



## MEMORANDUM

Date: 08-31-20

To: Honorable Board of County Commissioners  
Planning and Zoning Board

From: Jie Shao, AICP, MCP, Planner, Principal

Subject: Revisions to Section 3-9-45: Planned Development (PD), TLDR-20-02

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### Request:

A publicly-initiated request to amend Charlotte County Land Development Regulations, Chapter 3-9: Zoning, Article II: District Regulations, by:

- 1) Revising the Land Development Regulations Table of Contents to add new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements.
- 2) Revising Section 3-9-45: Planned Development (PD).
- 3) Creating new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements.

### Staff Recommendation:

Approval of Petition No. TLDR-20-02, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated August 31, 2020 and any evidence presented at the public hearing.

### The Planning and Zoning Board proposed recommendation for September 14, 2020:

*A motion to forward application TLDR-20-02 to the Board of County Commissioners with a recommendation of **Approval/Denial**, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated August 31, 2020, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board.*

### Applicant:

Charlotte County Board of County Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948

### Data and Analysis:

Staff initiated an amendment to the Charlotte County Land Development Regulations, Chapter 3-9: Zoning, Article II: District Regulations, by:

- Revising the Land Development Regulations Table of Contents to add new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements.
- Revising Section 3-9-45: Planned Development (PD), specifically:



- To revise the intent; and
- To revise the uses permitted; and
- To amend design criteria and development standards; and
- To revise the procedures for rezoning to PD; and
- To provide for a PD rezoning flow chart.
- Creating new Section 3-9-45.1: Planned Development (PD) Open Space and Setback Special Requirements, Specifically:
  - To provide for the intent; and
  - To establish open space and setback requirements for development within the US 41 Overlay District, the Burnt Store Overlay District; the Compact Growth Mixed Use Future Land Use Map (FLUM) designation; and the Rural Community Mixed Use FLUM designation or Conservation Subdivision.

#### ***Reason for This Text Amendment***

The County's current Comprehensive Plan was adopted on July 20, 2010 and became effective on June 15, 2011. The existing PD code contains some outdated requirements and regulations, and some subsections of the PD code are not consistent with the County's Comprehensive Plan.

In 2014, staff held several months' worth of roundtable meetings to discuss Section 3-9-45: Planned Development (PD) Zoning District, which was originally created via Ordinance No. 89-4, which was amended in 2002 via Ordinance No. 2002-008, and in 2008 via Ordinance No. 2008-053. However, no actions have been taken by Board of County Commissioners (Board) since that time.

Staff resumed discussions on amendments to the existing PD code in 2019, with a couple of roundtable meetings being held to discuss the proposed changes.

#### ***Detailed Major Changes***

The proposed amendments are:

- Revising the goals to achieve various purposes of this unique zoning district, such as promoting open space, encouraging walkable communities, providing a mix of housing, implementing the TDU Ordinance, and removing outdated language.
- Simplifying and updating design criteria and development standards to clarify what specific design elements are required as part of submission.
- Adding a new subsection to include different percentages of the proposed residential development whereby the County may grant Incentive Density at no cost to the developer(s) in order to promote mixed use development, preserve and protect environmentally sensitive resources, redesign and replat antiquated subdivisions, provide low- and moderate- income housing, enhance public infrastructure, and encourage sustainable communities. The following table includes all proposed percentages of the proposed residential development which could be used for granting Incentive Density:



Percent of the Proposed Residential Density	Action
1). 20	Extension of reclaimed water facilities more than one mile
2). 20	Redesign and replatting of previously recorded subdivisions established prior to October 6, 1992
3). 5	Underground utilities
4). 5	Onsite systems to treat and reuse water within individual buildings or collection, treatment, and reuse water for irrigation, toilet flushing and cooling
5). 20	Preservation or restoration of environmentally sensitive areas, natural land cover or habitats more than 40% of the entire PD parcel or phase
6). 100	Rental or workforce housing pursuant to FLU Policy 1.2.17, as may be amended
7). 10	Two types of uses (residential and office, commercial, or industrial)
8). 20	At least three types of uses (residential and, office, commercial, or industrial)
9). 20	Multi-use trail system for pedestrians, bicyclists, motorists and transit riders of all ages and abilities.
10). 10	Passive and active recreational uses
11). Percentage as determined by BCC	All similar amenities or project improvements not listed above as may be approved by the BCC

Staff is also proposing to add the “timeline of Incentive Density usage” to make sure that the intent of this Incentive Density Program be achieved. The Incentive Density usage requirements and process are also established in this subsection to clearly establish when and how Incentive Density can be used for different projects.

