The City of Palm Bay Growth Management Department has submitted an application for a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.066 Procedure for approval of a Preliminary Development Plan and Tentative Zoning; to modify Section 185.067 Procedure for securing approval of a Final Development Plan; and to modify Section 185.070 Bonding.

REQUESTING DEPARTMENT:
Growth Management

STAFF FINDINGS:
Case T-5-2017 is recommended for approval.

Planning and Zoning Board Recommendation:
Unanimous approval of the request.

Attachments: 1) Case No. T-5-2017
2) Ordinance
TEXTUAL AMENDMENT
APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.066 Procedure for approval of a Preliminary Development Plan and Tentative Zoning; to modify Section 185.067 Procedure for securing approval of a Final Development Plan; and to modify Section 185.070 Bonding.

CODE CITATION: Section 185.066; 185.067 and 185.070

APPLICABILITY: Citywide

APPLICANT: City of Palm Bay - Growth Management Department

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Not specifically addressed
BACKGROUND:

1. A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.066 Procedure for approval of a Preliminary Development Plan and Tentative Zoning; to modify Section 185.067 Procedure for securing approval of a Final Development Plan; and to modify Section 185.070 Bonding.

2. The applicant for this amendment is the City of Palm Bay’s Growth Management Department.

3. Proposed language for this amendment in legislative style with additions underlined and deletions in strikethrough format, is attached

ANALYSIS:

1. The PUD, Planned Unit Development regulations were adopted in 1989 (via Ordinance 89-08) and has had several minor amendments since that time. Most recently, the Chapter was amended to address height, setbacks, pervious versus impervious surfaces, and standards for submittal of a tree survey.

2. The planned unit development is a concept which encourages and permits variation in residential developments by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage, setbacks, open space, and other Land Development Regulations and open space from that required in any one (1) residential land use classification under the zoning regulations of the city. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types as well as commercial uses designed to serve the inhabitants of the planned unit development.

3. Typically, a Planned Unit Development is a single family residential subdivision. Subdivisions developed under the overlay of a standard single family zoning category are regulated in Chapter 184: Subdivisions. While the PUD District allows for variation in lot sizes, setbacks and density/intensity standards, the submittal requirements for plan review should follow the same as established in Chapter 184.

4. This amendment seeks to bring the PUD Ordinance in line with the subdivision requirements for plan submittals and bonding of public improvements.

STAFF FINDINGS:

Case No. T-5-2017 is recommended for approval.
§ 185.066 PROCEDURE FOR APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN AND TENTATIVE ZONING.

(A) Tentative development plan. Before submission of a preliminary application for approval as a planned unit development zone, the developer and his registered engineer, architect, and/or site planner are encouraged to meet with the Planning and Zoning Board and City Planner and such other personnel as necessary to determine the feasibility and suitability of his application. This step is encouraged so that the developer may obtain information and guidance from city personnel before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

(B) Preliminary development plan application.

(1) Preliminary application. A preliminary application shall be submitted to the Planning and Zoning Board Land Development Division by the developer requesting approval of the site as a planned unit development zone. The preliminary application shall contain the name of the developer, surveyor and engineer who prepared the development plan and topographic data map, and the name of the proposed planned unit development.

(3) Submittal.

(a) The PUD zoning application and preliminary development plan shall be submitted to the Land Development Division at least forty-five (45) thirty (30) days prior to any scheduled meeting of the Planning and Zoning Board of the city.

(b) A fee as established by resolution pursuant to § 169.004 shall accompany the PUD application for the purposes of review and administration.

(c) The application shall include five (5) black or blue line prints of the development plan of the proposed planned unit development and a minimum of two (2) copies of the required exhibits.

(b) The application must be complete and accompanied by two (2) copies of the preliminary development plan, as described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser’s rolls.

(c) The Land Development Division shall process and coordinate the review of the preliminary development plan by the appropriate city departments. The appropriate city departments are to review and comment on the submitted information. Written comments from the city departments are to be returned to the Land Development Division to be incorporated into a staff report generated by the Land Development Division. The staff report is submitted to the Planning and Zoning Board at the time of the next regular meeting of the Board.

(d) The preliminary plat application shall be heard by the Planning and Zoning Board at its regular meeting in the month following the submittal deadline date. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.
(7) Recordation of preliminary application. In the event the primary development plan application is approved by the City Council, a copy of such application and required exhibits shall be certified and approved by the City Clerk as a permanent record. A notice of such approval and filing, containing a legal description of the site, shall be recorded in the official records of the county, in the form of a Resolution.

§ 185.067 PROCEDURE FOR SECURING APPROVAL OF A FINAL DEVELOPMENT PLAN.

(B) Procedure.

