

CITY OF MARCO ISLAND
ORDINANCE 02-34

AN ORDINANCE TO AMEND CHAPTER 30, ARTICLE II, DIVISION 13 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OF CITY CODE, BY AMENDING SECTION 30-383 TO INCREASE MINIMUM AREA REQUIRED FOR CONSIDERATION AS A PUD AND TO INCORPORATE CRITERIA NECESSARY TO QUALIFY AS A REDEVELOPMENT PROJECT PUD; BY AMENDING SECTION 30-387 TO INCLUDE OPEN SPACE REQUIREMENTS FOR REDEVELOPMENT PROJECTS; AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, state law requires municipalities to adopt Land Development Regulations within one year of Comprehensive Plan adoption; and

WHEREAS, City Council adopted Ordinance 02-07 (codified as Chapter 30, Article II, Division 13) to establish new Planned Unit Development (PUD) regulations and standards; and

WHEREAS, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required public hearings related to this ordinance amendment, and has forwarded this ordinance to City Council with a recommendation of approval.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA.

SECTION ONE: PURPOSE AND INTENT.

The purpose and intent of establishing the planned unit development district (PUD) is to provide procedures and standards to encourage mixed use planned developments that may be instituted at appropriate locations, all in accordance with the planning and development objectives of the city under this code and the comprehensive plan. It is further the purpose and intent of these PUD regulations to encourage ingenuity, innovation and imagination in the planning, design, and development or redevelopment of land under unified

ownership or control. PUDs produced in compliance with the terms and provisions of this code and the comprehensive plan may depart from the strict application of setback, height, and minimum lot requirements of conventional zoning districts while maintaining minimum standards by which flexibility may be accomplished, and while protecting the public interest, so that:

1. The development employs techniques featuring amenities and excellence in the form of variations in siting, mixed land uses and/or varied dwelling types, as well as adaptation to and conservation of the topography and other natural characteristics of the land involved.
2. A more creative approach may be taken to the development of contiguous tracts of land and to encourage development of infill parcels of contiguous tracts of land in certain circumstances.
3. A more desirable environment may be accomplished than would be possible through strict application of the minimum requirements of this zoning code.
4. Land may be used more efficiently, resulting in smaller networks of utilities and streets with consequent lower construction and future maintenance costs.

The maximum density permissible in a PUD district shall be guided by the density rating system contained in the future land use element of the City of Marco Island Comprehensive Plan. The maximum density permissible or permitted in a district shall not exceed the density permissible under the density rating system.

SECTION TWO: RELATIONSHIP TO THE COMPREHENSIVE PLAN, ZONING, SUBDIVISION, AND OTHER APPLICABLE REGULATIONS.

All applications for PUDs shall be in full compliance with the future land use element and the goals, objectives, and policies of all elements of the comprehensive plan. All development regulations and other applicable provisions of all the Marco Island land development code, as may be amended, shall apply unless specifically modified by the approved PUD document and PUD master plan.

Establishment of planned unit development districts. PUD districts shall hereafter be established by amendment of the official zoning atlas according to the procedures established in the land development code.

Unified control. All land included for purpose of development within the PUD district shall be owned or under the control of the applicant for such zoning designation, whether that applicant be an individual, partnership or corporation, or a group of individuals, partnerships or corporations. The applicant shall present competent substantial evidence of the unified control of the entire area within the proposed PUD district and shall state agreement that if he proceeds with the proposed development he will do so in accordance with:

- a. The PUD master plan of development officially adopted for that district;
- b. Regulations and development standards as set forth in the PUD document and PUD master plan;
- c. Such other conditions or modifications as may be attached to the rezoning of land to the PUD classification; and
- d. The Marco Island Comprehensive Plan.

The applicant will provide written agreement, contracts, deed restrictions, or sureties acceptable to the city for completion of the undertaking in accord with the adopted PUD master plan as well as for the continuing operation and maintenance of such areas, functions and facilities that are not to be provided, operated or maintained at general public expense; and

Bind his successors in title to any commitments made under this ordinance.