- Revising procedures and criteria for rezoning to PD to include a General PD Concept Plan and a Detail PD Concept plan in order to make the PD rezoning process more productive. The only process difference between a General PD Concept Plan and a Detail PD Concept Plan is at the Final Detail Site Plan review stage, where a General PD Concept Plan will be reviewed by the Site Plan Review process and approved by the Board on the consent agenda, and a Detail PD Concept Plan will be approved by the Site Plan Review process/staff review only (no second BCC hearing, even on consent).
- Revising the time limitation for the PD Concept Plan. The existing PD zoning code states that the time limitation is “for a period not to exceed twelve (12) months after approval (calculated from the BCC approval date). Failure to submit an application for final approval for a portion or a phase of the PD within twelve (12) months shall cause concept approval to expire. However, the applicant may petition



*the zoning official for a one-year extension of the concept plan approval*". However, under this proposal, the PD zoning with the approved PD Concept Plan shall be valid until such time as a rezoning application is filed and approved by the Board. Therefore, staff is proposing the following language to correct the confusion:

The PD Concept Plan approval shall be valid until a Final Detail Site Plan for the entire site is approved, unless a subsequent rezoning occurs on the subject property.

- Revising the criteria of major modification to the PD Concept Plan and the Final Detail Site Plan and the PD conditions to be logical, practicable and flexible.
- Adding subsection regarding the owner's authorization to codify the requirement of the owner's authorization for a major modification of an existing PD which has been in process for years.
- Adding new section 3-9-45.1: PD Open Space and Setback Special Requirements, to be consistent with such requirements set forth in the County's Comprehensive Plan.

The U.S 41 Overlay District, Burnt Store Limited Development and Burnt Store Village Residential FLUM categories were created in 2004-2005. As mentioned before, the County's current Comprehensive Plan was adopted on July 20, 2010 and became effective on June 15, 2011. As part of the County's Comprehensive Plan rewrite, the Compact Growth Mixed Use and Rural Community Mixed Use Future Land Use (FLUM) designations, as well as Conservation Subdivisions, were also created. Specific open space and setback requirements have been established under each unique land development scenario. Land Development Regulations shall be created to implement policies set forth in the County's Comprehensive Plan. Therefore, staff is proposing to create this new section.

Based on the above reasons, staff recommends approval of this text amendment.

Land Development Regulations  
Chapter 3-9. Zoning

Section	Heading	Abbreviation
	<b>Article I. In General</b>	
3-9-1	Reserved	
3-9-2	Rules of Construction; Definitions	
3-9-3	Violations	
3-9-4	Intent and Purpose	
3-9-5	Administration and Enforcement; Building Permits	
3-9-5.1	Authority to Enter Upon Private Property	
3-9-5.2	Deed Restrictions	
3-9-5.3	Exceptions to Required Yards	
3-9-5.4	Expedited Permitting Process for Certified Affordable Housing Development	
3-9-5.5	Exclusions from Height Limitations	
3-9-5.6	Form of Ownership	
3-9-5.7	Moving of structures	
3-9-5.8	Property Frontage	
3-9-6	Board of Zoning Appeals; Powers and Duties; Procedure	
3-9-6.1	Administrative Appeals	
3-9-6.2	Special Exceptions	
3-9-6.3	Variances	
3-9-7	Site Plan Review	
3-9-8	Rules for Interpretation of District Boundaries	
3-9-9	Legal Nonconformities	
3-9-10	Amendments	
	<b>Article II. District Regulations</b>	
3-9-26	Districts	
3-9-26.1	Prohibited Uses	
3-9-26.2	Use Table – Environmental and Agricultural Districts	

