

M E M O R A N D U M

DATE: April 17, 2017

TO: Dave Bullock, Town Manager

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

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

TOWN COMMISSION ACTION

At their March 22, 2017 Regular Meeting the Town Commission considered Ordinance 2016-32 and reached the following consensus:

- Rename the Planned Unit Development – Opportunity Area to Planned Unit Development Legacy Opportunity Area. This change has been incorporated into revised Ordinance 2016-32.
- Reduce the maximum additional height that can be requested to 65 feet. This revision has been incorporated into revised Ordinance 2016-32. It should be noted that existing buildings that are already developed at or above 65 feet are allowed to maintain their existing height if they are redeveloped.
- Add additional review criteria to 158.063(F). This additional criteria is reflected in subsections 158.063(F)(9) and (10).
- Revise the Table in Section 158.070, limiting it to only the MUC Zoning Districts. Staff indicated that research would be conducted to determine the significance of the table and the effect of eliminating the applicability to the other zoning districts. Thus far, Staff has been unable to find documentation explaining the policy behind Section 158.070. The revised Ordinance 2016-32 reflects the change to the table in Section 158.070. Staff continues to research this issue and will update the Commission if unintended consequences to the revision are discovered.
- Request Staff address comments that were made during public comment. This has resulted in two revisions to the ordinance to clarify the process for site plan approval. These revisions are shown in red in the attached ordinance.

INTRODUCTION AND BACKGROUND

In 2015, the Planning and Zoning (P&Z) Board and the Town Commission embarked on an effort to address the issue of nonconforming density on the island. With the downzoning in 1984, which reduced zoning districts to densities of either one (1), two (2), three (3), four (4), or six (6) units per acre, a large percentage of properties on the island were rendered nonconforming for density. The downzoning accomplished its intended goal, which was to limit the potential build-out population of the island. Over the years, however, the community recognized the need to allow those properties that

had been built prior to the downzoning to redevelop at their existing density, rather than forcing those properties to lose units.

A referendum was approved by the voters in 2008, which allowed the Town to authorize properties to voluntarily rebuild at their existing density. The Town subsequently adopted voluntary rebuild regulations with limitations as to size, cubic content, and other development considerations. However, even if a property rebuilt under the voluntary rebuild regulations, the property's nonconforming status for density would remain, since the property would still be in a zoning district with a lower density cap of one (1), two (2), three (3), four, (4), or six (6) units per acre.

Properties that are currently nonconforming for density are nonconforming under both the Comprehensive Plan and the Zoning Code. In order for a property to be conforming, it must conform to both of these documents. Neither of these documents contained a method that would allow properties exceeding the density limits to become conforming for their existing built density.

As the first legislative step to address the nonconforming issue, the Town Commission amended the Town's Comprehensive Plan in 2015, to establish new Future Land Use (FLU) Categories called Opportunity Areas (these are being renamed to Legacy Opportunity Areas, per Ordinance 2016-35). These FLU categories, which do not contain a density cap, provided the ability for property owners with nonconforming density to seek a conforming classification under the Comprehensive Plan.

While the adoption of the Legacy Opportunity Area FLU categories provided a method for properties to become conforming for density under the Comprehensive Plan, there was no method available in the Town's Zoning Code for properties to become conforming for density. As mentioned above, properties must conform to both the Comprehensive Plan and the Zoning Code to be considered conforming; therefore, a method to address these nonconformities was needed within the Zoning Code.

After numerous joint meetings, extensive consideration of various alternatives, and advice from Land Use attorneys, Planned Unit Development (PUD) zoning districts were determined jointly by the Town Commission and the P&Z Board to be the preferred method to provide these properties an opportunity to become conforming for density under the Zoning Code.

Once the decision to pursue PUD zoning districts was determined, Staff followed the required contract procurement process to select and engage planning consultants who could assist the Town with development of the new PUD zoning districts, as well as the overall rewrite of the Land Development Code as directed by the Town Commission. The firm of Calvin, Giordano & Associates, Inc. (CGA) was ultimately selected to assist with this endeavor.

During 2016, CGA worked with Staff and the P&Z Board to develop proposed Zoning Code revisions establishing PUD zoning districts. The purpose of the new PUD zoning districts is as follows and is based on direction from the Town Commission and the P&Z Board:

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

The P&Z Board recommended approval of Ordinance 2016-32, which would establish the proposed PUD zoning districts, at their November 15, 2016 Regular Meeting. The Town Commission considered Ordinance 2016-32 at their Regular Workshop on December 12, 2016, and remanded the item back to the P&Z Board for further consideration.

At their meetings on January 17, 2017, and February 21, 2017, the P&Z Board again considered Ordinance 2016-32 and forwarded additional recommendations to the Town Commission. The Town Commission considered the P&Z Board's recommendations at their Regular Workshop on March 22, 2017, requested certain modifications, and forwarded the ordinance to their April 3, 2017, Regular Meeting for first reading and public hearing. The revisions requested by the Town Commission are detailed on Page 1 of this report and are reflected in Ordinance 2016-32.

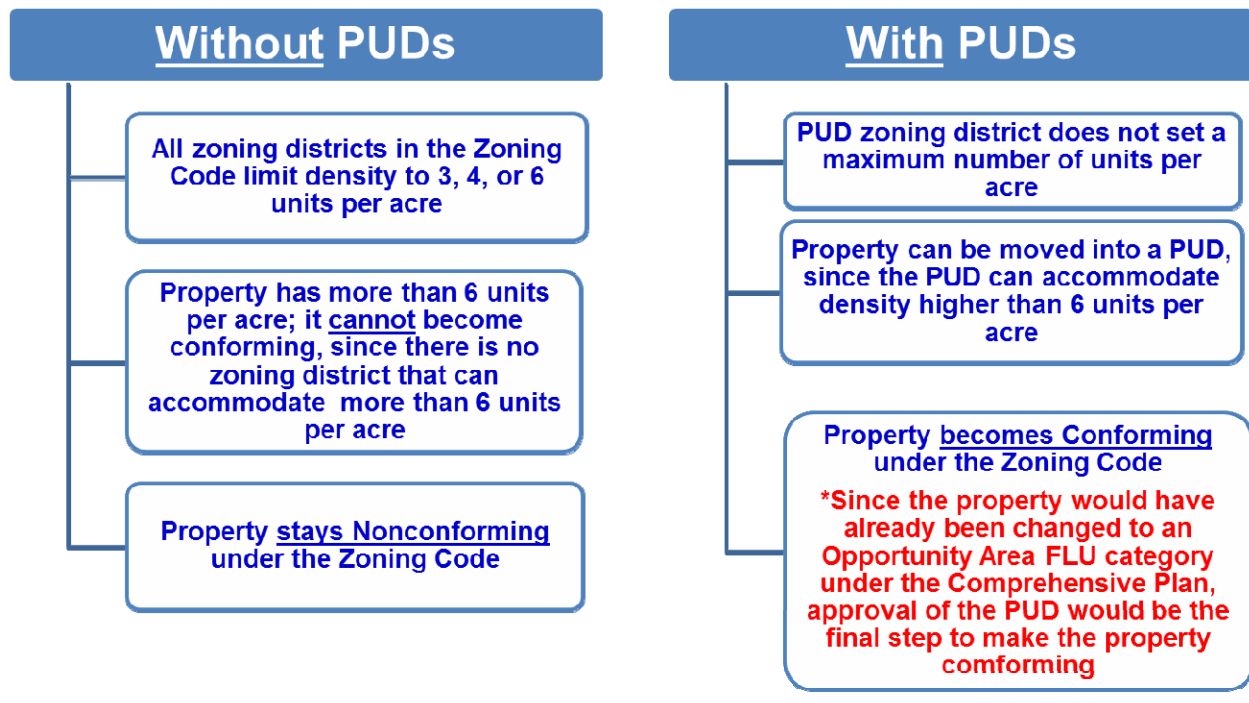
Due to an error that was discovered in the newspaper advertisement for Ordinance 2016-32, the item was pulled from the April 3, 2017 Regular Meeting and re-advertised for first reading and public hearing on May 1, 2017.

