

ORDINANCE 2021-03

AN ORDINANCE OF POLK CITY, FLORIDA; AMENDING THE POLK CITY CODE OF ORDINANCES AND THE UNIFIED LAND DEVELOPMENT CODE OF POLK CITY, FLORIDA TO REMEDY INCONSISTENCIES WITHIN THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; AMENDING AND UPDATING ARTICLE 2, SECTION 2.04.02.16 PLANNED UNIT DEVELOPMENT DISTRICT; AMENDING ARTICLE 3, SECTION 3.12.03 PLANNED UNIT DEVELOPMENT (PUD) IN THE GREEN SWAMP ACSC; AND AMENDING ARTICLE 7, SECTION 7.11.00 PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF POLK CITY, FLORIDA:

SECTION 1. COMMISSION FINDINGS. In adopting this Ordinance and modifying the Polk City Code and the therein-incorporated Unified Land Development Code, the City Commission of Polk City, Florida, hereby makes the following findings:

(1) Section 163.3167(c), Florida Statutes, empowers the City to adopt land development regulations to guide the growth and development of the City.

(2) The City Commission recognizes the need for procedures and regulations for the review and consideration of conditional use permits within Polk City.

(3) The City Commission has determined that having the ability to issue conditional use permits will provide additional flexibility and enforceability for the City Commission in its review and implementation of its Unified Land Development Code.

(4) Pursuant to Section 166.041(c)2, Florida Statutes, the Planning Commission and the City Commission have held meetings and hearings to amend the Unified Land Development Code as presented in Sections 2, 3, and 4 and made a part hereof.

(5) The meetings were advertised and held with due public notice, to obtain public comment; and having considered written and oral comments received during public hearings, find the changes necessary and appropriate to the needs of the City.

SECTION 2. AMENDMENT TO SECTION 2.04.02.16, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 2.04.02.16, Unified Land Development Code, is hereby amended to read as follows:

"2.04.02.16 Planned Unit Development District

- (A) *FLUM designation:* The primary use of a Planned Use Development must be consistent with the future land use designation of the property.

- (B) *Purpose and intent.*
 - 1. The planned unit development district is intended to provide a method for consideration and approval of unique zoning districts for individual Planned Unit Developments (PUD), which are not provided for or allowed in the zoning districts otherwise established by this chapter.

 - 2. The standards and procedures of this district are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while at the same time reserving to the City Council Commission the absolute authority to establish limitations and regulations for the development deemed necessary to protect the public health, safety and welfare. In so doing, the PUD district is designed to:
 - a. Promote more efficient and economic uses of land, including bypassed lands.
 - b. Encourage more compatible and harmonious development of contiguous lands.
 - c. Promote home ownership opportunities for all residents of the community.
 - d. Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.
 - e. Be totally controllable based on the needs of the city, in terms of the impact on the proposed site and surrounding neighborhoods.
 - f. Encourage uses of land, which reduce transportation needs and which conserve energy and natural resources.
 - g. Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing landscaping features and amenities.
 - h. Provide for more usable and suitably located recreational facilities, open spaces and scenic areas, either commonly owned or publicly owned, than would otherwise be provided under conventional land- development procedures.

- i. Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.
 - J. Accomplish more desirable living and working environments than would be possible through the strict application of minimum requirements of the city's other zoning and subdivision regulations.
 - k. Permit the combining and coordinating of architectural styles, building forms, and building relationships within a planned unit development.
 - l. Provide an environment of stable character compatible with surrounding developments.
 - m. Permit specific limitations and requirements in excess of those included in other zoning districts, based on the unique characteristics of the individual site, where necessary to the public health, safety, or welfare, or for the protection of preservation of lands, either internal or external to the planned unit development.
- (C) *Voluntary use.* The PUD district shall be a voluntary process commenced by an applicant for PUD (zoning designation). The city shall not initiate a PUD rezoning on privately owned property or designate specific lands for planned unit development in its adopted Comprehensive Plan.
- (D) *Minimum conditions for approval.* The approval of planned unit development rezoning or development plan may not be approved unless the following minimum conditions are met:
- 1. The minimum size of the proposed development shall be five (5) acres for a residential development and two (2) acres for a nonresidential development.
 - 2. Minimum setbacks at the perimeter of the development shall be equal to those of the abutting districts. Otherwise, there shall be no minimum lot size, setbacks, percentage of lot coverage, or lot width except as specified in the PUD approval document.
- (E) *Permitted uses.* Except where certain uses are specifically disallowed or restricted as part of the PUD approval:
- 1. In a commercial PUD, the uses allowed in Polk City's C-1 and C-2 zoning districts may be permitted as principal or accessory uses.