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3-9-26.3	Use Table – Residential Districts	
3-9-26.4	Use Table – Commercial Districts	
3-9-26.5	Use Table – Industrial Districts	
3-9-27	Application of District Regulations	
3-9-28	Environmentally Sensitive	ES
3-9-29	Parks and Recreation	PKR
3-9-30	Agriculture	AG
3-9-31	Excavation and Mining	EM
3-9-32	Residential Estate	RE
3-9-33	Residential Single-family	RSF
3-9-34	Residential Multi-family	RMF
3-9-35	Residential Multi-family Tourist	RMF-T
3-9-36	Manufactured Home Park	MHP
3-9-37	Manufactured Home Conventional	MHC
3-9-38	Recreational Vehicle Park	RVP
3-9-39	Office Medical and Institutional	OMI
3-9-40	Commercial Neighborhood	CN
3-9-41	Commercial Tourist	CT
3-9-42	Commercial General	CG
3-9-43	Industrial General	IG
3-9-44	Industrial Intensive	II
3-9-45	Planned Development	PD
<u>3-9-45.1</u>	<u>Planned development (PD) Open Space and Setback Special Requirements</u>	
3-9-46 (Reserved)	Compact Mixed Use	CMU
3-9-47	Charlotte Harbor Community Development Code/title	CHCDC
3-9-47.1	Intent, Applicability, and Boundaries	

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3-9-47.2	Definitions	
3-9-47.3	Development review procedure	
3-9-47.4	Signs in the Charlotte Harbor CRA	
3-9-47.5	Permitted uses	
3-9-47.6	Charlotte Harbor Community Redevelopment Area design requirements ("CHCRA design requirements")	
3-9-47.7	Variance, appeal and enforcement	
3-9-47.8	Charlotte Harbor Community Redevelopment Area Tax Increment Financing	
3-9-47.9	Short Title	
3-9-47.10	Definitions	
3-9-47.11	Funding of Community Redevelopment Trust Fund	
3-9-47.12	Annual Appropriation of Tax Increment	
3-9-47.13	Obligation of Taxing Authorities to Appropriate Funds Annually	
3-9-47.14	Fund Implementation	
3-9-47.15	Fund Management; Independent Audit	
3-9-48	Enterprise Charlotte Airport Park	ECAP
3-9-49	U.S. 41 Zoning District Overlay	US41ZDO
3-9-50	Manasota Key Zoning District Overlay	MKZDO
3-9-51	Babcock Overlay Zoning District	BOZD
3-9-51.1	Babcock Community Pattern Book	
3-9-52	Bridgeless Barrier Island	BBI
3-9-53	Little Gasparilla Island Zoning District Overlay	LGIZDO
3-9-54 (Reserved)	Parkside Zoning District Overlay	PZDO
3-9-55 (Reserved)	U.S. 17 Zoning District Overlay	US17ZDO
	<b>Article III. Special Regulations</b>	
3-9-60	Purpose	

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3-9-61	Accessory Outdoor Retail Sales, Display, and Storage	
3-9-62	Assisted Living Facility	
3-9-63	Airport Zones, Airspace Height Limitations and Noise Zones	
3-9-64	Alcoholic Beverages	
3-9-65	Boating Structures	
3-9-65.1	Boats Used for Living Purposes; Houseboats	
3-9-66	Bridgeless Barrier Islands	
3-9-67	Cluster Housing	
3-9-68	Communication Towers	
3-9-69	Conditional Uses and Structures	
3-9-70	Debris and Waste Facilities	
3-9-71	Essential Services	
3-9-72	Fences; Walls	
3-9-73	Fertilizer Regulations	
3-9-74	Home Occupations	
3-9-75	Industrial Performance Standards	
3-9-76	Junklike Conditions Prohibited	
3-9-77	Manufactured Homes and Recreational Vehicles	
3-9-78	Model Homes	
3-9-79	Off-Street Parking and Loading Facilities	
3-9-79.1	Parking of Trucks, Trailers, Travel Trailers	
3-9-80	Pain Management Clinics	
3-9-81	Patio Houses	
3-9-82	Places of Worship	
3-9-83	Service Stations, Automotive	
3-9-84	Sexually Oriented Businesses	
3-9-85	Signs	
3-9-86	Swimming Pools	