IMPORTANCE OF THE PLANNED UNIT DEVELOPMENTS

All current zoning districts in the Town's Zoning Code have hard density caps of one (1), two (2), three (3), four (4) or six (6) units per acre. Properties that are currently nonconforming for density cannot be considered conforming under the Zoning Code if they remain in those zoning districts.

There is currently no method available in the Zoning Code for properties to become conforming for density if those properties exceeded six (6) units per acre, since there is no zoning district that can accommodate the additional existing density exceeding the six (6) unit per acre cap. The proposed PUD zoning districts do not have a density cap; as such, the owner of a property that currently exceeds six (6) units per acre would have the opportunity to request a reclassification of their property into one of the PUD zoning districts. If the Town Commission approved such a request, the property would then be conforming for density under the Zoning Code. There may also be other existing nonconforming issues related to a specific property, such as height, uses, and other issues, that could be reconciled through the PUD approval, if the Town Commission deemed it appropriate.

The graphic below provides a comparison with and without the PUD zoning districts regarding the ability for a property to conform to the Zoning Code for density.



FROM “PROCESS” TO “ZONING DISTRICT”

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

The new code includes two new Zoning Districts:

- Planned Unit Development – Legacy Opportunity Area Zoning District (PUD - LOA): Designed for redevelopment of properties with existing nonconforming density or for new development. When a property rezones into this District, the approval will set the maximum density for that property and will be reflected on the Zoning Map. The PUD approval will also establish and/or memorialize other criteria, such as height, setbacks, open space, etc., which will become the development requirements for the specific property.
- Planned Unit Development – Special Purpose Zoning District (PUD-SP): Designed for properties that are nonconforming for density and want to become conforming, but do not want to redevelop. When a property rezones into this District, the approval will set the maximum density for that property and will be reflected on the Zoning Map. The PUD approval may also document and memorialize other existing nonconforming conditions, such as height, setbacks, open space, etc.

COMPATIBILITY

Ensuring that future new development or redevelopment is compatible with the existing character of the island was an essential consideration when developing the proposed PUD-LOA zoning district provisions. Thus, the Intent section of the proposed code stresses that the proposed development must be compatible with both adjacent and nearby lands and activities, must be in keeping with the low-density character of the Town, and keep with the overall character of the island.

HISTORIC TOURISM BALANCE

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

Staff conducted research to determine the time period when the commercial businesses on the island seemed to peak and determined that the late 1990s to early 2000s seems to be the period when the most commercial uses were available to the community. During that time period, the island maintained a ratio of approximately 80 percent residential units to 20 percent tourism units. The total number of tourism units during that time period was approximately 1,800. Currently, the ratio is approximately 86 percent residential and 14 percent tourism. The Board recommended including both the ratio and a total number of tourism units as a desired target.

It should be noted that these tourism units are those units which can be legally rented out on a nightly basis and do not include possible instances where someone might rent their unit out for an extended period of time or for a 30-day period, as allowed by the Town's Code.

MIXED USES

The proposed PUD-LOA Zoning District provides the potential for a mixture of complementary uses, which can allow a more creative use of space and provide greater availability of on-site amenities. These uses would be determined based on the applicable FLU category and complementary uses approved by the Town Commission through the rezoning process.

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

The question also arose as to those existing developments that might already have both tourism and residential uses. Staff researched this issue and found several instances of

existing developments with both legal tourism and residential uses, including Cedars East, Sun and Sea, Longboat Pass Condominiums, Harbor Villa Club and Arbors by the Sea.

HEIGHT AND SETBACKS

The P&Z Board had recommended that any new development or redevelopment in a PUD-LOA be limited to a maximum of 80 feet over base flood elevation. The area under base flood elevation is often used for parking. The 80-foot height would have allowed approximately 7-stories maximum over parking. During their Regular Workshop on March 22, 2017, the Town Commission reached consensus to reduce the height limit to 65 feet. Existing buildings that are already developed at or above 65 feet be allowed to maintain their existing height.

The reduction of the maximum height from 80 feet to 65 feet would still allow some buildings to redevelop with more ceiling height. For example, if a residential condominium is currently in an R-6MX zoning district and is currently built at the maximum height of 50 feet allowed in that zoning district, rezoning to a PUD-LOA would allow a request to increase height to 65 feet, thus providing an extra 15 feet to raise ceiling heights in the units.

Buildings with this additional height would be required to be situated on a property so as to improve the scenic vistas from neighboring properties. Shadowing plans would also be required that would demonstrate no increased shadow effect on other properties, the beach, or the street. The height must be compatible with surrounding properties and be consistent with the character of the surrounding area. This provision would prevent taller buildings from being located in an area where the other buildings in the area are consistently lower in height.

Based on visual comparisons of existing structures of various heights on the island and their visibility from the street, the P&Z Board also recommended that each building within a PUD-LOA be set back from the street by at least 2.5 times the height of the building. This is a significant increase in setback when compared to current setback requirements. The proposed ordinance does include a waiver, recognizing that certain properties are too shallow to realistically meet this requirement.

Based on the visual comparisons, the proposed PUD Code also requires dense vegetation be provided along the street to minimize the visibility of buildings. The increased setback and dense vegetation prevents a “canyon effect” and significantly reduces the impact of buildings from the street.

REQUESTS FOR ADDITIONAL DENSITY

While the new PUD-LOA Zoning District allows properties to redevelop at their existing nonconforming density, and thus become legally conforming for density, it also acknowledges the Town Charter’s referendum provision for requesting additional density. Any such request for additional density must first achieve voter approval through the Town Charter referendum process and then gain approval of the Town Commission. It should be noted that the Town Commission is under no obligation to grant a request for additional density, even if a referendum is approved by voters. If the

Town Commission does grant additional density, rezoning process would then establish the new density as the legally conforming density for that property.

