

ORDINANCE 2013-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING THE CODE OF ORDINANCES; AMENDING ARTICLE 25 OF THE LAND DEVELOPMENT CODE, "PLANNED UNIT DEVELOPMENT (PUD)"; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Board of County Commissioners adopted Ordinance 2012-29 on October 22, 2012, which amended Article 25 of the Land Development Code, which specifies the Planned Unit Development (PUD) zoning district; and

WHEREAS, Upon review, it was discovered that Exhibit "A" of Ordinance 2012-29 inadvertently omitted amendments to Article 25 adopted in Ordinance 2010-08 on July 26, 2010;

WHEREAS, a previous scrivener's error in Article 25 was discovered in Section 25.05(F)(2)(b); and

WHEREAS, the Planning and Zoning Board conducted a public hearing on this ordinance on January 15, 2013 and voted to recommend approval of this glitch bill;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

This ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan, in particular Future Land Use Policy FL.10.06, Public Facilities Policies WAT.03.01 and SEW.03.01, Economic Development Policy ED.05.02, Housing Policy H.01.01, and Conservation Policy CS.08.01.

SECTION 2. AMENDMENT

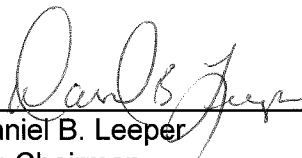
- A. Article 25 of the Land Development Code is amended as set forth in Exhibit "A" attached hereto and made a part hereof.

SECTION 3. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

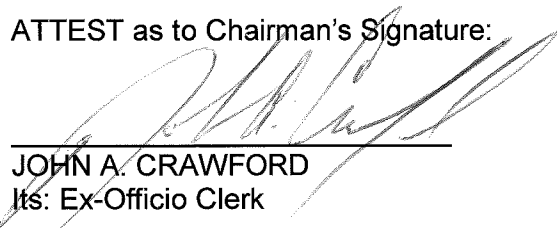
ADOPTED THIS 11th DAY OF February, 2012 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA




Daniel B. Leeper
Its: Chairman

ATTEST as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form



David A. Hallman,
County Attorney

Exhibit "A"

Note: HIGHLIGHTED TEXT indicates changes made by Ord. 2010-08, that were inadvertently omitted from Exhibit A of Ord.2012-29

ARTICLE 25

PLANNED UNIT DEVELOPMENT: PUD

INTENT: The application of flexible land use controls to the development of land is often difficult or impossible within traditional zoning district regulations. In order to permit the use of more flexible land use regulations and to facilitate use of the most advantageous techniques of land development, it is permissible to establish Planned Unit Developments (PUDs), in which development is in harmony with the general purpose and intent of this ordinance and the adopted Nassau County Comprehensive Plan. The objective of a PUD is to encourage ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers, by allowing for departure from the strict application of use, setback, height, and minimum lot size requirements of conventional zoning districts. In order to justify allowing these departures, a PUD must produce developments which can achieve desirable goals such as preserving open space, protecting historic or community character, providing alternative transportation modes, or providing for the efficient expansion of public infrastructure. The intent of this district is to permit such flexibility and provide performance criteria for Planned Unit Development which:

- A. Permits a creative approach to the development of land;
- B. Accomplishes a more desirable environment than would be possible through the strict application of minimum requirements of this ordinance;
- C. Provides for an efficient use of land, resulting in lower development costs;
- D. Enhances the appearance of the area through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space more efficiently than existing zoning and subdivision requirements;
- E. Provides an environment of stable character compatible with surrounding areas;
- F. Retains property values over the long term.

A PUD will not require a Future Land Use Map amendment so long as the proposed use does not increase the type and intensity or density of use specified on the underlying Future Land Use Map.

Section 25.01. PUD Defined.

For the purpose of this ordinance, a Planned Unit Development (PUD) shall mean a development under unified control which is planned and developed as a whole in a single or programmed series of operations with uses and structures substantially related to the character of the entire development. A PUD must also include a program for the provision, maintenance, and operation of all areas, improvements, facilities, and necessary services for the common use of all occupants thereof. In order to justify allowing departure from the strict application of use, setback, height, and minimum lot size requirements of conventional zoning districts, a PUD must demonstrate that it achieves desirable goals that would not be possible in a conventional zoning district.