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3-9-87	Temporary Uses	
3-9-88	Waterfront Property	
3-9-89	Visibility at Road Intersections	
3-9-90	Wellhead Protection Area	
	<b>Article IV. Site Design Standards and Requirements</b>	
3-9-100	Buffers, Landscaping, and Tree Requirements	
3-9-100.1	Buffers	
3-9-100.2	Landscaping	
3-9-100.3	Tree Requirements	
	<b>Article V. Environmental Requirements and Other Requirements</b>	
3-9-150	Transfer of Density Units	

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Article II. Districts Regulations

Sec. 3-9-45. PD

Sec. 3-9-45. - Planned development (PD)-

(a) ~~—Intent.~~ The purpose and intent of this planned development (PD) district is ~~intended~~ to provide flexibility and to encourage concentrated, energy-efficient land development ~~through the use of innovative land use planning and structural design techniques~~. Conventional zoning requirements are replaced by flexible performance criteria intended to accomplish ~~as many as reasonable~~ one or more of the following goals:

- (1) Provide for the planning, review and approval of one ~~(1)~~ or a combination of residential, office, commercial, ~~public~~ and industrial land uses and structures which result in an organized, compatible development within and with surrounding land uses in regard to density and intensity of use.
- (2) ~~—~~ Allow a diversification of uses, structures and spaces compatible with existing or proposed sales-uses and structures on surrounding properties, while promoting convenience in the location of related uses and amenities and to reduce ~~travel costs~~ vehicle miles traveled.
- (3) ~~—~~ Minimize infrastructure costs through a more efficient arrangement of structures, utilities, on-site circulation, and ingress and egress than is permitted under conventional zoning and subdivision ~~regulations~~ regulations and promote open space.
- (4) ~~—~~ Encourage preservation of ~~Preserve, where feasible,~~ environmental assets and natural amenities as scenic and functional open-space areas.
- (5) ~~—~~ Encourage an increase in the amount and usability of open space by permitting a more concentrated building area than is allowed under conventional zoning and subdivision regulations.
- (6) ~~—~~ Encourage imaginative and innovative site planning and land development concepts in order to create an aesthetically pleasing and ~~functionally desirable living environment~~ walkable project community.
- ~~(7) —Assure the county and other public agencies that development of the project will occur in accordance with the approved concept plan, final plan(s) and final plat(s).~~
- ~~(8) —Assure the applicant that development may be undertaken and carried out in accordance with approved concept plan, final plan(s) and final plat(s).~~
- ~~(9) —Promote flexibility and efficiency in site design to reduce infrastructure costs, improve interior circulation patterns, and promote open space~~ Provide opportunities to impose conditions to ensure that the proposed development is consistent and compatible with the surrounding neighborhood.
- ~~(10) —Promote development that is adapted to natural features, including wetlands, trees and other vegetation and habitat, and which avoids the disruption of natural drainage patterns.~~
- ~~(11) —Promote the economy of development to~~ Encourage a mix of housing types ~~the provision of low and moderate cost housing.~~
- (10) Implement the intent of the goals, objectives, and policies of the Comprehensive Plan and the requirements set forth in the County's land development regulations, including but not limited to the TDU Ordinance.