It is also important to acknowledge that any request for additional residential density within the Coastal High Hazard Area (CHHA) would likely be met with significant scrutiny and/or objections from the Florida Department of Economic Opportunity (DEO), as increased residential density in the CHHA is discouraged by the State. The DEO does not have the same concern regarding tourism development in the CHHA, since hotels are considered commercial development and do not fall within the same risk category as residential uses.

OUTLINE DEVELOPMENT PLANS

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

PRESERVING MIXED-USE COMMUNITY DISTRICTS

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

NEXT STEPS

Second reading and public hearing of Ordinance 2016-32 is anticipated for the Town Commission’s June 5, 2017 Regular Meeting.

MEMORANDUM

DATE: March 13, 2017

TO: Honorable Mayor and Town Commission

THROUGH: Dave Bullock, Town Manager

FROM: Jim Brown, Chair
Planning and Zoning Board

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

During the public hearing held on February 21, 2017, the Planning and Zoning Board recommended APPROVAL of Ordinance 2016-32, with amendments. The specific motion from the February 21, 2017, meeting of the P&Z Board is as follows:

MS. BISHOP MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2016-32, AS AMENDED. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON A 6-1 ROLL CALL VOTE: BISHOP, AYE; GARNER, AYE; BROWN, AYE; HAYCOCK, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, NO.

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

1. Ordinance 2016-32;
2. Staff Report, dated 2-15-2017, PZB Director to P&Z Board;
3. Staff Report, dated 1-03-2017, PZB Director to P&Z Board;
4. PowerPoint presentation; and
5. Draft minutes from the 2-21-2017 regular P&Z Board meeting on this issue.

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

JB/dmc

MEMORANDUM

DATE: February 15, 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 Meeting on January 17, 2017, the Planning and Zoning Board (“Board”) asked Staff to provide visual comparisons of existing properties on the island to facilitate a discussion regarding Gulf of Mexico Drive setbacks for the proposed Planned Unit Development (PUD) ordinance. At the Regular Workshop on January 23, 2017, the Town Commission also authorized the Board to consider height in the Board’s deliberations, as well as any potential “fatal flaws” they believe might exist in the proposed ordinance.

Per the above direction, Staff conducted a survey of buildings on the island to compare various heights, setbacks, and other factors that affect the visual mass and scale of buildings. Staff compared various combinations, including the following:

- Buildings with similar height, but different setbacks and vegetated buffers;
- Buildings similar height and setbacks, but different vegetated buffers; and
- Buildings with less height, setbacks, and vegetated buffers verses buildings with greater height, setbacks, and vegetated buffers.

Visual comparisons are provided in the PowerPoint Presentation accompanying this report. Based on the survey, increased setbacks, dense vegetated buffers, and building placement seem to have the greatest impact for minimizing visual mass and scale of buildings, regardless of height.

After reviewing the various property comparisons, Staff recommends requiring setbacks along Gulf of Mexico Drive to be at least 2.5 times the height of the tallest building for all redeveloping properties rezoned to the proposed PUD-OA zoning district, regardless of whether increased height is requested (See Section 158.063(D)(3)). This seems to be the minimum distance at which the mass and scale of buildings becomes greatly reduced when viewed from Gulf of Mexico Drive. For properties that are too shallow to accommodate that setback, the proposed ordinance includes the ability for Town Commission to grant a waiver if they determine that literal enforcement of the provision would result in unnecessary and undue hardship and that allowance of the waiver is not be contrary to the public interest. The proposed ordinance stipulates that the determination shall be based upon the same hardship criteria that is required for variances and provides a set of findings to guide the Town Commission’s decision. A provision is also included that a vegetative buffer along Gulf of Mexico Drive must be provided with sufficient density and height to minimize the visibility of the buildings from the right-of-way.

The proposed requirements regarding setbacks, shadowing, scenic view considerations, and compatibility would force buildings with additional height toward the center of the property and could likely only be accommodated on properties containing at least several acres of land, but only if the proposed height is compatible with the surrounding area. These requirements help to ensure that taller buildings are in scale with the property on which they are located and the area around them. It is highly unlikely that smaller properties would be able to accommodate increased height.

The ordinance, as currently proposed, limits height to a maximum of 80 feet. If the Board decides to reconsider this limit, other options to consider could include, but are not limited to, the following:

- Removing the maximum height limit and allow the setbacks, shadowing requirements, scenic view considerations, and surrounding compatibility to guide and limit the height; or
- Allow a certain number of additional feet per floor, but no additional stories above the existing zoning district or the existing building, whichever is greater.

In addition to the above issues, questions have been raised as to whether the PUD could be altered in the event the Board or Town Commission wished to eliminate the potential to request additional density. This would be a relatively minor change in the proposed ordinance and would only require the removal of the last two sentences of Section 158.063(D)(2), concerning additional density and referendum. This change would still allow properties that are currently nonconforming for density to be redeveloped with the same number of units and become conforming, thus legitimizing and memorializing their existing density and eliminating their nonconforming status.

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.

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.

Town of Longboat Key

**PLANNED UNIT DEVELOPMENT ZONING
TOWN COMMISSION MEETING – MAY 1, 2017**



Luis N. Serna, AICP
David, Healey, FAICP
Christopher Brimo, AICP
Andrew Dickman, Esq., AICP



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The Task:

Direction from 2015 Joint Meeting of the Town Commission and P&Z Board

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



Compliance with the Land Development Code

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Legacy Opportunity Areas are the means of allowing properties that are nonconforming to density to become conforming to the **Comprehensive Plan**

PUDs are the means of allowing properties that are nonconforming to density to become conforming to the **Land Development Code and Zoning**



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The Three Types of PUDs Proposed in the Ordinance

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- 1. PUD – Legacy Opportunity Area (PUD-LOA).** For new developments or redevelopment of existing projects.
- 2. PUD – Special Purpose (PUD-SP).** For existing non-conforming projects. Allows them to be considered conforming.
- 3. PUD – Mixed-Use Community (PUD-MUC).** For existing projects approved through the ODP process located within the Mixed-Use Community Future Land Use Designation.

PUD-LOAs Require A Future Land Use Map Amendment to a Legacy Opportunity Area Designation⁵

Multi-Family Residential Legacy Opportunity Area (MFRLO). 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 Legacy Opportunity Area (CTDLO). Intended for destination resort developments with full resort amenities and uses which enhance the purpose of the tourism use. Allowable uses include hotels, restaurants, meeting space, timeshares/fractional-ownership units, recreational amenities, and limited concierge-type apartment-styled tourism units with full access to resort amenities. Residential uses are not permitted as a principal use, but a limited number of residential units may be permitted for on-site personnel.

Commercial/Residential Mixed Use Legacy Opportunity Area (CRMLO). Intended for developments that contain a complimentary 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 Legacy Opportunity Area (COMLO). 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.

Historic Balance of Between Tourism and Residential Units

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Section 158.063 (B):

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



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PUD-OA Zoning Development Standards

7

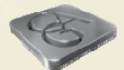
(1) Height. For each 1 foot of height requested, require 2 feet of additional setback up to a **maximum of 65 feet** above base flood elevation.