2. In an industrial PUD, the uses allowed in Polk City's M-1 and M-2I-H zoning districts may be permitted as principal or accessory uses.
3. In a residential PUD, the following uses shall be permitted:
 - a. Dwelling, one-family;
 - b. Dwelling, two-family;
 - c. Dwelling, multifamily;
 - d. Townhouses;
 - e. Public and private recreation facilities;
 - f. Churches and other houses of worship;
 - g. Child and adult daycare centers;
 - h. Convenience, goods, retail and personal service stores primarily intended and designed to service the residents of the PUD;
 - i. Essential services;
 - j. Home occupations subject to the provisions contained herein.

(F) *Internal compatibility.* All land uses within the proposed development shall be compatible with other proposed uses. The planning commission and the city council commission shall consider the following factors in judging internal compatibility:

1. The streetscape.
2. The existence or absence of, and the location of, open spaces, plazas, recreational areas and common areas.
3. The use of existing and proposed landscaping.
4. The treatment of pedestrian ways.
5. Focal points and vistas.
6. The use of the topography, physical environment and other natural features.
7. Traffic and pedestrian circulation pattern.
8. The use and variety of building setback lines, separations and buffering.
9. The use and variety of building groupings.
10. The use and variety of building sizes and architectural styles.
11. The use and variety of materials.
12. The separation and buffering of parking areas and sections of parking areas.
13. The variety and design of dwelling types.

14. The particular land uses proposed and the conditions and limitations thereon.
15. The form of ownership proposed for various uses.
16. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the proposed development.

(G) *External compatibility.* All proposed land uses shall be compatible with existing and planned uses of properties surrounding the proposed development. The planning commission and the city council commission shall consider the following factors in judging external compatibility:

1. All of those factors listed in the preceding section, with particular attention to those areas of the development located on or near its perimeter and the conditions and limitations thereon.
2. The particular uses proposed near the development perimeter and the conditions and limitations on those uses.
3. The type, number and location of surrounding external uses.
4. The Comprehensive Plan goals and objectives and zoning regulations for surrounding external uses.
5. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of lands surrounding the proposed development and any existing or planned use of such lands.

(H) *Intensity of development.* The residential density and intensity of use of a development plan shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands. Within the policy limitations of the Comprehensive Plan, the permitted residential density and intensity of use in a proposed development may be adjusted upward or downward in consideration of the following factors:

1. The location of various proposed uses within the development and the degree of compatibility of such uses with each other and with surrounding uses.
2. The amount and type of protection provided for the safety, habitability and privacy of land uses both internal and external to the development.
3. The existing residential density and intensity of use of surrounding lands.
4. The availability and location of utilities services and public facilities and services.

5. The amount and size of open spaces, plazas, common areas and recreation areas.
 6. The use of energy-saving techniques and devices, including sun and wind orientation.
 7. The existence and treatment of any environmental hazards to the development of surrounding lands.
 8. The access to and suitability of transportation arteries proposed within the development and existing external transportation systems and arteries.
 9. Any other factor deemed relevant to the limitation of the intensity of development for the benefit of the public health, welfare and safety.
- (I) *Open spaces, plazas and recreation.* Open spaces, plazas and recreation areas provided within a development plan shall be evaluated based on conformance with the goals and objectives of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive natural areas, conserve areas of unique beauty or historical significance, provide structure to neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.
- (J) *Sidewalks, trails, bikeways.* The design of a development plan should, whenever feasible, incorporate appropriate pedestrian and bicycle access ways to provide for a variety of transportation alternatives.
- (K) *Environmental constraints.* The site of the proposed development shall be suitable for use without hazards to persons either on or off the site from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. The condition of the soil groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended.
- (L) *Internal access and circulation.* Every dwelling unit or other use permitted in a development plan shall have access to a public street either directly or by way of a private road, pedestrian way, common area guaranteeing access. Private roads and other access ways shall be required to be constructed to ensure that they are safe and maintainable.
- (M) *External transportation access.* The proposed development shall be located on, and provide access to, a major street as designated

in the Comprehensive Plan unless, due to the size of the development and the type of uses proposed, it will not adversely affect the type or amount of traffic adjoining local streets.

