity Area (COMO). Intended for office-institutional uses as well as retail sales and services.

Whitney Beach Overlay (WBO). Intended to encourage redevelopment in a mixed use pattern that promotes high quality site design while protecting adjacent residential areas. Development proposals must include a substantial consolidation of properties within the Whitney Beach Overlay and at least two land use types from the following: residential, tourism units, commercial, office, public facility, private institutional, or recreational. One land use type must not exceed 80 percent of the total site. Residential uses must not exceed 30 percent of a mixed use project. Development densities and intensities may be transferred within and between properties that are combined in one development proposal.

In addition, the PUD-OA 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.

In order to maintain the historic balance between tourism and residential units, no PUD-OA shall result in a net loss in the number of tourism units from the number that exist at the time of the proposed redevelopment.

(C) Procedures for Approval.

(1) In General. The following steps shall be followed to request a change in zoning to PUD-OA. A PUD-OA 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-OA may be filed and reviewed concurrently with the necessary Future Land Use map amendment to the appropriate Opportunity Area designation. If a referendum is required to increase density pursuant to the Town Charter, a formal application for a PUD-OA rezoning may not be submitted until such referendum for the increase has been approved. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD-OA rezoning process.

(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-OA 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-OA. 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-OA zoning designation.

(3) *Formal Application.* The application for a PUD-OA shall be filed with the planning and zoning official. An application for site plan approval for all or a portion of the PUD-OA may be filed and reviewed concurrently with the concept plan and PUD-OA 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-OA 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) *Neighborhood Information Meeting.* Prior to consideration of the application by the Planning and Zoning Board, the applicant shall hold a neighborhood information meeting with property owners within 200 feet of the proposed development. The meeting must be held within the Town at a location and time convenient to the surrounding property owners to maximize attendance, subject to the following requirements:

(a) *Notification.* Two weeks prior to the meeting date, the applicant shall mail notices of the meeting date, time, and place to all property owners within a radius of 200 feet from the boundary of the proposed development and shall post the property. The applicant shall inform the planning and zoning official of the proposed meeting date and time prior to sending out the notices. Documentation of the mailed notice shall be provided to the planning and zoning official for verification.

(b) *Applicant's Presentation.* At the meeting, the applicant shall explain the proposed use of the subject property and make a copy of the proposed concept plan available for review by attendees. The applicant may also discuss the project's development objectives, design philosophy and proposed schedule for completion.

(c) Question and Answer Period. Upon completion of the presentation, time shall be reserved for a question and answer period. Questions should be limited to the proposal as presented, not to the question of whether the site should be developed or redeveloped. The applicant shall identify how potential community concerns will be mitigated.

(5) 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-OA 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.

(6) Town Commission Public Hearing. A public hearing on the PUD-OA 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.

(7) Town Commission Decision Procedures. At the conclusion of the public hearing, the town commission shall review the PUD-OA 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-OA 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-OA 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-OA was approved concurrently with the PUD-OA, the ordinance does not need to specify a time period.

(8) *Filing with the Town Clerk.* Within seven days after the adoption of the ordinance provided for in section 158.34(C)(7) 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-OA 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 158.34(H). Immediately following expiration of the 30-day appeal period and upon successful resolution of any appeals, 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-OA Zoning Development Standards.* A PUD-OA shall be permitted only upon an order of the town commission approving the PUD-OA concept plan and development standards. No PUD-OA shall be approved unless it complies with the following standards:

(1) *Height.* The proposed height shall not exceed the maximum height allowed by the existing zoning district of the property proposed for rezoning to PUD-OA, or the height 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 above the greater of this maximum height if the required building setback is increased by two feet, for every one foot of additional height requested, or open space is increased by two percent for every one foot of additional height requested, up to a maximum height of 80 feet above base flood elevation. Preference will be given to building placement that improves scenic views from adjacent properties.

(2) *Density and Lot Coverage.* The proposed density and lot coverage shall not exceed the total density and lot coverage allowed by the existing zoning district of the property proposed for rezoning to PUD-OA, or the density and lot coverage of the existing development that is proposed for redevelopment, whichever is greater. Applicants may request increases in density through

the PUD-OA process only upon approval of the increase in units by referendum pursuant to the Town Charter, but must comply with all open space, lot coverage, and height regulations herein. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD-OA rezoning process.

(3) *Building Setbacks.* The proposed minimum side and rear building setbacks, as measured from the boundaries of the PUD-OA, shall not be less than the setbacks allowed by the existing zoning district of the property that is proposed for rezoning to PUD-OA, or the building setbacks of the existing development that is proposed for redevelopment, whichever are 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.