(3) The City Council shall review the recommendations of the Planning and Zoning Board at a regular public hearing of the City Council and shall approve, approve subject to conditions, or deny the final development plan application. The final development plan approval shall constitute a PUD rezoning enacted by Ordinance. The final development plan shall be binding upon the land contained with the plan. Any proposed modifications to the final development plan shall be submitted to the Growth Management Director for determination of departure. If determined to be a substantial deviation from the approved final development plan, the applicant must receive Final PUD approval from City Council for such deviation.

§ 185.070 BONDING.
The PUD shall follow the bonding procedures listed in Section 184.11 of the Code of Ordinances.

(A) Prior to the commencement of construction within the site of a planned unit development, the developer shall file with the city, the following contracts and bonds:

(1) A performance, labor, and material payment bond for the completion of the construction of all public improvements specified in the final development plan prior to construction.

(2) A performance, labor and material payment bond for the completion of the construction of all common open areas designated in the final development plan within one (1) year from the date of commencement of construction.

(3) A maintenance warranty bond in the amount of ten percent (10%) of the total cost of the construction of all public improvements to be in force for a period of two (2) years following acceptance by the city of the final construction of the public improvements.

(4) However, the City Council may, in its discretion, accept corporate performance bonds or other financial assurances which it deems gives reasonable assurance of construction of improvements required by this chapter.

(B) All such bonds shall be from a company licensed as a surety in the state listed by the U.S. Treasury Department, reviewed and approved by the City Risk Management staff. Upon acceptance of all improvements described in divisions (A)(1) and (2) above, the performance and payment bond shall be released.

(C) All of the provisions relating to bonding contained in the subdivision regulations of the city set forth in Chapter 184 of this code of ordinances shall be fully applicable to the bonds required under this subchapter.
CODE TEXTUAL AMENDMENT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida, unless otherwise stated.

1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 733-3041 FAX # (321) 953-8920

E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org

PERSON(S) TO BE NOTIFIED (if different from above) 

ADDRESS

CITY STATE ZIP 

PHONE # FAX #

E-MAIL ADDRESS

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: Sections 185.066, 185.067, and 185.070

3) PROPOSED LANGUAGE (attach addendum if necessary): See attached.

4) JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary):

In order to update the Planned Unit Development (PUD) procedures and bonding requirements.

5) *A $1,000.00 APPLICATION FEE. MAKE CHECK PAYABLE TO "CITY OF PALM BAY."

Revision E: 10/15
I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY, AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING CODE TEXTUAL AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant _______________________________ Date 12/01/2016

Printed Name of Applicant Stuart Buchanan, Growth Management Director

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY
Held on Wednesday, January 4, 2017, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Chairperson Philip Weinberg called the meeting to order at approximately 7:00 p.m.

Ms. Leeta Jordan led the Pledge of Allegiance to the Flag.

ROLL CALL:

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<tr>
<th>CHAIRPERSON:</th>
<th>Philip Weinberg</th>
<th>Present</th>
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<tbody>
<tr>
<td>VICE CHAIRPERSON:</td>
<td>Wendall Stroderd</td>
<td>Present</td>
</tr>
<tr>
<td>MEMBER:</td>
<td>Leeta Jordan</td>
<td>Present</td>
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<tr>
<td>MEMBER:</td>
<td>Khalilah Maragh</td>
<td>Present</td>
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<tr>
<td>MEMBER:</td>
<td>William Pezzillo</td>
<td>Present</td>
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<tr>
<td>MEMBER:</td>
<td>Rainer Warner</td>
<td>Present</td>
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<tr>
<td>MEMBER:</td>
<td>Thomas “Woody” Woodrum</td>
<td>Present</td>
</tr>
<tr>
<td>MEMBER:</td>
<td>Michele Quinn</td>
<td>Absent (Excused)</td>
</tr>
</tbody>
</table>

(School Board Appointee)

CITY STAFF: Present were Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Robert Loring, Planner; Ms. Chandra Powell, Growth Management Recording Secretary; Mr. James Stokes, Board Attorney.

Mr. Weinberg addressed the audience on the meeting procedures and explained that the Planning and Zoning Board/Local Planning Agency consists of volunteers who act as an advisory board to City Council.

For the benefit of the audience, Mr. Murphy announced that Case FS-2-2016, Eric Addington, would not be heard.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2016-12. Motion by Ms. Jordan, seconded by Mr. Stroderd to approve the minutes as presented. The motion carried with members voting unanimously.
7. T-5-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Murphy presented the staff report for Case T-5-2017. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.066, 185.067, and 185.070, in order to update the Planned Unit Development (PUD) procedures and bonding requirements. Staff recommended Case T-5-2017 for approval.

Mr. Murphy stated that the proposed amendment would make PUD procedures and bond requirements consistent with like requirements found in the subdivision ordinance.

The floor was opened and closed for public comments, and there were no letters in the file.

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case T-5-2017 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.066, 185.067, and 185.070, in order to update the Planned Unit Development (PUD) procedures and bonding requirements. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:27 p.m.

Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.
ORDINANCE NO. 2017-16

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDNANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 185, ZONING CODE, SUBCHAPTER ‘PLANNED UNIT DEVELOPMENT’, BY MODIFYING THE PROCEDURES FOR APPROVAL OF PRELIMINARY AND FINAL DEVELOPMENT PLANS; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter ‘Planned Unit Development’, is hereby amended and shall henceforth read as follows:

"Section 185.066  PROCEDURE FOR APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN AND TENTATIVE ZONING.

The following procedures, applications, and exhibits shall be required when applying for tentative zoning approval of a preliminary plan:

(A) Tentative development plan. Before submission of a preliminary application for approval as a planned unit development zone, the developer and his registered engineer, architect, and/or site planner are encouraged to meet with the Planning and Zoning Board and City Planner and such other personnel as necessary to determine the feasibility and suitability of his application. This step is encouraged so that the developer may obtain information and guidance from city personnel before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

(B) Preliminary development plan application.

(1) Preliminary application. A preliminary application shall be submitted to the Planning and Zoning Board Land Development Division by the developer requesting approval of the site as a planned unit development zone. The preliminary application shall contain the name of the developer, surveyor and engineer who prepared the development plan and topographic data map, and the name of the proposed planned unit development.

***

(3) Submittal.

(a) The PUD zoning application and preliminary development plan shall be submitted to the Land Development Division at least forty-five (45) thirty (30) days prior to any scheduled meeting of the Planning and Zoning Board of the city."
(b) A fee as established by resolution pursuant to § 169.004 shall accompany the PUD application for the purposes of review and administration.

(c) The application shall include five (5) black or blue line prints of the development plan of the proposed planned unit development and a minimum of two (2) copies of the required exhibits.

(b) The application must be complete and accompanied by two (2) copies of the preliminary development plan, as described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.

(c) The Land Development Division shall process and coordinate the review of the preliminary development plan by the appropriate city departments. The appropriate city departments are to review and comment on the submitted information. Written comments from the city departments are to be returned to the Land Development Division to be incorporated into a staff report generated by the Land Development Division. The staff report is submitted to the Planning and Zoning Board at the time of the next regular meeting of the Board.

(d) The preliminary plat application shall be heard by the Planning and Zoning Board at its regular meeting in the month following the submittal deadline date. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.

* * *

(7) Recordation of preliminary application. In the event the primary development plan application is approved by the City Council, a copy of such application and required exhibits shall be certified and approved by the City Clerk as a permanent record. A notice of such approval and filing, containing a legal description of the site, shall be recorded in the official records of the county, in the form of a resolution.

* * *

Section 185.067 PROCEDURE FOR SECURING APPROVAL OF A FINAL DEVELOPMENT PLAN.

* * *

(B) Procedure.

* * *

(3) The City Council shall review the recommendations of the Planning and Zoning Board at a regular public hearing of the City Council and shall approve, approve subject to conditions, or deny the final development plan application. The final development plan approval shall constitute a PUD rezoning enacted by Ordinance. The final development plan shall be binding upon the land contained with the plan. Any proposed modifications to
the final development plan shall be submitted to the Growth Management Director for determination of departure. If determined to be a substantial deviation from the approved final development plan, the applicant must receive Final PUD approval from City Council for such deviation.

* * *

Section 185.070  BONDING.

The PUD shall follow the bonding procedures listed in Section 184.11 of the Code of Ordinances.

(A) Prior to the commencement of construction within the site of a planned unit development, the developer shall file with the city, the following contracts and bonds:

(1) A performance, labor, and material payment bond for the completion of the construction of all public improvements specified in the final development plan prior to construction.

(2) A performance, labor and material payment bond for the completion of the construction of all common open areas designated in the final development plan within one (1) year from the date of commencement of construction.

(3) A maintenance warranty bond in the amount of ten percent (10%) of the total cost of the construction of all public improvements to be in force for a period of two (2) years following acceptance by the city of the final construction of the public improvements.

(4) However, the City Council may, in its discretion, accept corporate performance bonds or other financial assurances which it deems gives reasonable assurance of construction of improvements required by this chapter.

(B) All such bonds shall be from a company licensed as a surety in the state listed by the U.S. Treasury Department, reviewed and approved by the City Risk Management staff. Upon acceptance of all improvements described in divisions (A)(1) and (2) above, the performance and payment bond shall be released.

(C) All of the provisions relating to bonding contained in the subdivision regulations of the city set forth in Chapter 184 of this code of ordinances shall be fully applicable to the bonds required under this subchapter.

* * *

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.
SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of Ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2017- , held on , 2017; and read in title only and duly enacted at Meeting No. 2017- , held on , 2017.

ATTEST: William Capote, MAYOR

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: City of Palm Bay
Case No.: T-5-2017

cc: (date) ALP