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Section 25.02. Permitted Uses.

- A. Any use which is permitted or permissible as a conditional use in the underlying future land use designation may be included in a PUD. PUDs on land located within an approved sector plan or development of regional impact (DRI) are subject to the requirements of a Detailed Specific Area Plan (DSAP) or DRI development order, and may be subject to additional provisions within the Nassau County Comprehensive Plan.
- B. Residential development within a DRI, PUD or otherwise established by a development order issued prior to the adoption of this amendment to the zoning code shall be limited to the number of dwelling units approved in the DRI or development order.

Section 25.03. Site Requirement.

All PUDs should have a minimum site area of ten (10) upland acres.

Section 25.04. Special Requirements.

- A. *Unified ownership or control.* The title to all land within a proposed site for a Planned Unit Development (PUD) shall be owned or controlled by the developer submitting the applications provided for under this Section. The term "controlled by" shall be interpreted to mean that such developer shall have the written consent of all owners of property within the proposed site not wholly owned by the developer. Such consent shall contain a statement that such developer is authorized to represent such owners in the submission of an application under the provisions of this Section and that such owners shall agree to be bound by the decision of the Board of County Commissioners in the event such application is approved.
- B. *Access:* Each dwelling unit or other permitted use shall be provided access, either directly or indirectly, by a public right-of-way, private vehicular or pedestrian way or commonly owned easement. County owned vehicles shall be permitted access on privately owned roads, easements and common open spaces in order to perform basic County services such as fire and police protection and emergency service needs of PUD residents.
- C. *Public Infrastructure Facilities:*
 - 1. All public infrastructure facilities, including transportation, potable water, sewage, solid waste disposal, stormwater management, and recreation and open space facilities, shall be constructed according to the requirements of the Land Development Code.

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D. *Open space:*

1. Open spaces and recreation areas provided within a proposed Planned Unit Development shall be evaluated based on conformance with the policies of the Comprehensive Plan and the ability of such areas to provide recreational opportunities, protect sensitive environmental areas, protect areas of archaeological or historical significance, contribute to community design, and encourage compatible and cooperative relationships between adjoining land uses.
2. Parking areas, road rights-of-way or minimum yards and spacings between dwelling units may not be included in determining usable open space.
3. When a proposed PUD is adjacent to a public beach or other water bodies, the Planning and Zoning Board shall determine the amount of credit given for such water bodies toward meeting the development's open space requirements.
4. All common open space and recreational facilities shall be included in the preliminary and final development plans. Such common open space and recreational facilities shall be constructed and fully improved according to the development schedule established for each development phase of the PUD.
5. If the developer elects to administer common open space through an association or nonprofit corporation, such organizations shall conform to the following requirements.
 - a. The developer must establish the association or nonprofit corporation prior to the sale of any lots or units within the PUD.
 - b. Membership in the association or nonprofit corporation shall be mandatory for all property owners within the PUD.
 - c. The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public; shall provide for the maintenance, administration and operation of such land and any other land within the PUD not publicly or privately owned; and shall secure adequate liability insurance on the land.

Section 25.05. Procedures.

A. *General:*

1. To develop a Planned Unit Development (PUD) in Nassau County, the

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property must be rezoned to PUD. Rezoning shall be subject to approval of the preliminary development plan by the Board of County Commissioners. Within one (1) year after approval of the preliminary development plan, the developer must submit a final development plan to the Planning and Zoning Board for review and to the Board of County Commissioners for approval. The Board of County Commissioners, upon request from the developer and for good cause shown, may extend the one (1) year time period for submitting the final development plan. Such extension shall not exceed one (1) year.