SECTION THREE: MINIMUM AREA REQUIRED.

The minimum area required for a PUD shall be ten (10) contiguous acres except when located within the town center overlay where a five (5) acre minimum requirement must be met. Redevelopment projects within the town center overlay shall comprise a minimum of two and a half (2.5) contiguous acres. To be considered as a redevelopment project for PUD zoning purposes, the project must include at least three of the following components:

1. Complete demolition of existing structures.

2. Partial demolition and rehabilitation of existing structures.
3. Complete rehabilitation (interior and exterior) of existing structures.
4. Substantial modification and reconfiguration of ingress/egress points, vehicular parking areas, and pedestrian facilities.
5. Incorporation of contiguous, vacant/infill parcels, into the development proposal.
6. Incorporation of public/civic space within the project boundaries.
7. Eligibility of the project for CDBG funding or actual CRA designation.

For purposes of the planned unit development district only, the term "contiguous" shall include properties separated by either an intervening planned or developed public street right-of-way.

SECTION FOUR: DEVELOPMENT PLANNING.

External relationship. Development within a PUD district shall be compatible with established or planned uses of surrounding neighborhoods and property. The PUD shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding area from potentially adverse influences generated by or within the PUD. Such protection shall include, but is not limited to, adequate buffering and screening as follows: fences, walls, or vegetative screening at the boundaries of PUD districts shall be provided in accordance with the landscaping/buffering requirements of the land development code, to protect residents from undesirable views, lighting, noise or other adverse off-site influences, or to protect residents of adjoining districts from similar possible influences from within the PUD district.

Internal relationships. The development plan for a PUD district shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside, outside, and between buildings for intended uses, common and recreational amenities, and structural features.

SECTION FIVE: DEVELOPMENT STANDARDS.

In addition to all general provisions and procedures established in this ordinance, the following specific requirements, limitations and standards shall apply to all PUD districts.

Maximum residential densities.

1. Maximum residential density permissible for the overall PUD shall be guided by the density rating system contained in the future land use element of the comprehensive plan. The overall maximum residential density permissible or permitted in a PUD shall be calculated by dividing the total number of dwelling units by the total of gross acreage of the proposed PUD. In no event shall residential uses within a mixed-use structure(s) exceed 75 percent of the gross floor area of the building(s).
2. Density on a site specific basis may recognize the principles of clustering development where density may exceed the number of units per acre otherwise allowed over the entirety of the PUD, except as further provided for mixed use PUDs. The density on a parcel specific basis may be the maximum density achievable after application of the development standards that have been approved for the PUD, relative to each building parcel. Generally, clustered development will consist of two or more principal buildings, and the entire parcel specific development shall utilize all of the elements of a common architectural theme. Yard and spacing relationships between buildings may vary from the more traditional practice.
3. The City Council may lessen density or intensity of development when it has been determined that development to the maximum density or intensity permissible in this ordinance would:
 - a. Create inconvenient or unsafe access to the PUD; or
 - b. Create traffic congestion in the streets which adjoin or lead to the PUD; or
 - c. Place a burden on parks, recreational areas, schools, and other facilities which serve or are proposed to serve the PUD; or
 - d. Be in conflict with the intent or provisions of the comprehensive plan; or
 - e. Create a threat to property or incur abnormal public expense in areas subject to natural hazards; or
 - f. Be incompatible or inconsistent with surrounding neighborhoods or areas; or
 - g. Otherwise be inappropriate.

SECTION SIX: MINIMUM DIMENSIONAL STANDARDS WITHIN A PUD.