PUD-LOA Zoning Development Standards

Criteria for Requests for Height Increases:

- Whether the proposed increased height is compatible with surrounding properties and is consistent with the character of the surrounding area; and
- Whether the proposed placement of the building with increased height allows for improved scenic views from adjacent properties and/or opens scenic view corridors from the street; and
- Whether the proposed increased height will cause an increase in shadow effects on surrounding properties, the street, and the public beach, if applicable; and
- Whether the proposed placement of the building with increased height decreases or eliminates potential shadowing effects on adjacent properties.
- Whether the existing or proposed vegetative street buffer is sufficient to minimize the mass and scale of the building with the increased height from the right-of-way.
- **Shadow plans must be provided which compare and demonstrate the shadowing effect of the existing structures and the proposed structures upon neighboring properties, streets, and the public beach during the winter months.**



PUD-LOA Zoning Development Standards (Continued)

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- (2) Density and Lot Coverage.
- (3) Building Setbacks.
- (4) Off-Street Parking.
- (5) Beach and Bay Access.
- (6) Natural Shoreline.
- (7) Development of Amenities and Tourism Units.



PUD-LOA Zoning Review Criteria

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- (1) In what respects the PUD-LOA is or is not consistent with the intent of a PUD-LOA 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-LOA 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.

PUD-Special Purpose Zoning - Intent

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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.



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Questions?



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TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF REGULAR MEETING

FEBRUARY 21, 2017

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM by Chair Jim Brown.

Members Present: Chair Jim Brown; Vice Chair BJ Bishop; Secretary Ken Schneier; Members Leonard Garner, Stephen Madva, George Symanski, Mike Haycock

Also Present: Maggie Mooney-Portale, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Maika Arnold, Planner; Steve Schield, Planner; Donna Chipman, Office Manager

AGENDA ITEM 1
PUBLIC TO BE HEARD
Opportunity for Public to Address Planning and Zoning Board

Gene Jaleski, Cedar Street, discussed an advertisement on page 6 of the Longboat Key News against Chair Brown. He wished to put on the record that he had no knowledge of this advertisement, or who had placed the advertisement. He deplored the introduction of negative advertisements into the election process. He continued with commenting there was a need to have more residents involved in community services. The Town should foster a more inviting environment for people to serve.

AGENDA ITEMS 2 AND 3
CONSENT AGENDA

MR. GARNER MOVED APPROVAL OF THE CONSENT AGENDA TO APPROVE THE MINUTES OF JANUARY 17, 2017, REGULAR MEETING, AS WRITTEN, AND SETTING THE FUTURE MEETING DATE FOR MARCH 21, 2017. MS. BISHOP SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

AGENDA ITEM 5
ORDINANCE 2016-32, AMENDING CHAPTER 158, PLANNED UNIT DEVELOPMENT

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, reviewed the ordinance pointing out:

- The Planning & Zoning (P&Z) Board heard the ordinance during their January meeting and requested additional information on heights
- On January 23, 2017, the Town Commission indicated that they would like to open it up for the P&Z Board to consider heights within the PUD
- At the board's direction, staff drove the island and performed a visual survey and researched heights of existing buildings
- Based on this survey, increased setbacks, dense vegetated buffers, and building placement and design seem to have the greatest impact for minimizing visual mass and scale of buildings, regardless of height
- Reviewed illustrations of buildings showing their height and setback from Gulf of Mexico Drive

Mr. Schneier asked how many feet counted as a 'story.' Ms. Ray responded a 'story' was habitable space; if it was able to be occupied on the first floor, then it was considered a 'story'; five stories over parking, the parking would be considered first floor, but not counted as a story. Mr. Symanski noted his confusion, because he had previously questioned how height was defined in the Code, and staff responded if height was allowed on the gulf side, the building might be 11-17 feet higher. Ms. Ray explained when discussing a building being 50 feet in height, for example, it was measured from base flood elevation (BFE) and parking was typically below BFE. Mr. Symanski pointed out when the board was discussing height, the building was actually higher, because of the parking, and asked why they were not discussing it as actual height. Ms. Ray pointed out the ground was not zero and may be a different number due to sea level. Staff did not measure from the ground, but from the Mean High Water Line (MHWL). Mr. Symanski believed that was misleading for a layperson. Ms. Ray agreed that a layperson might not understand; however, the requirement to measure from the flood elevation was a requirement of the Federal Emergency Management Agency (FEMA).

Steve Schield, Planner, noted the minimum lot on the island might be at 3 or 3.5 feet, and on the beach discussing 7-10 feet was the typical elevation of a beachfront lot. Someone could add additional ground due to fill; the building never changes, because it was always measured from the FEMA elevation. Mr. Symanski questioned how tall could the actual building be. Ms. Ray responded it would vary, because the MHWL varied. Chair Brown explained there were fixed items, such as MHWL, and the height required to build above it is fixed and varied in zones. He pointed out that on the beach, the FEMA height was 17 feet in most areas, and the height above that was allowed – there was always a fixed height above the MHWL, and it will vary depending on the actual grade of the ground. Mr. Symanski commented his point was if they were measuring setback from the height of the building, it was not really the height of the building, because the building could be taller. Ms. Ray commented that if the Board wished to impose a setback two and half times the grade, they could specify that in the ordinance. Mr. Garner noted the Board was discussing something that was developed

by the federal government for distance above the flood line. The flood line was a measurement from, not the land, but from the level of the water line.

Mr. Schneier suggested that if the Town knew what the building's usable height was, then they could add ten feet, and when discussing the 2.5 times the height of the building, he did not feel the extra 10 feet would be a material factor. Chair Brown responded there was a lot of variation in building heights that have been built over the island, but since current codes have been adopted, if they leveled every building and rebuilt to the zoning district, every building along Gulf of Mexico Drive would be at the same level. Mr. Symanski was comfortable if the advertisements and staff reports for the hearings on submittals stated the applicant was asking for 'x' feet, but the actual height (with the flood height) was 'x' feet. Ms. Ray pointed out that site plans showed the height from the MHWL, from at-grade, and from the first habitable floor. She also noted that FEMA has a habit, on occasion, of changing the flood elevations. Ms. Ray continued with her PowerPoint presentation.

Ms. Ray discussed that certain older buildings were built on the beach area, which was no longer allowed; a newer building would be set back further from the water. She referred to Slide 11, PUD Height and Setbacks, pointing out that staff would recommend, if the board allowed the increased height, that they require greater setbacks along Gulf of Mexico Drive to prevent the 'corridor' effect. They would also recommend enhanced vegetation along Gulf of Mexico Drive, because visually, the setback and buffer made a significant difference to the character of the island. Chair Brown questioned whether that was something that should be done. He commented if the Board was going to have a zoning district and going to say they would allow a certain height, then they should allow a certain height. He was the one that suggested the 80 foot height, and the reason the Board was discussing existing buildings that were already at the maximum height, maybe even greater than due to grandfathering, was there were units with eight foot ceilings, and the Board would like to allow them to have some increased ceiling height. He still believed, if they were going to say it was not compatible, they should not have that much height in that district. Mr. Garner agreed, because compatibility in this type of situation, the circumstances were different, and if use this compatibility as a guideline, they would discourage the opportunity for redevelopment. He believed anything that limited development, or redevelopment, to the surrounding buildings was incompatible with what the Board was trying to accomplish.