- (N) *Off-street parking.* Sufficient off-street parking and loading facilities for bicycles and other vehicles as well as cars shall be provided. The requirements of Section 3.03.00 of this chapter shall be used as a general guide in determining the needs for such facilities. Parking areas shall be constructed in accordance with such standards as are approved by the city council commission to ensure that they *are* safe and maintainable and that they allow for sufficient privacy for adjoining uses.
- (O) *Public facilities.* No development plan shall be approved without adequate on-site and off-site public facilities, including but not limited to storm drainage, sanitary sewers, roadway capacity, fire/rescue service, police service, water distribution system and recreational facilities, which shall serve the proposed development.
- (P) *Unified control.* The applicant shall furnish the city with sufficient evidence to the satisfaction of the city attorney that the applicant is in complete and unified possession and control of the entire area of the proposed planned unit development, whether the applicant shall provide to the city all necessary documents and information that may be required by the city attorney to ensure that the development project may be lawfully completed according to the plans submitted. No application shall be considered until the requirements of this section have been fully complied with.
- (Q) *Phasing.* The city council commission may permit or require the phasing are included in the development plan, each phase of development must be planned and related to previous development, surrounding properties, and the available public facilities and services so that a failure to proceed with subsequent phases will not adversely affect public facilities or interests, or surrounding properties.
- (R) *Development time limits.* The city council commission shall establish reasonable periods of time for the completion of the total proposed development, any development phases, any dedicated public facilities which *are* part of the development; and facilities planned for common areas. These time limits may be extended by the city council commission for reasonable periods

upon the petition of an applicant for an amendment to the development plan and based upon good cause, as determined by the city council commission. Any extension of time shall not automatically extend the normal expiration date of a building permit, site plan approval or other development order. If time limits contained in the approved development plan are not complied with and not extended for good cause, the city council commission may rezone the property or any part of it or amend the approved development plan so as to best protect adjoining properties and the public health, safety and welfare.

- (S) *Bonds.* The city council commission may include in the development plan requirements for bonds (or appropriate alternatives) conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of the city and purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities. In the event that a requirement for bonds or appropriate alternative is not provided for in the plan, then the requirements for such bonds required in this chapter shall be complied with.
- (T) *Applicability of other chapters.* All building code, housing code and other land use regulations of the city are applicable to the PUD district, except for those permitting special exceptions and variances and except to the extent that they conflict with a specific provision of the approved development plan. Analogous land use regulations applying to other areas of the development shall be as determined by the city council commission as part of the approved development plan or, if not determined therein, during the site plan approval process set forth in this chapter, giving due regard to the purpose of each such regulation and the similarity of each area of the planned unit development to other zoning districts in terms of permitted uses.
- (U) *Variances applicable to the planned unit development.* A property within a planned unit development may apply for a variance provided that all of the following criteria are met:
1. The development order does not prohibit individual property owners from applying for variances.
 2. The variance request is not contrary to the recorded covenants and deed restrictions.

- (V) *Administrative procedures.* A PUD shall be adopted in the same manner as a rezoning ordinance, except that it shall contain a conceptual master development site plan demonstrating or requiring compliance with conditions set forth herein and generally depicting the nature, intensity and location of various uses. The PUD Ordinance may provide that minor modifications to the conceptual site plan shall be permitted upon approval by the development director.”

SECTION 3. AMENDMENT TO SECTION 3.12.03, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 3.12.03, Unified Land Development Code, is hereby amended to read as follows:

“3.12.03 Planned Unit Development (PUD) in the Green Swamp ACSC

- A. ***Planned Unit Development.*** All Planned Unit Development within the Green Swamp ACSC shall meet the following standards:
1. Use of innovative design techniques and additional open space.
 2. Conservation of natural resources.
 3. Utilization of land economically and efficiently.
 4. Efficient use of existing and programmed public services and facilities.
 5. Creation of attractive and functional development that is compatible with surrounding uses and utilizes wetlands and flood plain areas as the required open space.
- B. ~~Reserved.~~ PUDs located in the Green Swamp ACSC shall be consistent with Section 2.04.02.16 Planned Unit Development District.
- C. ***Performance Standards for Residential PUD's Located in the Green Swamp ACSC.*** Applicable performance standards for Residential Planned Unit Developments (PUDs) are set forth in Article 3, Section 3.08.04, “Uses Requiring a Site Development Plan in the Green Swamp ACSC” of this Code.
- D. ***Performance Standards for Mixed-Use PUDs Located in the Green Swamp ACSC.*** Applicable performance standards for Planned Unit Developments (PUDs) are set forth in Polk City's Unified Land Development Code, Article 7, Section 7.11.00. **Additionally, the following standards apply:**
1. If the non-residential uses are intended to serve other customers than contained in the residential portion of the development, the applicant must demonstrate that the proposed non-residential uses

meets a spacing of one mile from any other non-residential activity center.