Dimensional standards within any tract or increment of the proposed PUD shall conform to the minimum dimensional and other standards of

the zoning district to which it most closely resembles in type, density, and intensity of use. Where there is uncertainty, the more restrictive standards shall apply. Variation from these minimum dimensional standards may be approved if the PUD demonstrates unique or innovative design. For purpose of this section, examples of unique and innovative design may include, but are not limited to:

1. Providing usable common open space within individual tracts or increments to offset and compensate for decreases in typical lot sizes or yard requirements.
2. Providing for public access to open space areas beyond the boundaries of the property.
3. The use(s) occurring within the PUD are such that compatibility with surrounding uses can be assured by applying different requirements than would be applicable under another zoning district.
4. Providing places for public assembly such as parks and plazas which are linked together and centrally located to ensure accessibility.
5. Siting buildings and dwelling units to provide optimum access to open space areas.
6. Providing for the integration and preservation of natural resources with development, through conservation of natural resources such as streams, lakes, floodplains, groundwater, wooded areas and areas of unusual beauty or importance to the natural ecosystem.

Submission of schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed reduction in dimensional standards for all proposed land use types and their accessory uses within the PUD shall also be required to provide support documentation for reduction in the minimum standards of the zoning code.

SECTION SEVEN: USABLE OPEN SPACE REQUIREMENTS.

As a requirement for approval, all PUDs shall provide open space consistent with the following minimums:

1. Within PUD districts composed entirely of residential dwelling units and accessory uses, at least 50 percent of the gross area shall be devoted to usable open space.

2. Within PUD districts containing both commercial and residential uses, at least 30 percent of the gross area shall be devoted to usable open space.
3. Within redevelopment project PUD's in the Town Center overlay, at least 20 percent of the gross area shall be devoted to usable open space.

Usable open space shall include active and passive recreation areas. Open water areas beyond the perimeter of the site and internal street rights-of-way, driveways, shall not be counted in determining usable open space.

Dedication of usable open space. An appropriate percentage of the gross project area shall be required to be dedicated to public use as usable open space for all development after a determination by the city council that a public need exists for such public facilities and that the amount of area dedicated is directly related to the impacts or needs created by the proposed development.

Dedication of the public facilities and development of prescribed amenities. The city council may, as a condition of approval and adoption of the PUD rezoning and in accordance with the approved master plan of development, require that suitable areas for streets, public right-of-way, schools, parks, and other public facilities be set aside, improved, and/or dedicated for public use. Where impact fees are levied for certain public facilities, the market value of the land set aside for the public purpose shall be credited towards impact fees. Said credit shall be based on a negotiated amount no greater than the market value of the set aside land prior to the rezoning action, as determined by an accredited appraiser from a list approved by the City of Marco Island. Said appraisal shall be submitted to the city attorney's office and the real property office within 90 days of the date of approval of the rezone, or as otherwise extended in writing by City of Marco Island, so as to establish the amount of any impact fee credits resulting from said dedication. Failure to provide said appraisal within this time frame shall authorize the county to determine the market value of the property. Impact fee credits shall only be effective after recordation of the document conveying the dedicated property to the City of Marco Island.

Land set aside and/or to be improved as committed in the PUD document, or master plan, as the case may be, shall be deeded or dedicated to the City of Marco Island within 90 days of receipt of notification by the city that the property is needed for certain pending

public improvements or as otherwise approved by the city council during the PUD rezoning approval process. In any case, however, the city shall take title to the set aside property, at the latest, by a date certain established during, and conditioned on, the approval of the PUD zoning. The land set aside and/or to be improved shall be made free and clear of all liens, encumbrances and improvements, at the developer's sole expense, except as otherwise approved by the city council. Failure to complete the dedication within the appropriate time frame noted above may result in a recommendation to the city council of consideration of rezoning the subject parcel from its current PUD zoning district to an appropriate zoning district and may result in a violation of this ordinance.

Should said dedication of land also include agreed upon improvements, said improvements shall be completed and accepted by the city council at the development phase which has infrastructure improvements available to the parcel of land upon which said improvements are to be made, or at a specified time provided for within the PUD document.