Discussion ensued on:

- When the board started the review, there were a number of non-conforming properties; the board was not trying to define a zone, but a larger envelope into which particular zones could be created
- Most PUDs are flexible and did not impose a lot of limitations; most were fairly open to what could be asked for, and each project essentially becomes its own district, but established through the public hearing process and memorialized to that PUD approval

- An applicant would not be able to come in and develop a PUD on a smaller site; they would have to have certain acreage and square footage, along with complying with other restrictions and guidelines for a PUD
- Whether it could be construed to be a Bert Harris violation if the height was revised – if the applicant requests to go into a PUD, then it would not be a violation; however, if someone redeveloped and did not ask for a PUD, there would not be a restriction on this same site
- If someone requested a PUD, whether they were giving away their Bert Harris rights; Maggie Mooney-Portale, Town Attorney, replied no and explained they could still have a different Bert Harris claim, but if applying for a PUD for additional flexibility they were availing themselves of that new zoning on their own volition; the Town was not taking anything from them legislatively or through a zoning act

Mr. Garner believed at some point the board was straying away from what a PUD could do; it was meant for larger parcels where the structure of the Codes could be modified, and the criteria that would be imposed on a smaller site, might not apply to a larger site. Ms. Ray explained the proposed language would concentrate the height toward the center of the property; smaller properties would not be able to utilize, because they would not be able to obtain the additional height, could not meet the setbacks, etc. The property was too shallow. There was language provided in the proposed ordinance for the Town to consider a smaller setback for those properties through a hardship. Mr. Symanski questioned the variance standard. Attorney Mooney-Portale reviewed the criteria outlined in Section 158.029 and read into the record. Mr. Symanski asked what the Town Commission would be reviewing; was there a standard that stated the purpose was to allow redevelopment of properties with the same. Ms. Ray discussed writing certain criteria for that property. Mr. Symanski noted they would have to define 'reasonable use.' Ms. Ray responded 'reasonable use' is typically the use that was provided in that zoning district.

Mr. Schneier agreed they need to move away from variance language, pointing out that 3-4 of the seven criteria addressed compatibility to aspects of the zoning district of which the property was a part. Ms. Ray referred to the language on page 8 of 32 of the ordinance, and commented that staff could revise to state, "waivers to this required street setback may be granted if the Town Commission determines that the waiver shall not be contrary to the public interest." The Town Commission would have latitude as to why they are doing it, how they are doing it, the distance, etc. Mr. Symanski believed one of the criteria for a PUD was to preserve the number of tourism units. Ms. Ray explained one of the main purposes of this PUD was to allow those properties that were non-conforming to density to memorialize their density and become conforming. Chair Brown discussed T-3 and T-6 zoning. Ms. Ray responded if the developer was utilizing a PUD, everything was defined with the approval documents. Chair Brown commented there were areas west of Gulf of Mexico Drive that would not be able to meet the setbacks and questioned whether the Town should review as possibly a different zoning category with different criteria. Ms. Ray noted it would not be a different zoning category, because the PUD could accommodate that.

The following discussion ensued:

- The point of the change was to try to accommodate the revitalization of properties that were non-conforming, and why would the Board impose a requirement, such as the 2.5 times setback, that the Board knows from the start would not work for many of the properties the Town wishes to revitalize
- One of the things staff was asked to review was how to prevent a 'canyon' effect
- Should be giving flexibility for each zone; provide room for Town Commission and owner to work out for that lot
- Originally the PUD ordinance did have that flexibility, but staff was requested to bring back limitations based on direction from the Board and Town Commission, which was the reason they were seeing less flexibility now than in the original document
- did the Town want those properties to be redeveloped and allow that flexibility; one criteria was the waiver was necessary to accomplish the Board's goal to recreate the same number of units – in another part of the ordinance, if a tourism use, they had to keep the same number of tourism units
- it could be stated that, "If the Town Commission determined the waiver met the intended purpose of the district"
- suggestion to state, "encourage redevelopment of existing
- Whether the Board was saying some properties should not go into a PUD, but retain their existing status through the voluntary rebuild; there might be instances, where someone applied for a PUD, and the Town Commission determined it was not appropriate
- Staff discussing the process for obtaining approval for a PUD noting there would be properties that would not be appropriate for a PUD

Chair Brown asked if staff were comfortable with the current variance process, or did the Board need to work on that issue. Attorney Mooney-Portale explained the body of variance law was very particular to the hardships; if there are pieces and parts that the Board liked and would like to incorporate, then she encouraged that. She would rather see them use the language discussed versus cross-referencing. Mr. Garner mentioned that if the Board took the variance code and tried to revise for this situation, and trying to add as an additional option, that was not what it was intended for; creating a PUD had nothing to do with variances.

Ms. Ray discussed the building setback language in Section 3. Mr. Symanski referred to the low-rise motel type structures on shallow lots and asked if the Town wanted them using flexibility. Ms. Bishop responded there were other criteria that those lots would fail to meet, such as the Erosion Control Line (ECL), the setback from Gulf of Mexico Drive (GMD), Open Space requirements; it made it impossible for those properties to come in under a PUD. They could come back in a voluntary rebuild to improve their facility. Ms. Ray explained if properties came in under any scenario, they would not be two stories on-grade, but significantly higher. The footprint would not be able to change much; however, under the voluntary rebuild, they would be able to rebuild with what was existing under the cubic content. Ms. Bishop pointed out that modifying those setbacks

to accommodate buildings on narrow properties was not the vision of the Town residents.

Mr. Haycock pointed out that in the last three months the Board has gone full circle, but he wished to understand what has been done. Staff originally presented a flexible PUD, and for three months, they have established criteria, but now the Board was stating that should be removed and allow open PUDs on a case-by-case basis, which he believed he was comfortable with, but where did the Board get the criteria they wanted. He asked if the Board removed the restrictions, what would be the process that would still allow the Board to ensure what was built was consistent with what was wanted by the public. Mr. Schneier discussed an example of keeping a structure at two usable stories, and raising the property up ten feet, so it was 30-35 feet from the ground, and moving all the parking underneath, and applying the setbacks at 2.5 times the height. He believed there could be a more compatible structure. Ms. Ray noted that could be done under a PUD, but if they chose to rebuild under the voluntary rebuild, the Town could not require enhanced buffers, but only what was required under the code; under a PUD, the Town could require certain things, because they were drafting the development regulations for that property. Ms. Bishop commented she was not sure if she heard whether the Board concurred with Mr. Haycock's comments. She was not comfortable with the restrictions not being included in a PUD, and believed restrictions were critical. She noted it was much easier to function when there was criteria that people understood. Chair Brown agreed; he was not ready to give up restrictions.