(5) *Beach and Bay Access.* For all proposed PUD-OAs the number of existing beach and/or bay access points shall not be decreased below the number existing at the time of the PUD-OA application. All public beach and/or bay access points shall be recorded as easements in the public record and copies provided to the Town Clerk.

(6) *Natural Shoreline.* For proposed PUD-OAs 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-OA application shall be preserved or provided.

(7) *Development of Amenities and Tourism Units.* Amenities such as parks, open space, playgrounds, pools, marinas, docks, beach and Bay accesses, and tennis courts must be completed prior to issuance of building permits of more than 40 percent of the total number of authorized residential and tourism units. All proposed tourism units must be completed prior to the issuance of any certificates of occupancy for any residential unit.

(E) *Application Contents and Submittal Requirements.* An application for a PUD-OA, 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-OA in order for the town to evaluate the impact of the development to the town. Any application for a PUD-OA 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-OA 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-OA and setting forth the reasons why, in his opinion, a PUD-OA 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-OA 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-OA application. The commission's approval, approval with changes or special conditions, or denial of a PUD-OA 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-OA is or is not consistent with the intent of a PUD-OA 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-OA 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.
- (8) The extent to which the development protects or enhances unique site characteristics such as scenic views of the Gulf of Mexico and Sarasota Bay, natural vistas, or similar features.

(G) Effect of Approval. Approval of a PUD-OA 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-OA 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-OA 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-OA 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-OA 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 158.34(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-OA 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-OA zoning—shall comply with chapter 157 of the Land Development Code and all other applicable ordinances.

(H) Revisions to Concept Plan.

- (1) Unauthorized Deviations from Plan. Any unauthorized deviation from the approved concept plan shall cause the planning and zoning official to issue a cease and desist letter for the unauthorized development. No further development on the project shall be permitted until the applicant has obtained approval as either a Minor Revision or Major Revision to the Concept Plan as directed by the planning and zoning official in accordance with the standards of Section 158.34(H)(1) and (2).
- (2) Minor Revisions of Concept Plan. Changes to an approved concept plan that are minor in nature are changes that are not deemed to be Major Revisions as defined in Section 158.34(H)(3) which do not affect the overall character of the PUD-OA. Minor revisions of a concept plan may be approved administratively by the planning and zoning official. (a)
- (3) Major Revisions of Concept Plan. Major revisions to an approved concept plan are changes which affect the overall character of the PUD-OA. Major revisions to concept plan shall require submittal of a new PUD-OA application meeting the requirements of this section. Major revisions shall be processed as a new PUD-OA in accordance with the requirements of section 158.34(C) the Land Development Code. The following shall be deemed to be major revisions: any changes involving additional acreage or to the dimensions or boundaries of the PUD-OA; 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 principal uses not previously considered; minor street or driveway relocation or any change to streets or driveways 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.

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

- (A) Intent. The provisions of this zoning 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 of existing sites other than interior and/or exterior renovations to existing structures or the construction of new buildings or accessory uses of 1,000 square feet or less. 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 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.

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.

(7) Filing with the Town Clerk. Within seven days after the adoption of the ordinance provided for in section 158.35(C)(7) 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. Immediately following the 30-day appeal period and upon successful resolution of any appeals, if applicable, 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.

(4) 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.

(5) 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) 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.

(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 existing development.

(c) Applicable 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 for the project.

(e) 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.

(f) 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.

(g) 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.

(h) The type and location of all existing trees protected by town regulations.

- (i) Location, design and character of all utilities.
- (j) 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.
- (k) Location of all pedestrian walls, malls and bike paths.
- (l) 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.
- (m) Location and character of all outside facilities for waste disposal, storage areas or displays.
- (n) Flood protection elevation data and flood zones delineated.
- (o) All permits and supporting documentation, correspondence and any other material submitted to outside permitting agencies or received from such agencies.
- (6) Such additional data and information as the applicant may believe is pertinent to the existing plan of development.
- (7) Such additional relevant data and information the town may reasonably require.
- (8) 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.
- (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) *Unauthorized Deviations from Plan.* Any unauthorized deviation from the approved existing site development plan shall cause the planning and zoning official to issue a cease and desist letter for the unauthorized development. No further development on the project shall be permitted until the applicant has obtained approval as either a Minor Revision or is rezoned to an appropriate designation that complies with the current Comprehensive Plan or to PUD as specified under section 158.34 of the Land Development Code.
- (2) *Minor Revisions to PUD-SP.* Changes to an approved PUD-SP that are minor in nature are changes that are not deemed to be Major Revisions as defined in Section 158.35(H)(3) 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. Routine maintenance and repair are permitted and shall not be considered revisions to a PUD-SP.
- (3) *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 158.34 of the Land Development Code.