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- (b) ~~Uses and structures permitted.~~ Any residential, office, commercial, industrial, or public ~~land~~ ~~uses and structures~~ are permitted in this district, provided the proposed development is shown to be consistent with the goals, objectives and policies of the comprehensive plan, ~~and consistent with the future land use element~~, and the standards and criteria contained in the following this sections.
- (c) ~~Design criteria and development standards.~~ ~~Because of the unique characteristics of a PD, conventional zoning requirements and development standards may be are inappropriate. Instead,~~ ~~the following design criteria and development standards shall apply in this districtsection:~~
- (1) ~~Design criteria.~~
- a. ~~Generally. A uniform theme cohesive design, including but not limited to heights, colors, materials, signs, and landscaping, is required for a proposed development.~~ The location and arrangement of buildings and other facilities shall be compatible ~~to with the existing uses development~~ in the general vicinity. Compatibility shall be ensured between the site plan proposed, ~~and approved and existing development uses~~ in the vicinity of the PD and among different uses that may be proposed within the PD.
- b. ~~Natural features.~~ The natural topography, soils and vegetation should be preserved considered and utilized where economically and physically feasible through the careful location and design of structures, parking areas, recreation areas, open spaces, utilities, drainage and other facilities. ~~Preservation of natural features (i.e., free clusters, vegetation, wetlands, etc.) through flexibility provided in the siting of structures and parking facilities.~~
- c. ~~Landscaping.~~ ~~Where appropriate landscaping shall be provided consisting of any combination of trees, shrubs, vines, ground cover, etc. The use of native plant materials, the use of xeriscaping, and retention of undisturbed areas is encouraged. Irrigation facilities may be required in high visibility areas of the PD.~~
- d. ~~Relation to transportation facilities.~~ ~~PDs shall be so located with respect to adequate transportation facilities so as to meet the adopted service levels and standards on all roads.~~
- e. ~~Relation to utilities, public facilities, and services.~~ ~~PDs shall be located in proximity to sanitary sewers, water lines, storm and surface drainage systems, and other applicable utilities systems and installations. The preceding sentence shall not apply if the developer:~~
- ~~1. Provides private facilities, utilities or services approved by appropriate public agencies as substantially similar to public services which would otherwise be provided to the development under conventional zoning.~~
  - ~~2. Assures their satisfactory, continuing operation during the period of development.~~
  - ~~3. Makes provision for their continued operation thereafter, or until public facilities, utilities and services are available for use.~~
- ~~The purpose of this paragraph is that there be no undue public cost of the development higher than would be incurred for a development of similar size and scope in compliance with conventional zoning requirements.~~

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~~f.c. Relation to levels of service. PDs shall demonstrate consistency with all adopted levels of service standards for concurrency.~~

~~g. Other requirements. Certain additional~~A PD shall generally comply with applicable design criteria and development standards set forth in ~~article III of this Chapter~~ 3-9, Zoning, unless otherwise approved in the PD. ~~,"Special Regulations," shall apply when relevant to all or portions of proposed planned developments. These criteria and standards are:~~

- ~~1. Section 3-9-69, "Base setback line," as it applies to the perimeter of the planned development and to any arterial or collector routes within the planned development.~~
- ~~2. Section 3-9-65.1, "Boats used for living purposes; houseboats."~~
- ~~3. Section 3-9-100, "Buffers, landscaping, and tree requirements."~~
- ~~4. Section 3-9-78, "Model homes."~~
- ~~5. Section 3-9-89, "Visibility at road intersections."~~
- ~~6. Section 3-9-67, "Area of special and shallow flood hazard."~~
- ~~7. Section 3-9-79, "Off street parking and loading facilities."~~
- ~~8. Section 3-9-75, "Industrial performance standards."~~

~~The above requirements do not preclude the application of other special regulations (article III of this chapter) to the planned development where appropriate.~~

(2) ~~\_\_\_~~—Development ~~S~~standards.

a. ~~\_\_\_~~—Maximum ~~B~~base density. The maximum ~~base~~ density permitted within a PD shall be:

- ~~1. \_\_\_ Limited to the density indicated on the 2030-adopted Ffuture Lland Uuse Mmap for the underlying land use except where additional density bonuses are authorized in the subsequent section and policy 9.4(b) of the comprehensive plan, land use element.~~
- ~~2. Limited to fifteen (15) units per acre, except in high-density PDs which have a maximum density of thirty (30) units per acre in appropriate locations. Such high-density PDs shall be contingent upon prior adoption and amendment to the future land use map and shall not be located on barrier islands or in a category I hurricane vulnerability zone and may only be located in areas that can be shown to have sufficient infrastructure to support such densities.~~
- ~~3. Residential density shall be computed by dividing the total gross acreage of the PD parcel, less any acreage proposed for commercial or industrial uses, by the total number of proposed dwelling units therein.~~

b. ~~\_\_\_~~—*Grant of Incentive Density Within Urban Service Area (USA) and Outside of Coastal High Hazard Area*~~Density bonus~~. Incentive Density may be granted if one or more of the following are provided as part of the development:~~In addition to the base density permitted in subparagraph a, bonus density to a maximum of twenty (20) percent of base density may be granted upon concept plan approval on the basis of the following:~~

