

ORDINANCE NO. 15-006

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; PROVIDING FOR MINOR REVISIONS TO **CHAPTER 22, PLANNED DEVELOPMENT ZONE (PD) SECTION 22-40**; PROVIDING FOR PERIMETER SET BACK OPTIONS, PROVIDING AN EXPANDED DEFINITION OF OPEN SPACE; PROVIDING AN EXPANDED DEFINITION OF UNIFIED CONTROL AND PROPERTY OWNERSHIP; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS on June 15, 1981 the City adopted Ordinance No. H-186 which established the Planned Unit Development (PUD) Zoning District, and

WHEREAS the Planned Unit Development (PUD) Zoning District, was most recently updated on March 2, 2015 and renamed the Planned Development (PD) Zoning District by adopting Ordinance 15-004; and

WHEREAS the City of Fort Pierce would like to further amend the Chapter 22, Article Three, Section 22-40, Planned Development Zone (PD), of the Code of Ordinances to provide clarity; and

WHEREAS the Planning Board of the City at its April 14, 2015 meeting voted unanimously to recommend approval to the City Commission; and

WHEREAS the City of Fort Pierce finds the proposed amendments to the Planned Development (PD) Zoning District consistent with the Comprehensive Plan of the City of Fort Pierce; and

WHEREAS the City of Fort Pierce finds the revisions proposed Planned Development (PD) Zoning District satisfies the following standards specified in Section 22-131 of the City Code:

(1) The amendment will not have an adverse effect on the ability of the City to:

- a. Satisfy land and water use needs
- b. Meet transportation demands and provide community facilities and services

(2) The amendment will promote and protect the public health, safety and general welfare;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. 22-40 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read thereafter as follows:

Sec. 22-40. – Planned Development Zone (PD).

(a) *Purpose.* The PD District is intended to provide a process for the evaluation of individually Planned Developments which are not otherwise permitted in the zoning districts established by this Chapter. The PD District is to be a voluntary process commenced by an applicant for such zoning designation. The standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time granting the City Commission the absolute authority to establish such limitations and regulations as it deems necessary to protect the public health, safety and general welfare. In so doing, the PD district is designed to:

- (1) Provide for the planning, review and approval of one (1) or a combination of residential, commercial, public and industrial land uses not otherwise allowed under general zoning districts.
- (2) Encourage structures which result in an organized, compatible development within and with surrounding land uses in density and intensity of use.
- (3) Allow flexibility through a more efficient arrangement of structures, utilities, on-site circulation, and ingress and egress than is permitted under conventional zoning and subdivision regulations.
- (4) Encourage the preservation of environmental assets and natural amenities as scenic and functional open-space areas.
- (5) Encourage usable open space by permitting a more concentrated building area than is allowed under conventional zoning and subdivision regulations.
- (6) Encourage innovative site planning and land development concepts in order to create an aesthetically pleasing and functionally desirable living environment while preserving onsite natural elements and cultural resources.
- (7) Promote flexibility and efficiency in site design for more desirable living and working environments.
- (8) Promote development that is adapted to natural features, including wetlands, trees and other vegetation and habitat, and which avoids the disruption of natural drainage patterns.
- (9) Permit site specific requirements based on the unique characteristics of the individual site.
- (10) Permit site specific limitations where necessary to protect public health, safety, or welfare, or for the protection or preservation of lands either internal or external to the Planned Development.
- (11) The terms Planned Development (PD) and Planned Unit Development (PUD) are deemed synonymous and may be used interchangeably throughout the City's Code of Ordinances.

(b) *General standards for approval.* The Planned Development (PD) district is designed to allow an applicant to submit a proposal for consideration, for any use or any mixture of uses, The approval of Planned Development rezoning rests with the City Commission. However, no rezoning or development plan may be approved unless the following conditions are met:

(1) *Comprehensive Plan Consistency.* Any residential, commercial, industrial, or public land uses and structures are permitted in this district, provided the proposed development is shown to be consistent with the goals, objectives and policies of the comprehensive plan, and consistent with the future land use element, and the standards and criteria contained in the following sections, unless a corresponding amendment to the Comprehensive Plan is also adopted.

a *Density.* In no event shall the density granted exceed the maximum gross density permitted under the underlying land use in the Comprehensive Plan.