**158.065 - Overview of planned unit developments (PUD). Planned Unit Development – Mixed Use Community (PUD-MUC).**

- ~~(A) *IntentOptional 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 Mixed Use Community (MUC) zoning districts, the PUD-MUC process does not constitute a change in zoning district, but rather it is a process that, combined with an Outline Development Plan (ODP), establishes development rights on specific parcels within the MUC zoning districts. Thus, the PUD-MUC process described in this section is the only process~~

that landowners in ~~these~~ the MUC zoning districts can use to request changes to the approved development plans for those parcels. The PUD-MUC 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-MUC 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 subsection 158.067(F).

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

(C) *Where permissible.* PUD-MUC approval may be requested in ~~any~~ the MUC-1, MUC-2, and MUC-3 zoning districts, 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)~~ PUD-MUC approvals shall comply with the special density provisions found in section 158.070.

(E) *Intent.* ~~Planned unit developments are intended: to encourage flexibility in the design and development of land; facilitate the adequate and economical provision of streets, utilities, and public spaces; and 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.~~

(F) *Site plans.* A PUD-MUC is approved through the adoption of an ~~outline development plan (ODP)~~. Binding concept plans are required as part of ~~outline development plans~~ ODPs, except where this Code explicitly allows a final site development plan to replace a binding concept plan (see, for instance, subsections 158.067(B)(1) and 158.180(F)). Binding concept plans become an integral part of ODP and PUD-MUC approvals. Binding concept plans (and final site development plans) may be subsequently amended in accordance with the standards and procedures in section 158.067.

**158.066 – PUD-MUC Preapplication conference.**

In order to expedite the review of a proposed ~~planned unit development~~ PUD-MUC, coordinate its local review in respect to the provisions of this chapter with the necessary

county, state, and federal agency reviews, and to inform the town of a ~~planned unit development~~ PUD-MUC in preparation, one or more preapplication conferences between the applicant and the planning and zoning official is required. The preapplication conference, while informal, will serve several purposes and focus on the following items:

- (A) To inform the town of any ~~planned unit development~~ PUD-MUC plans in progress together with the scale and character of the plan so that the town may recognize the proposed development in any of its physical or facility planning for the entire town.
- (B) To inform the applicant of the town's informal response as to the scale and character of the proposed development and to alert the applicant to any specific areas of concern that the town may have for that specific site or proposed plan.
- (C) To clarify and inform the applicant in respect to the ~~outline development plan~~ ODP approval procedure and submission requirements, including an anticipated application time and review period as specifically set forth in section 158.067.
- (D) To enable the applicant to inform the town of the requirements, procedure, and status of the various county, state and federal agency reviews.

**158.067 - Review and approval of ~~planned unit developments~~ PUD-MUCs.**

- (A) *Approving authority.* ~~Planned unit developments~~ All ODP applications in a PUD-MUC are 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~~ ODP application for a ~~planned unit development~~ PUD-MUC, 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~~ PUD-MUC, and the continuing administration thereof, shall be consistent with the following provisions:
  - (1) *Application requirements.* An application for an ~~outline development plan~~ ODP for a ~~planned unit development~~ PUD-MUC, 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~~ ODP 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~~ PUD-MUC in order for the town to evaluate the impact of the development to the town. Any application for ~~outline development~~ ODP 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.
- (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), including 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 surfaces available for maneuvering vehicles.
- (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 subsection 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.).
- (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 and information as the applicant may believe is pertinent to the plan of development.
- (l) Such additional relevant data and information the town may reasonably require.

- (m) 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~~ the use would be in the public interest and would be consistent with the town's statement of purposes of ~~a planned unit development~~ the PUD-MUC.
- (n) 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 a planned unit development~~ 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 subsection 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 PUD-MUC ~~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~~ ODP, thus eliminating this requirement for a binding concept plan.
- (p) Additional requirements for applications for voluntary reconstruction of nonconformities:
1. 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.
  2. A clear and specific statement of any hardship that exists making the modifications and adjustments from the Code necessary.
  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 in section 158.140.
- (2) *Application procedures.* The application for an ~~outline development plan~~ of a planned unit development PUD-MUC 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~~ ODP 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~~ ODP 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 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~~ ODP 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.
- (4) *Town commission public hearing.* A public hearing on the ~~planned unit development~~ ODP 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. 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.
- (5) *Town commission decision procedures.* At the conclusion of the public hearing, the town commission shall review the ~~outline development plan~~ ODP 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~~ ODP 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 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~~ ODP 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~~ ODP, the ordinance does not need to specify a time period.

