

MEMORANDUM

DATE: January 3, 2017

TO: Planning and Zoning Board

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

SUBJECT: Ordinance 2016-32: Planned Unit Development

At their Regular Workshop on December 12, 2016, the Town Commission directed the Planning and Zoning Board ("Board") to provide certain clarifications and recommendations on specific aspects of the proposed Planned Unit Development code. Specifically, the Town Commission requested the Board's input regarding the following:

- Additional compatibility language related to requests for potential additional height; and
- Consideration of larger setbacks on Gulf of Mexico Drive when additional height is requested; and
- Clarification as to how to apply the additional setbacks – one side, all sides, etc. – and how to determine where they should be applied; and
- Requirement of "shadow plans" when additional height is requested, with particular attention to the winter months when the sun is at its lowest, so as to determine potential impacts on neighbors, Gulf of Mexico Drive, and the beach.

Staff has revised Ordinance 2017-32 to include potential language to address the Town Commission's direction. This additional language is highlighted in yellow and can be found on pages 7, 8, and 10.

Recommended Action: Consider the proposed revisions to Ordinance 2016-32 during the duly noticed public hearing and provide a recommendation to the Town Commission.

Please let me know if you have any questions.

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 **for the specific building with the increased height** 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. **The increased setback or open space shall be applied between the building with the increased height and the closest side property line. In addition, any building granted an increase in building height under this section must be set back from the Gulf of Mexico Drive right-of-way by no less than twice the overall height of the building. When determining whether to grant a request for increased height, the town commission shall, at a minimum, consider the following:**

- (a) Whether the proposed height is compatible with existing structures located on surrounding properties and/or is consistent with the character of the surrounding area; and
- (b) Whether the proposed building placement improves scenic views from adjacent properties; and
- (c) Whether the proposed height will cause an increase in shadow effects on existing structures located on surrounding properties, Gulf of Mexico Drive, and the public beach, if applicable; and
- (d) Whether the proposed building placement decreases or eliminates shadowing effects on existing structures located on 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.

(g) For developments which include requests for increased height per Section 158.063(D)(1), shadow plans must be provided which compare and demonstrate the shadowing effect of the existing structures and the proposed structures upon neighboring properties, Gulf of Mexico Drive, and the public beach, if applicable, during the winter months. If there are no existing structures on the subject property, the maximum building height for the existing zoning district shall be used as a comparison.

(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) *Intent/Optional process.* Planned unit development (PUD) regulations provide an optional review and approval process for landowners who seek to develop or redevelop parcels in most zoning districts. In the 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.
- (I) *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 ¹
R-1IP	0.75 dwelling unit/5 acres
R-1SF	0.75 dwelling unit/acre

R-2SF	1.50 dwelling units/acre
R-3SF	2.25 dwelling units/acre
R-4SF	3.00 dwelling units/acre
R-6SF	4.50 dwelling units/acre
R-3MX	2.25 dwelling units/acre
R-4MX	3.00 dwelling units/acre
R-6MX	4.50 dwelling units/acre
MUC-1	3.26 dwelling units/acre overall density
MUC-2	5.05 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:

¹ Dwelling units per acre refers to residential units; tourism units per acre refers to tourism units; units per acre refers to total allowed residential units and tourism units.

(B) In any event, a planned unit development shall be consistent with the comprehensive plan for the town, ~~and the zoning district in which it is located, 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



Ordinance 2016-32

Planned Unit Development

Zoning Code

Planning and Zoning Board
January 17, 2016



Town Commission Direction

- At their Regular Workshop on December 12, 2016, the Town Commission considered Ordinance 2016-32 and directed the Planning & Zoning Board to make recommendations related to the following specific issues:
 - Additional compatibility language related to requests for potential additional height; and
 - Consideration of larger setbacks on Gulf of Mexico Drive when additional height is requested; and
 - Clarification as to how to apply the additional setbacks – one side, all sides, etc. – and how to determine where they should be applied; and
 - Requirement of “shadow plans” when additional height is requested, with particular attention to the winter months when the sun is at its lowest, so as to determine potential impacts on neighbors, Gulf of Mexico Drive, and the beach.



Proposed Revisions

- Section 158.063(D)(1) has been revised to add language addressing the four requested points of consideration (Highlighted language on pages 7 and 8 of Ordinance 2016-32)
- Section 158.063(E)(6)(g) has been added to require submission of Shadow Plans for any request for increased height (Highlighted language on page 10 of Ordinance 2016-32)