(2) *Perimeter Setbacks.* Setbacks at the perimeter of the development shall be equal to those of the abutting zoning district(s), except where City Commission finds that alternate

perimeter setbacks would be appropriate. Conditions under which alternate perimeter setbacks may be considered include, but are not limited to, the following:

a. Property in the abutting zoning district is located across a major roadway from the PD, and therefore, a reduced setback would have little or no impact on the character of the adjacent property;

b. The minimum PD perimeter setback required by this section cannot be achieved due to an exceptional narrowness, shallowness, shape, topographic condition or physical or environmental feature uniquely affecting the subject property.

c. The perimeter setback may be reduced from the required distance by providing a landscape strip in lieu of the perimeter setback, except where driveways are located, meeting these requirements:

1. The strip shall be no less than five (5) feet wide and include at least one tree for every two-hundred (200) square feet of required landscaped strip and contain a hedge of landscape material which shall be installed and maintained so as to form a forty-eight-inch (48") or higher, continuous, unbroken, solid, visual screen within one-year (maximum) after installation, except in clear vision areas required in Section 22-53. The remainder of the required landscaped strip shall be completely covered with groundcover or grass.

2. A wall, berm, or other durable, non-wood privacy fence may be included as part of the landscape strip, but not replace it.

d. The perimeter setback may be reduced from the required distance by no more than ½ if the abutting property is similar in use, and intensity or density.(3) *Open space.* In all Planned Developments at least twenty (20%) per cent of the site shall be devoted to open space, regardless of project size or intended use; open space shall be land devoid of any above-ground structures or buildings, except pergolas, gazebos, pavilions or other open-air structures; or landscape structures such as terraces, planters, walls or retaining walls. Open space may include natural areas, buffer areas, upland habitats, including those areas of on-site preservation required by the other provisions of this Code; recreation areas, but not including swimming pools, tennis courts or other impervious activity areas; but may include parks, golf courses, sports fields; bicycle, pedestrian or equestrian paths and facilities; common open space, common landscaping or planting areas; stormwater detention and retention facilities providing that no more than thirty percent (30%) of the overall open space requirement shall be satisfied in this manner; water features, conservation areas or other areas intended for public purposes other than street or road rights-of-way, but shall exclude aquatic areas for conservation and development (A-1 and A-2 zoning).

(4) *Applicability to Other Code of Ordinances Not in Conflict Herein.* All building code, housing code, and other land use regulations of the City of Fort Pierce not directly in conflict herewith are applicable to the PD district.

(5) *Easements.* Easements necessary for the orderly extension and maintenance of public utilities and/or other special needs may be required as a condition of approval.

(6) *Phasing.* When provisions for phasing are included in the development plan, each phase of development must be so planned and so related to previous development, surrounding properties, and the available public facilities and services, that failure to proceed with subsequent phases will not adversely impact drainage, utilities, parking or the traffic flow of the completed phases.

(7) *Other standards.* All Planned Developments will comply with regulations affecting signs referred to in section 22-55 and applicable portions of the City's regulations governing subdivisions except that in case of conflict,

(8) *Additional requirements.* The City Commission may also establish additional requirements which it considers necessary to assure that a Planned Development conforms to the intent of this section.

(9) *Variances are Not Necessary.* The specific development standards of the PD district are contained in the approved development plan for each Planned Development which normally takes into account those matters which might otherwise be the subject of variance review by the Board of Adjustment.

(c) *Application requirements.* When an application is submitted to rezone property to a PD zoning district, the following items will be submitted in addition to other information submitted in

accordance with section 22-127, the City's subdivision regulations or other City laws:

(1) Written documents:

- a. Project Narrative: A statement describing the Planned Development. This statement should include a description of the character of the proposed development as it relates to the development objectives of the City and the City's Comprehensive Plan as well as the applicant's intentions with regard to the future selling or leasing of all or portions of the Planned Development, such as land areas and dwelling units.
- b. Unified Control and Property Ownership: All land intended to be included in the Planned Development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations. Material which presents firm evidence of ownership may include a copy of the recorded deed(s), a title policy or an opinion of title. If necessary, material which presents firm evidence of unified control, such as Unity of Title, on a form approved by the City, shall be submitted with the application.
- c. Phasing: A development phasing schedule indicating:
 1. The approximate date when construction of the project can be expected to begin.
 2. The number of phases in which the project will be built and the approximate date when construction of each phase can be expected to begin and completed.
 3. A general description of the buildings and streetscapes including standards for height, building coverage, parking areas, and public improvements proposed for each phase of the development.
- d. Quantitative data for the following: Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; residential gross densities; total amount of open space; and the total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).
- e. A list of any exceptions from the standard zoning ordinance and land development code for any features of the proposed development plan.
- f. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the Planned Development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.

(2) *Site Plan.* A site plan with the following information must be submitted:

- a. The existing site conditions, shorelines, flood plains, unique natural features and forest cover.
- b. A landscape and irrigation plan per Chapter 22-59 LDC.
- c. Proposed lot lines and other divisions of land for management, use or allocation purposes.
- d. The location, size and height of present and proposed buildings and structures.
- e. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.
- f. The existing and proposed vehicular circulation system, including off-street parking and loading areas.
- g. The pedestrian circulation system, including its interrelationships with the vehicular circulation system, within the development to adjacent streets, showing all curb cuts and sidewalks.
- h. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.
- i. Information on land areas adjacent to the proposed Planned Development, including land uses, zoning classifications, densities, circulation systems, public

facilities and unique natural features of the landscape.

j. The proposed buffering treatment of the perimeter of the Planned Development, refuse stations, storage areas, or loading areas, including materials and techniques used such as screens, fences and walls.

k. The location of existing wetlands, proposed preservation and conservation areas.

l. A statement describing any endangered or threatened species that may be located on the site and potential environmental impacts on flora and fauna.

(d) *Planned Development review procedures.*

(1) Pre-application conference. The pre-application conference is an informal discussion between the applicant and the staff of any department that will be involved with the technical review of the proposed Planned Development. The applicant is encouraged to provide the following information related to the proposed development at the meeting.

a. Consistency with the adopted Comprehensive Plan.

b. Adequacy of utilities and other public facilities to serve the proposed development.

c. Relationship with the surrounding neighborhood.

d. Compliance concerns.

(2) Site Development Plan. Will include all information specified in this section. The procedure for reviewing the development plan is the procedure set forth in Section 22-128, Amendment Procedures, and Section 22-58, Site Plan Review. If the proposed Planned Development also involves the subdividing of land which is regulated by the City, the preliminary plat should be reviewed concurrently with the development plan as specified in Chapter 18. Approval of a development plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property.

(e) *Adherence to Approved Development Plan.* Building permits for construction shall be issued only if consistent with an approved development plan. No building permit or certificate of occupancy shall be issued for a Planned Development except in conformity with all provisions of the approved final plan, as amended. All buildings and improvements in a particular phase need not be complete before the issuance of a certificate of occupancy for a completed building in that phase unless otherwise required by the final plan as approved.

(f) *Modification of an Approved PD Site plans.* Changes to approved PD site plans are either major modifications or minor modifications. A major modification shall require the approval of the City Commission, while a minor modification may be done administratively by the Planning Manager (or designee)

(1) *Modification review criteria.* Generally, additions, deletions, changes in the use, density, sequence of development or other specifications of an approved PD plan are to be viewed as a major modification. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new Planned Development request. An application for a major modification shall be filed in the planning department. Applications for a major modification of PD plans may require an updated, revised PD site development plan or portions thereof indicating the effect of the proposed change, a narrative description of the modification and reasons such a change is necessary, and additional information as required by the Planning Manager (or designee) to adequately review the proposed modification.