(C) *Standards for approval or disapproval of application.* The town commission shall base its decision on each ~~outline development plan~~ ODP 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 disapproval of an ~~outline development plan~~ ODP application. The commission's approval, approval with changes or special conditions, or disapproval of an ~~outline development plan~~ ODP application, shall be based on the application, evidence and testimony presented in the public hearing, and the following standards:

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

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

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

(4) The purpose, location and amount of common open space in the plan, the 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) 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 the amenities of light and air, recreation and visual enjoyment.
- (6) The relationship, beneficial or adverse, of the proposed plan to the neighborhood in which it is proposed to be established.
- (7) 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 public interest and of the residents and owners of the ~~planned unit development~~ PUD-MUC in the faithful completion of the plan.
- (8) 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.
- (9) For the MUC-1 and MUC-2 zoning districts only, all permitted uses as listed in section 158.145 for each district are considered generally to be compatible uses in the MUC districts based on the intent to encourage mixed use and clustering at varying scales and intensity. Compatibility shall be achieved at specific locations by implementing compatibility techniques, such as those listed in this section as appropriate to the context:
  - (a) Tourism uses and restaurants shall be designed to minimize noise from outdoor activities, such as outdoor music;
  - (b) Loading areas and parking at grade shall be screened and landscaped to minimize impacts to residential uses and adjacent rights-of-way/private roads;
  - (c) Anti-glare glass shall be utilized in all windows that could potentially reflect toward another residential use; and
  - (d) Lighting shall be designed to minimize impacts to residential units and adjacent public rights-of-way/private roads.
  - (e) Additional compatibility techniques shall be employed wherever a proposed structure exceeding four stories is located within 500 feet of another structure that is substantially lower in height. "Substantially lower" means there is a difference of four stories or more between the proposed structure and the structure within 500 feet. For the purpose of this provision, acceptable compatibility techniques include, but are not limited to, perimeter berms, landscaping buffers, building orientation, building design and architectural treatments.
  - (f) This section does not apply to the compatibility of uses within a proposed PUD development site, as permitted uses are deemed internally compatible.
- (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. planned unit development~~ PUD-MUC applications may be accompanied by requests for departures from specific standards of article IV of this chapter and from the standards of section 158.102, 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~~ PUD-MUC. Before approving a departure, the town commission shall determine by competent, substantial evidence of record that each departure is consistent with the Longboat Key Comprehensive Plan and shall decide whether each departure either meets or has no material adverse effect on the following criteria, except where clearly inapplicable to the requested departure:

- (1) 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 adequately protects against adverse impacts to adjacent parcels and the surrounding area.
- (2) The departure preserves or enhances natural or scenic qualities 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) The departure facilitates desirable infrastructure, stormwater retention, or parking facilities.
- (4) The departure reduces traffic impacts or improves traffic circulation.
- (5) The departure enhances the project's character and compatibility within the development and with adjacent developments.
- (6) The departure allows the project to add or improve on-site amenities and recreational opportunities serving the development and the community.
- (7) The departure helps the project promote walkability, offers multimodal transportation options, improves access to existing commercial or other amenities, or improves connections to beach or bay accesses.

(E) ~~Modified standards for planned unit developments.~~ Lot coverage and building standards in article IV of this Code are modified for ~~planned unit development~~ PUD-MUC developments as follows:

- (1) If the plan is for land within the ~~T-3, T-6, MUC-1, or 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 ten percent to encourage flexibility in design and development without the requirement for a departure pursuant to subsection (D) above and in accordance with the comprehensive plan. 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.
- (2) 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. 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 subsection 158.067(C) are met and the increase is in accordance with the comprehensive plan. ~~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 these heights are not allowed by the comprehensive plan.~~

(F) *Actions after decision.* 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. 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~~ ODP in accordance with the procedures for an original submission, review and approval. Approval of an ~~outline development plan~~ ODP shall not qualify a plat of the ~~planned unit development PUD-MUC~~ 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~~ ODP to record it in the official records of the county in which the property is located.

(G) *Final site plan required.* An application for final site plan approval may be for all the land included in an ~~outline development plan~~ ODP, or to the extent set forth in the ~~outline development plan~~ ODP 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~~ ODP 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~~ ODP applications may include a request for final site plan approval at the same time as ~~outline development plan~~ ODP approval; see subsection 158.067(B)(1).

(4) An application for approval of a final site plan for a portion of or all of an ~~outline development plan~~ ODP shall be in compliance with the approved ~~outline development plan~~ ODP 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~~ ODP through the outline development process provided herein, in order to achieve compliance.