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Percent <del>Over of the</del> <u>Proposed Residential</u> <u>DensityBase</u>	Action
1). <del>Up to</del> 20	Extension of <del>water and sewer</del> <u>reclaimed water</u> facilities <u>more than one mile</u>
2). <del>Up to</del> 20	Redesign and replatting of previously recorded subdivisions <u>established</u> <u>prior to October 6, 1992</u>
3). <del>Up to</del> 20	<u>Preservation of prime agricultural lands</u>
3). <del>Up to</del> 10-5	Underground <del>electric, telephone and cable television systems</del> <u>utilities</u>
4). 5	<u>Onsite systems to treat and reuse water within individual buildings or</u> <u>collection, treatment, and reuse water for irrigation, toilet flushing and</u> <u>cooling</u>
5). <del>Up to</del> 20	Preservation <u>or and restoration</u> of environmentally sensitive areas, natural land cover or habitats <del>in excess of</del> <u>more than</u> <del>24</del> <u>40</u> % of the entire PD parcel or phase
6). <del>Up to</del> 10-100	<u>Rental or workforce housing pursuant to FLU Policy 1.2.17, as may be</u> <u>amended</u> <del>Inclusion of low and moderate income housing units, in</del> <del>accordance with the housing element of the comprehensive plan</del>
7). 10	<u>Two types of uses (residential and, office, commercial, and/or industrial)</u>
8). 20	<u>At least three types of uses (residential and, office, commercial, and/or</u> <u>industrial)</u>
9). 240	<u>Multi-use trail system for pedestrians, bicyclists, motorists and transit riders</u> <u>of all ages and abilities.</u>
10). 10	<u>Passive and active recreational uses</u>
11). Percentage as determined by BCC	<u>All similar amenities or project improvements not listed above as may be</u> <u>approved by the BCC</u>

Incentive Density may be granted as long as the County has adequate supply of Incentive Density units. Incentive Density allocation to a specific project is valid for three years and can be extended one time by the Board on the consent for additional two years.

Final approval of bonus units may be granted when concept plan and supplemental documents assure actions proposed at the time of concept plan approval. A development agreement or other instruments may be required as a condition of approval for the PD to ensure that improvements proposed as the basis for Incentive Density will be developed. Incentive Density will be reserved for a subject property(ies) at the time of a PD rezoning approval and will be allocated at the PD Final Detail Site Plan approval only when all adopted PD conditions related to Incentive Density are met.

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- c. ~~Cumulative ~~bonus~~Incentive Density.~~ Except for item 6 above, in no event shall the cumulative density granted exceed 30% of the maximum the density for the proposed residential development and permitted under the underlying land use in the Comprehensive Plan.
- d. ~~—Minimum lot and yard requirements. Unless otherwise approved by the BCC or provided in Section 3-9-45.1, There are no minimum lot and yard requirements for this district, provided nN~~ no structure shall be located closer to the peripheral property line of the PD than twenty five (25) feet or as required by section 3-9-88, "Waterfront property," as the same may be amended, whichever is greater. If the PD abuts water, the minimum setback shall be twenty (20) feet. However, minimum lot and yard requirements other than those contained in this section and section 3-9-88 may also be established through the final site plan approval process. All other ~~Internal~~ lot and yard requirements shall be established through the PD rezoning process.
- e. ~~—Maximum height of structures. There is no maximum height for structures in this district, except as required by section 3-9-88, "Waterfront property," as the same may be amended. Maximum height limits other than those contained in section 3-9-88 may also be established through the PD review process. The maximum height for structures shall be established through the PD rezoning process.~~
- f. ~~Open space. Unless otherwise approved by the BCC or as provided in Section 3-9-45.1, Aa~~ minimum of twenty (20) percent of the entire PD parcel or phase shall be retained as open space, which may include vegetated areas unencumbered by an impervious surface.
- g. ~~Utilities. Potable water supply, sewage treatment and water management systems, utility lines and easements shall be designed in accordance with requirements of the county subdivision regulations except as modified in subsection (c)(1)e. of this section, "Relation to utilities, public facilities and services."~~
- hg. ~~—Internal circulation. Streets to be dedicated to the public shall be designed and constructed in accordance with the subdivision regulations or other appropriate design standards. All streets shall be designed to provide safe, efficient and convenient access to land uses within the development and to roadways adjacent to the development. In addition to vehicular thoroughfares, functional pedestrian and bicycle-path systems are required in accordance with the County's Land Development Regulations master plan.~~
- ih. ~~—Utilities. PDs shall be served by public water and sanitary sewers, storm and surface drainage systems, and other applicable utilities systems. The preceding sentence shall not apply if the developer:~~
  - 1. Provides private facilities, utilities or services approved by appropriate public agencies as substantially similar to public services which would otherwise be provided to the development under conventional zoning; and-
  - 2. Makes provision for their continued operation thereafter, or until public facilities, utilities and services are available for use.