The following alterations shall be considered a major modification, and reapplication as a new development plan will be required:

a Increase or decrease in intensity of use. A change of five (5) percent or more of usable floor area, or a change of five (5) percent or more in the number of dwelling units, or a change of five (5) percent or more of outside land area devoted to sales, displays, or demonstrations. In no case shall the intensity or density be increased over the maximum allowed by the Future Land Use Element of the Comprehensive Plan.

b Any change in the location of the parking area(s), or a change of ten (10) percent or more in the number of spaces approved.

c Structural alterations significantly affecting the basic size and form of the

building(s) as shown on the approved plan including increase in building height of more than one story or twelve (12) feet.

d Any reduction in the amount of open space by five (5) percent or more, or a substantial change in the location or characteristics of open space uses.

e Substantial changes in location or type of pedestrian or vehicular accesses or circulation.

f Any change which would increase traffic generation by more than ten (10) percent.

g Any change in land use or an increase in density within five hundred (500) feet of the PD boundaries, or within two hundred (200) feet of any part of the Planned Development which has been constructed or sold to an owner or owners different from the applicant requesting the change.

h Any deviation exceeding twelve (12) inches from the setbacks, area, or dimensional standards approved as part of the site development plan.

i A change to the buffering material that negatively impacts the surrounding neighborhood.

j Any change in the design and/or location of the stormwater facility that negatively impacts the surrounding neighborhood.

k Any addition or reduction to the area of a Planned Development.

l Changes proposed to three (3) or more of the criteria that do not meet the threshold individually to be considered a major modification.

m Any change in a condition specifically required by the City Commissioners as part of the Planned Development approval.

(2) *Minor modification.* Any modification to an approved PD plan which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, buildings/structures or other improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications. Upon determination that the proposed modification is a minor modification, the Planning Manager (or designee) shall render a decision to the applicant within fifteen (15) working days after submission of a completed modification application. Applications for a modification shall include an updated, revised PD site development plan indicating the effect of the proposed change and a narrative description of the modification and the reasons why such a change is necessary.

(3) Prior to build-out of fifty percent (50%) of the land in a Planned Development, the property owner shall have the right to initiate any amendments to any developed or undeveloped portions of the Planned Development. After fifty percent (50%) or more of the land in the Planned Development has been built-out, the property owner may initiate any amendments to undeveloped portions of the Planned Development, however, amendments to developed portions of the Planned Development may only be initiated by:

a The property owner, for an amendment to the Planned Development which is not applicable to all developed portions of the Planned Development; or

b Petition by the owners of more than fifty percent (50%) of the developed property in the PD district for an amendment to the Planned Development applicable to all of the developed portions of the Planned Development; or

c City Commission, where necessary to preserve the health, safety and welfare of the property owners in the Planned Development.

(g) *Status of Previously Approved PUD (Planned Unit Development zone) Plans.* Any active or completed Planned Development project approved prior to the adoption of this ordinance shall continue to be governed by the approved PUD plan and any agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development. Any time limitations to which the approved PUD plan may be subject shall also continue to apply. However, whenever any application is made to substantially modify (see major modification), the approved PUD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the PD district.

(h) *Expiration of an Approved PD Plan.* Any Planned Development approval for a project which has failed to commence by securing a building permit for a vertical improvement in accordance with the approved PD plans within two (2) years of final approval of the Planned Development, shall be considered expired. However, if the property owner obtains a building permit for a vertical improvement in accordance with the approved PD plans within two (2) years after final approval of the Planned Development, the property owner's development rights under the PD approval shall be deemed vested and shall not expire. Extensions to the expiration date of the PD approval may be granted by the City Commission in 2-year increments. Any request for an extension to the expiration date of the PD approval must be submitted in writing to the Planning Manager for review no later than the expiration date of the PD approval.

If the PD expires, the land will retain the PD zoning designation; however the Site Development Plan approved with the PD rezoning will be null and void. Either the previously approved or a new Site Development Plan can be used to reapply.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are and the same shall be repealed and shall no further force of effect whatsoever.

SECTION 4. This Ordinance is and the same shall become effective immediately upon final passage.

APPROVED AS TO FORM AND CORRECTNESS:

Robert V. Schwerer, Esq.
City Attorney

STATE OF FLORIDA

COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 15-006 was duly advertised by title only in the St. Lucie News Tribune on May 17, 2015, and on June 7, 2015, 2015; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on June 1, 2015; and was duly introduced, read by title only, and passed on second and final reading on June 15, 2015, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HERewith, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the ____ day of _____, 2015.

Linda Hudson,
Mayor Commissioner

Linda W. Cox,
City Clerk

(CITY SEAL)