2. Non-residential uses in the RL-1X, RL-2X, RL-3X RL-4X and RMX land use districts shall be limited to the uses and dimensions listed:
 - a. Personal Services.
 - b. General retail and no larger than 5,000 square feet, such as bakeries, hardware stores and convenience stores, excluding gasoline services.
 - c. Offices and financial institutions, excluding drive-through windows.
 - d. Government and civic uses.
 - e. The maximum non-residential structures shall not exceed 19,999 square feet when developed as a residentially based mixed-use development.

E. ***Procedures for Planned Unit Development Located within the Green Swamp ACSC.*** Procedures for Planned Unit Developments are set forth in this Code in Section 7.11.00.

F. ***Minor Modifications to Planned Unit Development Located in the Green Swamp ACSC.*** Procedures for Planned Unit Developments are set forth in this Code in Section 7.11.00.”

SECTION 4. AMENDMENT TO SECTION 7.11.00, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 7.11.00, Unified Land Development Code, is hereby amended to read as follows:

“7.11.00 Planned Unit Development (PUD)

~~This section applies to lands annexed to the City that have a Planned Unit Development (PUD) approval in place in Polk County prior to annexation. Within the City, there is no PUD process or district. Following annexation, lands with an approved PUD that is current in Polk County, shall only proceed with development in the City that is in strict accord with said Polk County PUD. So long as development proceeds in this manner, no review of the PUD shall be required by the City for five (5) years, unless the developer wishes to deviate significantly from the approved Development Plan, in which case they shall either submit an amended Plan or apply for a conventional zoning classification through the normal rezoning process. In order to qualify for this extension, the developer shall file a current copy of the PUD with the City. The addition to or removal of any tract or parcel from a PUD shall require an amendment to the Development Plan. Any amendment, variation or adjustment of a Development Plan shall require approval according to the following:~~

A. ~~The Development Director shall determine if a proposed action on the part of the developer requires an amendment of the Development Plan. The determination shall be based on, but not limited to the following:~~

- ~~1. Any substantial change to the Development Plan, including increase in density, change in permitted uses, or the rearrangement of designated open space or recreation areas;~~
- ~~2. Any change in traffic patterns and trip generation; or~~
- ~~3. Any change in stormwater runoff characteristics, or other similar changes shall be considered reason to amend the Development Plan.~~

B. ~~The Development Director shall require an application for a Development Plan amendment; cause the application to be reviewed by the individual departments of the City, and shall transmit the application to the City Manager for review and action by the City Council. The transmittal shall include all pertinent documents submitted by the applicant, the Development Director's report and recommendation and any other applicable documentation or graphics. The City Clerk shall keep all this material as part of the public record of the City Council. The City Council may:~~

- ~~1. Approve the application as submitted.~~
- ~~2. Deny the application.~~
- ~~3. Approve and attach whatever reasonable conditions or requirements the City Council deems necessary to insure compliance with the development standards of the City, which may include dividing the PUD into phases to insure compliance with the City's land development standards and/or modify the PUD to insure said standards are met.~~

C. ~~Conditions placed on a PUD by the City Council may include requiring the applicant, at his cost and expense, to:~~

- ~~1. Finance or dedicate land for public rights-of-way, easements, parks and open space, school sites, or other such sites as may be necessary to protect the health, safety, and welfare of the residents of the PUD.~~
- ~~2. Finance or construct potable water, wastewater or drainage facilities.~~
- ~~3. Any other reasonable conditions necessary to ensure compliance, if the applicant agrees in writing in a recordable agreement binding upon his successors and assigns, that no further processing of the development request, pursuant to the provisions of this Code, shall occur until the requirements of this article are met.~~

- a. ~~Attachment of these conditions shall be voluntary on the part of the applicant, and agreement by the applicant to provide any such conditions will not, in any way, obligate the City to approve the subject application.~~
- b. ~~Any conditional approval shall be based solely on the fact that the development application, as modified or conditioned, meets the standards of this article, and may not be based solely on the granting of certain conditions deemed favorable by the City unless the standards of the PUD are thereby met.~~

7.11.00 Planned Unit Development

7.11.01 Procedures for Obtaining a Planned Unit Development (PUD) Zoning Designation

The PUD approval process shall address land use density and intensity, building types, location of major roads and interior road networks, and the design for public utility service(s). The City Commission may exercise broad discretion in the Conceptual Master Development Plan review process, and such review process shall be deemed to be an integral part of the zoning decision pertaining to such property.