Chair Brown referred to the language in red in the draft ordinance and wondered if that was sufficient criteria for a final decision to be made at the Town Commission level. He discussed there had been a number of questions about the traffic issue, and he was going to suggest to the Town Commission they place the remaining tourism units on hold until such time the Town determined the impacts from the re-opening of the Zota hotel (f/k/a/ Hilton Hotel) and other larger projects.

Mr. Symanski voiced concern with the language provided in Section (3), page 8 of 32 of the ordinance, related to Building Setbacks. He believed it should be revised.

The Board recessed from 10:25 am – 10:37 am to allow staff time to review and revise the language.

Ms. Ray reviewed the revised language in Section (3), Building Setbacks, concerning the waiver, suggesting the language be revised to state, "*Waivers to this required street setback may be granted if the Town Commission determines that the waiver is necessary to meet the intent of the Comprehensive Plan and this chapter to enable redevelopment of properties that are nonconforming to density and is in the public interest.*" She explained that as part of the process to develop the PUD for that property was if they wished to have less setback, the Town could require additional vegetation. She noted staff had also made a minor revision in that same paragraph that, "each building must have a minimum street setback of at least 2.5 times the overall height of the building."

Discussion ensued as follows:

- Belief that vegetation was something to emphasize to some extent; an example would be the Publix property, where the buffer was considerably enhanced; however, there was a need to continue to emphasize vegetation or screening
- Referring to the proposed ordinance, how 'enable redevelopment' would be defined – redevelopment of existing units, or what their base zoning allowed, whichever was submitted, the Town allowed rebuilding to the existing density
- Currently, a developer would have to build within their cubic content and other parameters defined in a voluntary rebuild
- Smaller parcels would still have to meet other requirements, such as 'shadowing' effects, side setback issues, ECL, and provide 50 percent open space

There was consensus to accept the revised language in Section (3) as presented by staff.

Attorney Mooney-Portale commented she was not clear about the 'enable redevelopment' asking if it were for those properties with a non-conforming density; that would be her only question for clarification. If so, it should be written in or was it to enable redevelopment of all properties as opposed to properties that were non-conforming as to density. Mr. Garner suggested if the Board was going to have an allowable redevelopment, as far as density, it should include a requirement that it be no more than what existed or less. Ms. Ray explained the ordinance did state that as a maximum. **Following discussion, there was consensus to add language after 'enable redevelopment' to state, "redevelopment of properties that are non-conforming to density."**

Mr. Symanski asked if there were properties that would need this flexibility to accomplish the zoning on the property. Ms. Ray pointed out there were existing properties that were non-conforming as to setbacks, lot coverage, etc., and likely would not be able to redevelop and meet those requirements, but might be able to obtain a variance. Attorney Mooney-Portale commented the only other alternative was referencing the Opportunity Areas. Ms. Ray suggested adding, in the waiver language, "meet the intent of the Comprehensive Plan and this Chapter". She also suggested removing 'or' from subsection (D)(1)(a) on page 8 to state, "whether the proposed increased height is compatible with surrounding areas and/or is consistent with the character of the surrounding area."

Mr. Symanski questioned the language, "the additional setback shall be equally split between the two sides." Ms. Ray explained if the required setbacks were 30 feet on each side, but they wished to go up in height, which would require the addition of another 30 feet in setbacks, the question from the previous meeting was whether it was applying 30 feet to both sides or split. The way it was written in the ordinance the 30 feet would be split, so instead of 30 foot setbacks on both sides, they would have 45 foot setbacks on each side.

Discussion continued on setbacks as follows:

- Why not use the language that if there was an increase in the side yard or setback, that they would be applied in such a manner that they were equal on both sides; whatever the total side yards were existing, plus additional, be split on two sides of the building
- Suggestion to state, “the increased setback shall be applied between the building with the increased height and both property lines”
- The setbacks can be no less than the maximum required on all sides
- The area in question was how to address when the building was the same exact distance from the property line; if the additional setback requirement was 30 feet, did the town want the extra 30 feet on both sides, or split it so there was 15 feet and 15 feet
- Not sure if 2-for-1 for height was a good idea, but why not state, “the increased setback shall be applied between the building and the side property line” and remove the next sentence
- In Section 3, Building Setbacks, following the language related to the 2.5 times height, there was reference to a vegetative buffer along GMD; suggestion to remove the reference to GMD, and replace with ‘street’ buffer, since there were properties that were not located on GMD
- Page 11, requirement for ‘shadow plans’ and whether there was a standard; it was required in the past, typically in winter months; required of the Hilton Hotel property, whose plans showed a couple of times per day
- Depending on the time of the year, the ‘shadow plan’ would vary; staff noted winter months were used, because the sun was at lowest point
- Concern with Page 19, related to MUC zones, where it had been frequently asked about the language that implied someone could apply for a MUC, and which should be reviewed by staff – page 20 (C), where permissible, and whether that was for existing properties wishing to modify; the language referenced only those properties already zoned MUC
- Page 29, Section 158.069, bottom of page related to wetland, there was a contradiction with the next sentence, because it states 15 percent – staff had struck through that sentence as it tied into the previous sentence regarding “in other types of...”
- Whether the board was stating the wetlands, and landlocked parcels, were not included in open space, or can be calculated as a percentage

Chair Brown referred to page 31 of 32 of the ordinance, Section 158.071, Proposed Land Uses, and asked what ‘recreational uses’ meant. Ms. Ray responded it was carried over from the existing code. Steve Schield, Planner, discussed an example being the Zota Beach Resort pointing out the pool was part of the hotel’s recreational facilities, and they were allowed a certain percentage that allowed the restaurant; the pool would not be deducted from that percentage, nor would the running track, or the weight room. Ms. Ray commented it would not be counted against the tourism square footage that was allowed in calculating the floor area ratio. Chair Brown noted there was a lot of similar language that was confusing. Ms. Ray commented it stated ‘shall not be included in the square footage computation of non-commercial areas. Attorney

Mooney-Portale read the definition of 'recreational uses' into the record. Ms. Ray noted that adding square footage in the language spoke to how this part of the code was applied.

Chuck Whittall, Unicorp International, Inc., explained he had met with over 1,000 residents of Longboat Key within the last few weeks. He heard the complaints about traffic; and heard the requests to reduce the height of the buildings. He was asking to not limit structures to eight stories; for removal of the requirement from the PUD that an applicant had to maintain the current tourism density on the property; and requested inclusion of language that the PUD could draw from the tourism unit pool. He noted that in the event the referendum did not pass, he would not be able to redevelop the Colony Beach & Tennis Resort property. He would be forced to remain with the underlying zoning on the property, which would limit them to 137 condominiums and have to pull from the tourism pool. He suggested the Board could state they had to maintain no more than 'x'. There was debate on the setback requirements and that they should have flexibility.