Common open space or common facilities. Any common open space or common facilities established by an adopted master plan of development for a PUD district shall be subject to the following:

1. The PUD shall provide for and establish an organization for the ownership and maintenance of any common open space and/or common facilities, and such organization shall not be dissolved nor shall it dispose of any common open space or common facilities, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space or common facilities. However, the conditions of transfer shall conform to the adopted PUD master plan.
2. In the event that the organization established to own and maintain common open space or common facilities, or any successor organization, shall at any time after the establishment of the PUD fail to meet conditions in accordance with the adopted PUD master plan of development, the community development director may serve written notice upon such organization and/or the owners or residents of the planned unit development and hold a public hearing. If deficiencies of maintenance are not corrected within 30 days after such notice and hearing, the community development director shall call upon any public or private agency to maintain the common open

space for a period of one year. When the community development director determines that the subject organization is not prepared or able to maintain the common open space or common facilities, such public or private agency shall continue maintenance for yearly periods.

3. The cost of such maintenance by such agency shall be assessed proportionally against the properties within the PUD that have a right of enjoyment of the common open space or common facilities and shall become a lien on said properties.

Preservation and protection of desirable natural historic or archaeological features. The desirable natural, historic, or archaeological features of the site including trees and other vegetation of consequence of a PUD district shall be preserved and protected. The disturbance of terrain or vegetation in a manner likely to significantly increase either wind or water erosion within or adjacent to the PUD district is prohibited.

Utilities. Within the residential portion of a PUD district, all utilities, including telephone, television cable, and electrical systems, shall be installed underground; provided, however, appurtenances to these systems which require aboveground installation must be opaquely screened and thereby may be exempted from these requirements; and primary facilities providing service to the site of the development or necessary to service areas outside the district may be exempted from this requirement.

Streets, drives, parking and service areas. Streets, drives, parking, and service areas shall provide safe and convenient access to dwelling units and project facilities, and for service and emergency vehicles.

1. Principal vehicular access points shall be designed to provide smooth traffic flow and minimize hazards to vehicular or pedestrian traffic. The Public Works Director shall determine when merging and turn lanes and/or traffic dividers shall be required. Where streets within the district intersect adjoining streets, visibility triangle shall be maintained.
2. All streets or roads within the PUD shall be public unless specifically identified and approved as private on the PUD master plan, and shall comply with all applicable City requirements for streets and roads.

SECTION EIGHT: PARKING AND LOADING, LANDSCAPING, LIGHTING, SIGNAGE, AND ARCHITECTURAL AND SITE DESIGN STANDARDS.

Minimum off-street parking and off-street loading. As required per Chapter 30, Article V, City Code.

Landscaping. As required per Chapter 30, Article IV, City Code.

Lighting. Pursuant to Article V, Section 6, Marco Island City Code.

Signage. As required per Chapter 30, Article VI, City Code.

Architectural and site design standards. As required per Chapter 30, Article VIII, City Code.

SECTION NINE: PENALTIES FOR VIOLATION.

- [1] Pursuant to Section 162.22, Florida Statutes, a person found to be in violation of this Ordinance may be charged with a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.
- [2] Violation of this Ordinance may also be prosecuted before the Marco Island Code Enforcement Board.

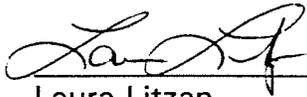
SECTION TEN: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 4th day of November 2002.

Attest:

CITY OF MARCO ISLAND, FLORIDA

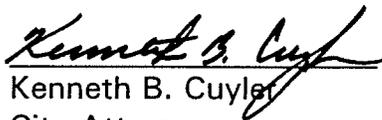


Laura Litzen
City Clerk

By: 

E. Glenn Tucker, Chairman

Approved as to form and
Legal sufficiency:



Kenneth B. Cuyler
City Attorney