As a condition for processing a PUD application, the Development Director or the City Commission may require the owner of the property to undertake specific studies or reports to be submitted regarding soil types, environmental aspects of the land or the impact of the proposed development on City utilities, roads, or other facilities. Proximity to wetlands, nature of vegetation, site specific and off-site environmental characteristics and impacts, and other appropriate matters of impact on the community may be taken into consideration by the City Commission. The property owner may be required to provide whatever design features are necessary to minimize adverse impacts on the community or abutting properties, including the provision of any needed off-site improvements.

- (A) Conceptual Master Development Plan. Development requirements in a PUD are established through an approved Conceptual Master Development Plan (Plan) to be consistent with the City's Comprehensive Plan. The Plan shall establish the overall development concept, dividing the development site into tracts and assigning generalized land use types to each (i.e., recreation, retail commercial, townhouses, low-density single family, etc.), and depicting the approximate locations of roads, water bodies, utility plants, and other features of the development site.

Tracts proposed for uses other than residential or commercial development shall be labeled on the Plan as to type of use proposed (i.e., recreation,

open space, utility sites, etc.) and acreage. Written information as to land use type, density/intensity of land use, and acreage of tracts and rights-of-way shall be included with the PUD application and considered part of the Plan.

- (B) Conceptual Master Development Plan Advisory Meeting. At the option of the applicant, the Development Director shall schedule a Conceptual Master Development Plan pre-application conference, at which time the applicant may outline his their proposal to all appropriate City staff members. The purpose of the pre-application conference is to assist the developer in clearly understanding all relevant City Code requirements, identify development issues specific to the proposed project, and discuss any other procedural issues relative to the review of the request.
- (C) Requirements for Conceptual Master Development Plan Review. The review and approval of a Conceptual Master Development Plan constitutes a zoning change resulting in a PUD designation. The determination by the Planning Commission and City Commission concerning the appropriateness of the Conceptual Mater Development Plan shall be based on the same factors as any other change of zoning designation, including consistency with the Future Land Use Map and compatibility with surrounding land uses.

In addition to other requirements of the rezoning process, applications for PUD designation shall include the following, as required by the Development Director:

- (1) A letter of transmittal officially submitting the proposal for approval, signed by the developer or his an authorized representative.
- (2) Firm evidence of unified control by the developer of the entire proposed PUD site and a signed statement that, if he proceeds with the proposed development, he will:
 - a. Abide by the officially approved Conceptual Master Development Plan of the development, and such other conditions and modifications as may be included.
 - b. Provide proposed agreements, covenants, or other appropriate mechanisms for completion of the undertaking in accordance with the approved Conceptual Master Development Plan as well as for the continuing operation and maintenance of such areas, functions, and facilities as are not to be provided, operated, and maintained at general public expense.

- c. Bind development successors in title to any commitments made as a condition of development approval.
 - d. Secure written consents and agreements from all property owners of record within the PUD that they have given the applicant authority to act in their behalf and that said representative or agent has the delegated authority to represent the owner or owners and they agree that all commitments made by the aforementioned representative or agent are binding.
- (3) A statement of the applicant's interest in the property to be rezoned, including certificate of title or attorney as to ownership and, if a contract purchaser, written consent of the seller/owner; or, if a lease, a copy of the lease agreement and written consent of the owner(s).
- (4) A certified boundary survey of the tract prepared by a surveyor registered with the State of Florida showing the location and type of boundary evidence related to the State Plane Coordinate System, and the accurate legal description of the property in metes and bounds and a computation of the total acreage of the tract to the nearest tenth of an acre. Survey must have been done within one (1) year prior to filing.
- (5) Electronic and hard copies of a scaled Conceptual Master Development Plan of the entire proposal showing the following information:
- a. A key map at a convenient scale showing existing roads, streams, street rights-of-way and street intersections; the location of the nearest public roads on all four sides; a statement indicating the distance to all public improvements such as schools, firehouses, public recreational areas and the like, that would serve the subject development; a description of how the proposed development is in conformity with the Polk City Comprehensive Plan and all relevant laws, ordinances, and regulations.
 - b. Location, with pavement type, right-of-way, names, and other related appurtenances of all existing public streets adjoining or traversing the site. In the event no public street now adjoins the site, sufficient description by metes and bounds as to identify the location of the site shall be required.
 - c. Identification of the name, plat book, and page number of any recorded subdivision comprising all or part of the site.