Amy Shuman, Unicorp International, Inc., discussed providing flexibility of development; that no two pieces of property were created equal, which was shown in staffs presentation; and, that it was difficult to place restrictions on a PUD, when each property would be different.

Gene Jaleski, Cedar Street, encouraged the Board to slow down and engage the public on this subject. He discussed the overlay at Whitney Beach Plaza; that they might have people suing, or demanding, Bert Harris Act rights; the need to address each neighborhood as a unique entity; a stipulation that they must maintain a percentage of tourism; and, failure to calculate in Vacation Rentals By Owner (VRBO) and AirB&B units, which may exceed this level. Concerning the 'shadow plan,' they may exceed the 'shadow plan' if they used the winter solstice as a measurement – even though the Hilton Hotel had cast a shadow on the adjacent property, the plan was approved.

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

Mr. Schneier referred to the density provision of the PUDs (page 8 of ordinance) and asked if it was intended that the existing use, or permitted use, include the provision to apply for the 'floating' tourism units. Ms. Ray responded this PUD zoning district, as currently written, allowed for the application of the remaining 165 pool units. She mentioned that in order to happen, the Town would need to change the section of the code that dealt with the tourism pool; it currently stated that existing PUD overlays may be eligible based on their underlying zoning district. The section would need to be modified if the Board wished for someone to apply for one of these PUD zoning districts and allow them to ask for the pool units. Chair Brown wished to clarify that staff was stating that if an applicant chose to use the PUD process, they could not request from the pool units. Ms. Ray pointed out that under the existing code, someone that developed under the PUD process was eligible for the pool units; however, under the new district, they could not pull from the pool units. Chair Brown commented they needed to revise to delete the conflict in the code. Attorney Mooney-Portale explained

the adoption of what was before the Board needed to be read in the context of this – the same provision referenced in Section 158.180, which talked about what eligible properties were that could pull from the pool. Chair Brown questioned where it stated the new PUDs were not eligible. Ms. Ray commented this was a new zoning district. Chair Brown believed the section should be revised to include the new zoning district.

Mr. Symanski pointed out that on page 2 of the staff report there was reference to whether a PUD could be altered. Ms. Ray responded there have been multiple questions of whether the Board, or Town Commission, wished to continue to allow people to apply for additional density; questions whether this ordinance would be essentially invalidating. The point of the staff report, and if the Town wished to remove the provisions, they would need to remove two sentences, and the remainder of the PUD would be valid. Chair Brown asked if the voters approve the ability for the Town Commission to consider additional density, it did not mean the Town Commission would, but they would consider it on the criteria set up in the zoning code. He asked if staff was suggesting removal of that section and not allow referendums. Ms. Ray replied the question was whether the ordinance would be invalidated if the Town Commission decided to remove the ability to ask for additional density, and the answer was no, there would simply be two sentences that would need to be removed. Mr. Symanski reviewed slide 13 of the PowerPoint (Policy Question: Is there still a desire to consider additional density to encourage redevelopment?) commenting he did believe it was a good idea as the applicant should be allowed to ask, and the Town Commission should be allowed to consider.

There was consensus to not remove the last two sentences in Section 158.063(D)(2) that refers to requesting additional density and referendum.

Chair Brown mentioned there was discussion, both ways, of whether the Board was reducing the restrictions (height, setbacks, side yards, etc) that were currently in the proposed codes for PUDs. He was in favor of leaving the restrictions, because the alternative would be allowing anything without limits as long as they received approval.

There was consensus to not remove restrictions.

Mr. Schneier questioned where that left the height issue. Ms. Ray replied at 80 feet. Chair Brown asked the Board if they wished to leave the height at 80 feet, or add only for buildings that want to increase ceiling heights. Mr. Garner believed it belonged and should stay with the understanding that it was 80 feet above BFE. Ms. Bishop concurred with Mr. Garner noting this was not about one project, but the entire island. Chair Brown asked if the Board would agree that 80 foot be allowed if it was reasonable; otherwise, it would be set at 65 feet or less.

There was a 6-1(Mr. Symanski did not agree) consensus to retain the 80-foot restriction as written.

Mr. Schneier referred to the density issue, and if there was a need for a separate ordinance for the 250 tourism unit rule, it should be specified in the density portion of

the PUD that it was included. Ms. Ray pointed out it would have to be clarified in the other section. She commented if the Board wished to include the ability to ask for the 250 units, staff would need to prepare a separate ordinance for the distribution of tourism units. Discussion concerning Section (2), Density and Lot Coverage, resulted in a recommendation to revise the last sentence to state, "*applicants may also apply for additional tourism units from the tourism pool as provided for in Section 158.180.*"

MS. BISHOP MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2016-32, AS AMENDED. MR. GARNER SECONDED THE MOTION.

Chair Brown raised the issue of whether the P&Z Board wished to recommend, or suggest, to the Town Commission of placing the remaining tourism pool units on hold in order to determine whether traffic would be impacted by the completion of the larger projects currently under construction. Mr. Garner believed there was a structure in place that worked well and did not see why things should be placed on hold, because the community had to vote on it. Mr. Haycock and Ms. Bishop agreed. Mr. Symanski commented that if an application was submitted, they should be able to count the units that were approved, or able to be built, not just the ones that were built.

MOTION CARRIED ON A 6-1 ROLL CALL VOTE: BISHOP, AYE; GARNER, AYE; BROWN, AYE; HAYCOCK, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, NO.

NEW BUSINESS

There was no new business.

STAFF UPDATE

ADJOURNMENT

The meeting adjourned at 11:48 am.

Ken Schneier, Secretary
Planning and Zoning Board

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–LEGACY OPPORTUNITY AREA (PUD-LOA) ZONING; ADDING SECTION 158.064, PLANNED UNIT DEVELOPMENT–SPECIAL PURPOSE (PUD-SP) ZONING; AMENDING SECTION 158.065, OVERVIEW OF PLANNED UNIT DEVELOPMENTS AND RETITLING THE SECTION TO PLANNED UNIT DEVELOPMENT-MIXED USE COMMUNITY (PUD-MUC); AMENDING SECTION 158.066, PREAPPLICATION CONFERENCE AND RETITLING THE SECTION TO PUD-MUC PREAPPLICATION CONFERENCE; AMENDING SECTION 158.067, REVIEW AND APPROVAL OF PLANNED UNIT DEVELOPMENTS AND RETITLING THE SECTION TO REVIEW AND APPROVAL OF PUD-MUC; AMENDING SECTION 158.068, MINIMUM AREA AND RETITLING THE SECTION TO MINIMUM AREA FOR PUD-MUC; AMENDING SECTION 158.069, OPEN SPACE AND RETITLING THE SECTION TO OPEN SPACE FOR PUD-LOA, PUD-SP, AND PUD-MUC; AMENDING SECTION 158.070, TOURISM AND RESIDENTIAL DENSITY AND RETITLING THE SECTION TO TOURISM AND RESIDENTIAL DENSITY FOR PUD-LOA, PUD-SP, AND PUD-MUC; 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 remanded certain provisions back to the Town's Planning and Zoning Board; and

WHEREAS, after due public notice, the Planning and Zoning Board held a public hearing on January 17, 2017, to consider the provisions remanded by the Town Commission and requested additional information; and

WHEREAS, after due public notice, the Planning and Zoning Board held a public hearing on February 21, 2017, to consider the items remanded by the Town Commission and provided recommendations to the Town Commission as the local governing body; and

WHEREAS, on March 22, 2017, the Town Commission held a duly noticed public workshop to consider the Planning and Zoning Board's recommendations and forwarded the proposed zoning code amendments for first reading and public hearing; and

WHEREAS, on May 1, 2017, 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 – Legacy Opportunity Area (PUD-LOA), Planned Unit Development – Special Purpose (PUD-SP), and Planned Unit Development – Mixed-Use Community (PUD-MUC).