2. If the developer fails to submit a final development plan within the one (1) year period specified by this ordinance and has not been granted an extension, the approved preliminary plan shall be revoked, and the site shall revert to its previous zoning classification(s). A notice of such revocation, containing a legal description of the site, shall be recorded into the public records of Nassau County. A copy of this revocation shall be sent to the developer.
3. If development actions required by the ordinance creating a PUD are not taken within any time limits set by Board of County Commissioners such ordinance, the approval of the PUD as provided in such ordinance shall become invalid and no further action shall be permitted under same. The Board of County Commissioners may extend such time limits for a reasonable length of time if probable cause is shown.
4. If substantial construction, as determined by the Board of County Commissioners has not begun within five (5) years after approval of the final development plan, the approval of the PUD will lapse. At its discretion and for good cause, the Board of County Commissioners may extend for one (1) additional year the period for beginning construction. If the approved PUD lapses under this provision, the property owner must resubmit a PUD application to evaluate the impacts of the PUD on public facility capacity under current conditions. Upon receiving the recommendations of the Planning and Zoning Board, the Board of County Commissioners shall hold a public hearing to determine if additional measures are required to mitigate the impacts of the PUD and shall approve or approve subject to conditions the reinstatement of the PUD.

B. Preliminary development plan approval procedure:

1. *Pre-application conference:* Before submitting the preliminary development plan application for approval as a PUD, the developer shall meet with the Senior Planner, County Engineer, health department official and such other personnel as may be necessary to determine the feasibility and suitability of the application. This step is required so that the developer may obtain information and guidance from County personnel before entering into any binding commitments or incurring

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substantial expenses of the site and plan preparation.

2. Five (5) copies of the preliminary development plan application shall be submitted to the Senior Planner at least forty-five (45) days prior to the meeting of the Planning and Zoning Board, at which meeting such application is to be considered in a public hearing. The application fee established by the Board of County Commissioners shall be collected.
 3. The Senior Planner and the public works director shall review the preliminary development plan application to determine its conformity with the Nassau County Comprehensive Plan, County policies, and the requirements of this Section and shall make their recommendation to the Planning and Zoning Board.
 4. The Planning and Zoning Board shall review the PUD application in public hearing during which time public comment will be accepted. Upon completion of the review of the preliminary development plan application and all exhibits, the Planning and Zoning Board shall recommend to the Board of County Commissioners the approval, approval subject to conditions, or disapproval of the preliminary plan application. The Planning and Zoning Board shall consider the recommendation of the public works director and the Senior Planner, public input and the review criteria established in this Section when making its recommendations.
 5. Upon receiving the recommendations of the Planning and Zoning Board, the Board of County Commissioners shall hold a public hearing to review the Planning and Zoning Board's recommendations and review the preliminary development plan application. The Board of County Commissioners shall approve, approve subject to conditions, or disapprove the preliminary development plan application. Approval of the preliminary development plan indicates approval of the PUD zoning, subject to acceptance of the final development plan. The decision of the Board of County Commissioners shall take into consideration the review criteria established in this Section.
 6. If the preliminary development plan application is approved by the Board of County Commissioners, a copy of the application and required exhibits, if deemed necessary by the County, shall be recorded in the public records.
- C. *Preliminary development plan review criteria:* The Planning and Zoning Board and the Board of County Commissioners shall consider the following criteria when reviewing the preliminary development plan for a PUD.
1. The conformity and compatibility of the proposed PUD with the Nassau County Comprehensive Plan, and the Detailed Specific Area Plan (DSAP) or DRI development order, if applicable.

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2. The degree of consistency of the proposed PUD with the surrounding area in terms of character and density.
3. The provision of adequate public facilities to serve development within the proposed PUD, including emergency services, public school facilities, transportation, potable water, sanitary sewer, solid waste disposal, parks and recreation, and stormwater management.
4. The nature, intent and compatibility of common open space within the proposed PUD, including the proposed method for the maintenance and conservation of open space.
6. If development within the proposed PUD is to be phased, the feasibility and compatibility of the specified phases contained in the preliminary development plan to exist as an independent development.
7. The benefits inherent in a PUD classification to the general public that justify the requested departure from standard land use requirements.