- d. Identification and location of any existing water courses, lakes, wooded areas, or other significant natural physical features upon the site, as well as on adjacent property within 250 feet of outside boundaries and proposed alterations to said features.
- e. Location and spatial arrangement of all land uses proposed, including the number of acres in each land use, proposed residential densities, and development type (i.e., single-family residential, multifamily residential, commercial shopping center, hotel/motel, mixed use, etc.).
- f. All existing and proposed means of vehicular access to and from the site, including an internal traffic circulation plan depicting arterial and collector streets.
- g. A transportation analysis, prepared by a professional in the field of transportation planning, to include an estimate of average trips/land use, total average daily trips, distribution of total peak hour trips on existing and/or proposed transportation network, and distribution splits onto existing and/or proposed transportation network (may be waived at Development Director's discretion).
- h. Location of existing structures and/or open space facilities of adjacent properties within 250 feet of any boundary line of the site (use of a recent aerial photo is adequate).
- i. A statement by the applicant of the major planning assumptions and objectives of the development project including but not limited to:
 - 1. Size and/or scope of development.
 - 2. Projected Population.
 - 3. Proposed timing and phases of development.
 - 4. Proposed ownership and forms of organization to maintain common open space and facilities.
- j. A general layout of the types, quantities, and location of trees and other such significant vegetative features (use of a recent aerial photo is adequate).

- k. A map of Soil Conservation Service Soil Classification by Soil Associations.
- l. A general floodplain map indicating areas subject to inundation and high groundwater levels up to the 100-year flood zone boundary, at a scale of one inch to 500 feet.
- m. Delineation of all wetland areas on the site including type (i.e., FDEP jurisdictional, SWFWMD isolated, and all others). For the purpose of Conceptual Master Development Plan review, wetland areas may be assumed using the best available data sources including, but not limited to, aerial photographs, recognized published reports/studies, etc.
- n. The most recent aerial photograph available, with the areas to be modified delineated.
- o. Preliminary drainage plan showing existing topographic contours at one (1) foot intervals, identification of the major natural drainage basin(s) of the site, areas for proposed stormwater management retention/detention basins, and location of outfall.
- p. A description of anticipated potable water and sanitary sewer demands of the proposed development and what facilities are available or projected to be available to meet this demand.
- q. Any other reasonable information that may be required by the Development Director that is commensurate with the intent and purpose of this Code.

Upon receipt of the materials described above, the Development Director shall transmit copies of relevant materials to the various City and county officials and agencies as appropriate.

When review of the proposed PUD is complete, the Development Director shall provide review of the project to the Planning Commission for its review and consideration. The Development Director shall include with his or her recommendations the zoning application and a written report that shall include all pertinent documents, comments of the reviewing City officials, and any other applicable documentation or graphics.

- (D) Planning Commission Review and Recommendation. The Planning Commission shall hear the request at a regularly scheduled public hearing, and recommend to the City Commission whether the proposed rezoning be approved, approved with modifications or conditions, or denied. The official

minutes of the meeting shall include a summary of the reasons for the Board's advisory recommendation. In support of its recommendation, the Board shall make findings as to:

- (1) The suitability of the area for the type and pattern of development proposed in relation to the physical characteristics of the land, relation to surrounding areas, concurrency, and other requirements of this Code.
- (2) Conformity of the proposed development with the Comprehensive Plan of Polk City.
- (3) Conformity with these regulations, or as to desirable modification of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes.
- (4) Compatibility with surrounding land uses.
- (5) All such other review criteria as may be appropriate.

In consultation with the City Attorney, the Board shall also assess the adequacy of the following items relating to arrangements for ownership, operation, and maintenance of common properties and/or facilities that are not provided at public expense:

- (1) Evidence of unified control of the overall development site.
- (2) Suitability of any proposed agreements, or contracts, or other instruments that are to be executed to create or provide the facilities.
- (3) The need for such instruments or for amendments in those that have been proposed.

(E) Action by City Commission. Upon completion of required action by the Planning Commission, the Development Director shall transmit the application to the City Commission and place the item on the next available regular agenda. That transmittal may include all pertinent documents submitted by the applicant, the Development Director's report and recommendation, the Planning Commission findings, and any other applicable documentation or graphics. The City Clerk shall keep all this material as part of the public record of the City Commission. The City Commission may:

- (1) Deny the application.