(H) *Length of approval.*

(1) Notwithstanding the 24-month period specified in subsection 158.099(F), final site development plan approval for a ~~planned unit development PUD-MUC~~ 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, or for an approved period longer than ten years for a specific future phase delineated on the final site development plan, provided the developer meets at least two of the following criteria:
  - (a) Commenced site preparation work and maintained substantial progress during the initial four-year period affecting 33 percent or more of the acreage of the PUD-MUC development parcel, or if the PUD-MUC approval includes phases, affecting 66 percent of the acreage of the initial phase;
  - (b) Commenced site preparation work and completed at least one critical element of the required infrastructure to serve the PUD-MUC development parcel;
  - (c) Commenced site preparation work and constructed at least one principal building (not including a temporary building) within the PUD-MUC development parcel; or
  - (d) 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-MUC ordinances or resolutions; such changes will not alter any rights granted by unexpired site development plan approvals.
- (l) *Conformance with subdivision regulations.* 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-MUC—shall conform with chapter 157 of this Code and all other applicable ordinances.

**Cross reference—** Zoning fees, § 159.01, § 159.03

**158.068 - Minimum area for PUD-OA, PUD-SP, and PUD-MUC.**

A planned unit development shall include not less than two (2) acres of contiguous land in any residential ~~zoning district development~~, and not less than one-half acre for all other ~~zoning districts development~~. In the case of voluntary reconstruction in accordance with section 158.140, or for properties rezoned into a PUD-SP zoning district, the existing development site area is acceptable if such acreage is less than the minimums specified herein.

**158.069 - Open space for PUD-OA, PUD-SP, and PUD-MUC.**

All residential planned unit developments shall preserve a minimum of 50 percent of the gross land area as open space. Of the required 50 percent open space, only a maximum of 60 percent of the total required open space acreage may be comprised of a golf course. Relative to nonresidential planned unit developments, all such developments consisting of tourist resort/commercial facilities shall provide a minimum of 50 percent of the gross land area as open space. Wetland and landlocked waterbodies may be used in calculating open space, as long as a minimum of 40 percent of the upland property is comprised of open space. ~~In other types of nonresidential planned unit developments a minimum of 20 percent of the gross land area shall be preserved as open space.~~ Wetlands

and landlocked waterbodies may be used in calculating open space, as long as a minimum of 15 percent of the upland property is comprised of open space. For all mixed use planned unit developments, a minimum of 50 percent of the residential and 20 percent of the nonresidential gross land area shall be preserved as open space. In all of the above cases, parking areas and vehicle access facilities shall not be considered in calculating open space. In the case of voluntary reconstruction in accordance with section 158.140, or for properties rezoned into a PUD-SP zoning district, the existing open space is acceptable if such percentage is less than the minimums specified herein.

**158.070 - Tourism and residential density for PUD-OA, PUD-SP and PUD-MUC.**

(A) Planned unit developments shall have densities no greater than that permitted for a PUD within the underlying zoning district in which it is located as shown below, unless such additional density has been approved through referendum by the qualified voters of the town and subsequently approved by the town commission through rezoning of the property to a PUD-OA or PUD-SP zoning district. Similarly, additional density, over and above that which is described below, shall not be allowed in the PUD-MUC, unless such density is authorized by referendum and subsequently approved by the town commission through the Outline Development Plan process. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD rezoning process:

Districts	Maximum PUD Density <sup>1</sup>
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 units/acre overall density
MUC-3	11.26 dwelling units/acre overall density
T-3	2.25 tourism or dwelling units/acre
T-6	4.50 tourism or dwelling units/acre

Notes:

<sup>1</sup> 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, and/or any applicable referendum authorized by the qualified voters of Longboat Key,~~ in respect to design compatibility, use and height regulations. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD rezoning process.

**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~~ PUD-MUC 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~~ PUD, 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~~ PUD which shall require amendment of the site plan or outline development plan for the planned unit development PUD in accordance with the procedures of ~~section 158.067~~ set forth in this chapter. In no event shall the overall density of a ~~planned unit development~~ PUD exceed the maximum overall density set forth in this Code, ~~or the comprehensive plan for the planned unit development, or as authorized through referendum by the qualified voters of the town and subsequently approved by the town commission, whichever is greater.~~ Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD rezoning process.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 6. Repeal of Ordinances in Conflict. All other ordinances of the Town of Longboat Key, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

SECTION 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key.

SECTION 8. Effective Date. This Ordinance shall take effect immediately upon its adoption, as provided by law.

Passed on first reading and public hearing the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Adopted on second reading and public hearing the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Terry A. Gans, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk



**End of Agenda Item**