The PUD-LOA and PUD-SP categories described herein are zoning districts. The development standards for properties within the PUD-LOA 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-LOA 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-LOA 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-LOA or PUD-SP zoning district.

158.063– Planned Unit Development- Legacy Opportunity Area (PUD-LOA) 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 Legacy 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-LOAs 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-LOA 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-LOA 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-LOA zoning districts are those that are consistent with the applicable Legacy Opportunity Area Future Land Use designation of the Comprehensive Plan as further described below:

Multi-Family Residential Legacy Opportunity Area (MFRLLO). 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 Legacy Opportunity Area (CTDLO). 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 Legacy Opportunity Area (CRMLO). 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 mixture of residential and nonresidential uses.

Commercial Legacy Opportunity Area (COMLO). 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-LOA 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-LOA 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-LOA. A PUD-LOA 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-LOA may be filed and reviewed concurrently with the necessary Future Land Use map amendment to the appropriate Legacy Opportunity Area designation. If a referendum is required to increase density pursuant to the Town Charter, a formal application for a PUD-LOA 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-LOA 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-LOA 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-LOA. 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-LOA zoning designation.
- (3) Formal Application. The application for a PUD-LOA shall be filed with the planning and zoning official. An application for site plan approval for all or a portion of the PUD-LOA may be filed and reviewed concurrently with the concept plan and PUD-LOA 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-LOA 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-LOA 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-LOA 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-LOA 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-LOA 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-LOA 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-LOA was approved concurrently with the PUD-LOA, 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-LOA 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-LOA Zoning Development Standards. A PUD-LOA shall be permitted only upon an order of the town commission approving the PUD-LOA concept plan and development standards. No PUD-LOA 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-LOA, 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 side yard setback is increased for the specific building with the increased height by two feet, for every one foot of additional height requested, up to a maximum height of 65 feet above base flood elevation. The increased setback shall be applied between the building with the increased height and each side property line. When determining whether to grant a request for increased height, the town commission shall, at a minimum, consider the following:

(a) Whether the proposed increased height is compatible with surrounding properties and is consistent with the character of the surrounding area; and

(b) Whether the proposed placement of the building with increased height allows for improved scenic views from adjacent properties and/or opens scenic view corridors from the street; and

(c) Whether the proposed increased height will cause an increase in shadow effects on surrounding properties, the street, and the public beach, if applicable; and

(d) Whether the proposed placement of the building with increased height decreases or eliminates potential shadowing effects on adjacent properties.

(e) Whether the existing or proposed vegetative street buffer is sufficient to minimize the mass and scale of the building with the increased height from the right-of-way.

(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-LOA, 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-LOA 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-LOA rezoning process. Applicants may also apply for additional tourism units from the Tourism Unit Pool as provided for in Section 158.180.

(3) Building Setbacks. The proposed minimum side and rear building setbacks, as measured from the boundaries of the PUD-LOA, shall not be less than the

setbacks allowed by the existing zoning district of the property that is proposed for rezoning to PUD-LOA, or the building setbacks of the existing development that is proposed for redevelopment, whichever are less, plus any additional setback that may be required for additional height per Section 158.063(D)(1). Each building must have a minimum street setback of at least 2.5 times the overall height of the building, with a vegetative street buffer with sufficient density and height to minimize the visibility of the buildings from the right-of-way. Waivers to this required street setback may be granted if the Town Commission determines that the waiver is necessary to meet the intent of the Comprehensive Plan and this chapter to enable redevelopment of properties that are nonconforming to density and is in the public interest.

(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-LOAs the number of existing beach and/or bay access points shall not be decreased below the number existing at the time of the PUD-LOA 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-LOAs 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-LOA 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-LOA, 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-LOA in order for the town to evaluate the impact of the development to the town. Any application for a PUD-LOA 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-LOA 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, streets, 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) For projects larger than 10 acres, architectural renderings of the project from all sides of the property. Such visual representations shall show all proposed site improvements at project build-out including proposed landscaping depicting the anticipated appearance of trees and landscape material after five years of growth in order to visually represent their size and proportion relative to the proposed buildings, view corridors, and pedestrian corridors.
- (9) Such additional data and information as the applicant may believe is pertinent to the plan of development.
- (10) Such additional relevant data and information the town may reasonably require.
- (11) A written statement by the applicant describing fully the character and intended use of the PUD-LOA and setting forth the reasons why, in his opinion, a PUD-LOA 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-LOA 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-LOA application. The commission's approval, approval with changes or special conditions, or denial of a PUD-LOA 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-LOA is or is not consistent with the intent of a PUD-LOA 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-LOA 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.
- (9) Whether the proposed development is in the best interests of the Town.
- (10) Whether the proposed development is not contrary to the interests of the Town and/or does not adversely impact or affect the public interest.

(G) *Effect of Approval.* Approval of a PUD-LOA 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-LOA 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-LOA 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. For projects larger than 10 acres, the standards of Section 158.102(L) shall not apply.
- (4) PUD-LOA 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-LOA 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-LOA 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-LOA 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-LOA. 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-LOA. Major revisions to concept plan shall require submittal of a new PUD-LOA application meeting the requirements of this section. Major revisions shall be processed as a new PUD-LOA 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-LOA; 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.~~ 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~~ ODP in accordance with the procedures for an original submission, review and approval. Approval of an ~~outline development plan ODP~~ 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~~ 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~~ 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~~ 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-MUC.

A planned unit development in the PUD-MUC district 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, the existing development site area is acceptable.

158.069 - Open space for PUD-LOA, 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-MUC.

(A) 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-MUC 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 square footage 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)~~ (C) 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. For the purposes of this section, nonconforming density approved by referendum in March 2008, shall be considered authorized density and shall not be considered nonconforming under a PUD.

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

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

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

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

Passed on first reading and public hearing the ____ day of _____, 201__.

Adopted on second reading and public hearing the ____ day of _____, 201__.

Terry A. Gans, Mayor

ATTEST:

Trish Granger, Town Clerk



End of Agenda Item