- (2) Phase the application to ensure compliance with the standards herein and other standards and requirements in this Code.
- (3) Modify the application so that these standards are met.
- (4) Grant conditional approval or modification of the application, attaching whatever reasonable conditions or requirements the City Commission deems necessary to ensure compliance with these standards or maximum mitigation of the adverse impacts of the development.

7.11.02 Development Conditions

Conditions placed on a request by the City Commission may include requiring the applicant, at his their cost and expense, to:

- (A) Finance or dedicate land for public rights-of-way, easements, parks and open space, school sites, or other such sites as may be necessary to protect the health, safety, and welfare of the residents of the PUD.
- (B) Finance or construct potable water, wastewater, or drainage facilities.
- (C) Any other reasonable conditions necessary to ensure compliance with these standards, if the applicant agrees in writing in a recordable agreement binding upon his or her successors and assigns, that no further processing of the development request, pursuant to the provisions of this Code, shall occur until the requirements of this article are met. Attachment of these conditions shall be voluntary on the part of the applicant, and agreement by the applicant to provide any conditions will not, in any way, obligate the City to approve the subject application. Any conditional approval shall be based solely on the fact that the development application, as modified or conditioned, meets the standards of this article, and may not be based solely on the granting of certain conditions deemed favorable by the City unless the standards of the Planned Unit Development district are thereby met.

7.11.03 Approval of a PUD

- (A) General Uses. Approval of a Planned Unit Development shall constitute a rezoning of the subject property and amendment to the Official Zoning Map. Any and all development of the approved PUD shall be in strict conformance with the Conceptual Master Development Plan, as approved by the City Commission.

In the event of an amendment to the Comprehensive Plan, the Land Development Code, or other applicable regulations that occurs prior to

completion of construction of the PUD, all subsequent development that has not received approval under the City's Subdivision Regulations or Site Development Plan Regulations as of the date of the amendment shall be consistent with the new regulations. Approval of development under these sections of the Code shall be valid for one year. Unless construction begins on or before the first anniversary date, development approval shall be null and void, and the new standards shall apply.

Previous approval of a Conceptual Master Development Plan shall not by itself convey the right to develop property in a manner that is inconsistent with the Comprehensive Plan and current codes. Prior to approval of further Subdivision Plats or Site Development Plans within the PUD, the Conceptual Master Development Plan shall be amended to reflect amended codes or other requirements.

7.11.04 Amendment or Termination of a PUD

Once PUD approval is granted, all development within the PUD development site shall be in conformity with the approved Conceptual Master Development Plan. In the event a developer wishes to deviate significantly from the approved development pattern, he shall either submit an amended Conceptual Master Development Plan or apply for a conventional zoning classification through the normal rezoning process.

The addition to or removal of any tract or parcel from a PUD shall require an amendment to the Conceptual Master Development Plan. Any amendment, variation, or adjustment of a Conceptual Master Development Plan shall require approval according to the following:

- (1) *Major Amendment.* Submission for review and approval by the Planning Commission and City Commission.
- (2) *Minor Amendment.* Submission for review and approval by the Development Director.

The Development Director shall determine whether a proposed Conceptual Master Development Plan amendment is a major amendment or a minor amendment. The determination shall be based on, but not limited to the following: any substantial change to the Conceptual Master Development Plan, including increase in density, change in permitted uses, change in stormwater runoff characteristics, rearrangement of designated open space or recreation areas, change in traffic patterns and trip generation, or other similar changes shall be considered a major amendment to the plan; any proposed minor changes in configuration or similar changes shall be considered a minor amendment to the plan. The Development Director may, at his or her discretion, forward any application for plan amendment to one or more individual departments for review and recommendation both as to

its classification as a major or minor amendment and as to whether it should be approved, approved with conditions, or denied.

7.11.05 Development in Stages

Rather than construct the entire PUD at once, the developer may choose to build the project in stages. Phased development of a PUD is permissible under the following conditions:

- (A) Developer must submit a construction schedule covering all phases of the PUD to the Development Director. This schedule may be revised from time to time as necessary.
- (B) All roads, drainage, and utility facilities needed to support any stage shall be completed and available for use prior to issuance of any Building Permits.
- (C) At least 30 percent of the total acreage of each stage shall qualify as Designated Open Space unless the entire project's Open Space is provided in the first phase. All recreation facilities shall be completed and available for use prior to issuance of Building Permits Certificates of Occupancy.
- (D) No individual stage of the PUD shall exceed the overall density approved on the Conceptual Master Development Plan for the PUD as a whole.