D. *Preliminary development plan application.*

1. *General:* The preliminary development plan application shall contain the names of the developer, surveyor and engineer who prepared the development plan and topographic data map, and the name of the proposed PUD. It must also contain a written description of the intended plan of development, clearly indicating where approval of the PUD would benefit the community as a whole and fulfill the intent of PUD.
2. *Exhibits:* The following exhibits shall be attached to the preliminary development plan application.
 - a. Vicinity map indicating the relationship between the PUD and its surrounding area, including adjacent streets, thoroughfares and adjacent land uses.
 - b. The preliminary development plan shall also contain, but not be limited to, the following information:
 - (1) Proposed name or title of project, the name of the engineer, architect and developer.
 - (2) North arrow, scale of one inch equals two hundred feet (1" = 200') or larger, date and legal description of the proposed site.
 - (3) Boundaries of the tract shown with bearings, distances, closures and bulkhead lines. All existing easements,

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- Section lines, streets and physical features in and adjoining the project and zoning.
- (4) Names and locations of adjoining developments and subdivisions.
 - (5) Proposed parks, school sites or other public and private open space.
 - (6) Vehicular and pedestrian circulation systems, including off-street parking and loading areas, driveways and access points.
 - (7) Site data, including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential, secondary nonresidential uses and open space uses, the total number of dwelling units and square feet of gross nonresidential building area.
 - (8) Proposed common open space, including the proposed improvements and any complementary structures, and the tabulation of the percent of the total area devoted to common open space. Areas qualifying for common open space shall be specifically designated on the site plan.
 - (9) General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the vicinity area or with the drainage plan established within the vicinity area.
 - (10) Delineation of specific areas designated as proposed phases.
 - (11) General location within the site of each use, and the proposed amount of land to be devoted to individual ownership.
 - (12) General statement indicating source of potable water and wastewater disposal.
 - (13) The proposed method of dedication and administration of the proposed common open space.
- c. Topographic data map drawn to a scale of one inch equals two hundred feet (1" = 200') or larger by a registered surveyor and/or engineer, showing:

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- (1) The location of the existing property lines for private property and public property, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains and any public utility easements.
- (2) Wooded areas, streams, lakes, marshes, flood prone areas and any other physical conditions affecting the site.
- (3) Existing contours, based on U.S. Coast and Geodetic data with a contour interval of two (2) feet, and proposed finished elevations.

E. *Final development plan approval procedure:*

1. Five (5) copies of the final development plan shall be submitted to the Senior Planner forty-five (45) days prior to the next Planning and Zoning Board meeting. During this forty-five (45) day period, the Senior Planner shall distribute copies of the final development plan to the appropriate County departments for review and comment. Each department shall conduct its review and submit written comments to the Senior Planner within fifteen (15) days after receipt of the final development plan.
2. The Senior Planner shall submit the final development plan along with a written analysis and recommendations to the Planning and Zoning Board for review at its next meeting. The analysis and recommendations submitted to the Planning and Zoning Board shall reflect the review and comments of the other County departments involved in the review of the final development plan.
3. The Planning and Zoning Board shall hold a public hearing to review the final development plan for consistency with the preliminary development plan, conformance with the provisions of this ordinance and other related County regulations. The Planning and Zoning Board shall submit written recommendations to the Board of County Commissioners.
4. The Board of County Commissioners shall hold a public hearing to review the final development plan and consider the recommendations of the Planning and Zoning Board. The Board of County Commissioners shall approve, approve with conditions, or deny the final development plan.
5. Upon approval by the Board of County Commissioners, the Nassau County Clerk of the Circuit Court shall record the final development plan in the public records.

F. *Final development plan:* The final development plan shall include the following

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exhibits, which shall be prepared for each development phase:

1. The final development plan must be based upon the preliminary development plan and written plan of development adopted by Nassau County as part of the rezoning to the PUD district. Where a development standard is not specifically addressed by the PUD in conflict with the provisions of this land development code, the provisions of this code will govern. The final development plan will contain the information and exhibits required by Section 5.07(C)(2) of this code, Class III preliminary binding site plans.

2. *Additional information required in final development plan:*
 - a. A statement of dedication signed by the owner of the PUD dedicating any improvements to Nassau County.
 - b. Proposed lot lines (if any), lot and block numbers and dimensions of all residential uses and nonresidential uses and common open space.
 - c. The proposed architectural and landscape deed restrictions that clearly reflect the compatibility of the variety of primary and secondary uses proposed.
 - d. Location and width of canals, waterways and flood prone areas.
 - e. Reservations, easements, alleys and any areas to be dedicated for public use and sites for other than residential use, with notes stating their purpose and any limitations.
 - f. The final development plan shall be properly signed and executed by the developer as required for recording.

3. *Development schedule:*
 - a. Delineation of areas to be developed according to their order of construction.
 - b. Proposed dates for beginning and completing construction of each development phase or stage.
 - c. Proposed schedule for the construction and improvement of common open space, streets, utilities, and any other necessary improvements for each development phase or stage.

Exhibit "A"

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4. Required legal documents (where applicable):

- a. *Deed restrictions.* Any deed restrictions proposed by the developer of the PUD to preserve the character of the development's common open space and to establish compatible architectural and landscape design of structures.
- b. *Property owners' association or nonprofit corporation.* If the developer elects this method of administering common open space, the proposed bylaws of the property owners association or the certificate of incorporation and the corporate bylaws of the nonprofit corporation shall be submitted for approval by the Board of County Commissioners.

Section 25.06. Bonding.

Prior to beginning construction of each development phase of the PUD, the Board of County Commissioners shall require the developer to post a performance bond guaranteeing that all public improvements and common open areas will be constructed according to the approved final development plan. The Board of County Commissioners shall establish reasonable time limits for completing construction of the necessary improvements. The Board of County Commissioners shall have the sole right to extend such time limits if sufficient evidence is provided by the developer to substantiate an extension. The performance bond shall have a face value equal to the cost of constructing the required improvements.

Section 25.07. Silvicultural and Agricultural Activities

Silvicultural and agricultural activities shall be allowed within parcels of a Planned Unit Development until such time as building permits are issued for non-agricultural development on that parcel. Thereafter, such activities shall be limited to the range of allowable uses for the Planned Unit Development, unless silvicultural and agricultural uses are otherwise provided for by the development order applicable to that parcel.

Section 25.08. Deviation from the Approved Final Development Plan.

Any adjustments which may be required to the approved final development plan during the development of the PUD, must be approved by the Planning and Zoning Board. Any changes in the following criteria must be brought before the Planning and Zoning Board for approval:

- A. Increase in the number of residential dwelling units.
- B. Increase in the amount of non-residential square footage.
- C. Significant decrease in the amount of open space or change in location.

Exhibit "A"

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- D. Significant change in the location of roadways or other transportation improvements.

Section 25.09. Site Engineering Plans, Legal Documents, and Permits

Following approval of the final development plan by the board of county commissioners and recordation in the public records, the applicant may file for site engineering plan approval and preliminary plat approval, if required, in accordance with Article 5. In addition to the submittal requirements of subsection 5.07C., the developer will provide:

1. *Bill of sale:* A bill of sale conveying to Nassau County, the property owners association or nonprofit corporation, or some other authority all water and sewer lines, mains, lift stations and any other improvements required to be installed by this Code. Acceptance by the county is entirely dependent on the discretion of the board of county commissioners.
2. *Title opinion:* A signed statement from an attorney stating the status of the title of the site encompassed by the final development plan and all liens, encumbrances and defects, if any.
3. *Tax receipts:* Paid tax receipts from the proper taxing authority, indicating that current taxes on the proposed site have been paid in full.
4. *Other documents:* A document, in a format acceptable to the county attorney, signed by all persons having interest in the proposed site, dedicating all rights-of-way, easements, and other public land shown on the final development plan. Also a document signed by the developer indicating that all necessary off-site easements or dedications have been acquired.