7.11.06 Ownership and Maintenance of Common Property

The developer shall establish a property owner's association or similar legal entity for the perpetual ownership and maintenance of open space, drainage facilities, and other community facilities designated on the Conceptual Master Development Plan and subdivision or Site Development Plans for individual tracts. These facilities include, but are not limited to, pedestrian or bike paths, playgrounds, landscaped open spaces, lakes, swimming pools, bath houses, tennis courts, parking lots, utilities, drainage channels, and retention/detention ponds. Roads shall also be included unless dedicated to Polk City for public use. Such organizations shall be created by covenants running with the land, and such covenants shall be included as part of the final Site Development Plan or Subdivision Plat of each phase and subject to approval of the City Commission.

In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of a PUD fails to maintain the common areas as previously defined above, in reasonable order and condition, and in accordance with the adopted Conceptual Master Development Plan and subsequent final development plans, the City may serve written notice upon such organization and/or the owners or residents of the PUD and hold a public hearing. If deficiencies of maintenance are not corrected

within thirty (30) days after such notice and hearing, the City shall call upon any public or private agency to maintain the common open space for a period of one year. If the City determines that the subject organization is not prepared or able to maintain the common open space, such public or private agency shall continue maintenance for yearly periods.

The cost of such maintenance by the designated public or private agency shall be assessed proportionately against the properties within the PUD that have a right of enjoyment of the common open space, and shall become a lien on said properties.

Applicable requirements of this subsection shall be inserted into the legal documents of the homeowners association or similar organization having legal ownership of common properties. These legal documents shall be structured to serve the following purposes:

- (A) To define what is owned and by whom, including the specific location and parameters of the individual units and the ownership interest in the common elements of the owners of the association or organization;
- (B) To establish a system of interlocking relationships binding each owner to all other owners for the purpose of maintaining and preserving what is owned and used in common;
- (C) To establish an array of protective standards or restrictions designed to establish limits and assure that a certain level of appearance is maintained;
- (D) To create an administrative vehicle, the owners association, to manage those elements shared in common and to enforce standards;
- (E) To provide for the operation and financing of the association;
- (F) To specify the process involved in effecting the transfer of control of the association and responsibility for the common elements from the developer to the unit owners collectively; and,
- (G) To set forth proper access and utility easements for the owners and the association.

All common areas are to be properly defined in legal descriptions and must be consistent with the Conceptual Master Development Plan and subsequent final development plans of the PUD."

SECTION 5. CODIFICATION OF ORDINANCE. This Ordinance shall be codified in the Code of Ordinances of Polk City, Florida, and incorporated into the Unified Land Development Code which is a part thereof. A certified copy of this enacting ordinance shall be located in the Office of the City Clerk of Polk City. The City Clerk shall also make copies available to the public for a reasonable publication charge.

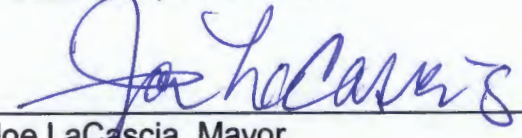
SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. CONFLICTING ORDINANCES AND RESOLUTIONS. All existing ordinances and resolutions of Polk City in conflict with this ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 8. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage.


INTRODUCED AND PASSED on FIRST READING, this 20th day of September, 2021.

POLK CITY, FLORIDA



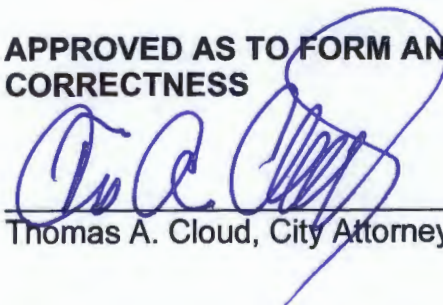
Joe LaCascia, Mayor

ATTEST:



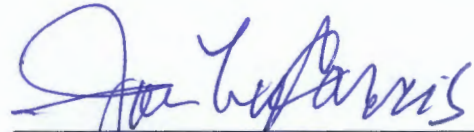
Patricia Jackson, City Manager/Clerk

APPROVED AS TO FORM AND CORRECTNESS



Thomas A. Cloud, City Attorney

PASSED AND DULY ADOPTED ON SECOND READING, with a quorum present and voting by the City Commission of Polk City, Florida meeting in Regular Session this 18th day of October, 2021.



Joe LaCascia, Mayor

ATTEST: 

Patricia Jackson, City Manager/City Clerk