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The purpose of this paragraph is that there be no undue public cost of the development higher than would be incurred for a development of similar size and scope in compliance with conventional zoning requirements.

i. ~~Concurrency.~~ PDs shall demonstrate consistency with all adopted levels of service standards to satisfy the necessary concurrency requirements set forth in the Comprehensive Plan.

ii. ~~Modification of development standards.~~

1. ~~—In its PD concept Concept Plan~~ plan review pursuant to section 3-9-45(d)(34)cb.3., the Board of County Commissioners (BCC) may allow a modification of the standards of Section 3-9-45 upon an applicant showing that the modification is necessary and will achieve innovative, creative, compatible and site-sensitive design. The applicant must demonstrate that measures for mitigating potential adverse impacts have been taken and the proposed alternative standard is at least equivalent development will be better than that required by the existing and conventional zoning.

2. ~~—In its PD concept Concept plan Plan~~ review pursuant to section 3-9-45(d)(4)b.3., the board-BCC may allow modification of the height limitations of 3-9-88 regarding waterfront property, based on the applicant showings described in ii.1, above, as follows: height may be modified up to a maximum of sixty-five (65) feet, provided that a corresponding amount of additional outdoor open space, beyond that required by existing law, is created at the ground level to offset by a one-to-one ratio the additional cumulative square footage of all floors over thirty-five (35) feet high. For example, if twenty thousand (20,000) square feet of space above thirty-five (35) feet is allowed, an additional twenty thousand (20,000) square feet of open space shall be provided on the ground.

i. The PD application shall identify all requests for additional height above 35 feet, the square footage of each floor which will exceed 35 feet, and identify and tabulate additional open space furnished provided in return for any such increase in height. Pavers and green roofs shall not count towards open space.

ii. In order to allow public input early in the concept review process, prior to the scheduling of the concept plan review before the Site Plan Review (SPR), the applicant for any proposed PD seeking to modify height above the thirty-five-foot limit will hold a neighborhood public meeting with notice given to any property owner within 1,000 feet of the proposed PD as to the height to be added and the open space to be provided in mitigation thereof. The applicant shall provide a summary of the neighborhood meeting, including but not limited to date, time and place of meeting; number of attendees; and copies of any documents provided to the public.

3. ~~—All modifications pursuant to this Section will must~~ be clearly described within the applicant's petition narrative and the growth management department staff report and

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clearly articulated as part of the presentation to the BCC. The BCC ~~shall be requested to respond negatively or positively to~~ will consider each modification request ~~and approve, deny or approve with conditions,~~ or continue the application in order to receive additional information and review from staff and/or the applicant.

~~4. The PD application shall identify all requests for additional height above thirty-five (35) feet, the square footage of each floor which will exceed thirty-five (35), and identify and tabulate additional open space furnished in return for any such increase in height. Pavers and green roofs shall not count towards open space.~~

~~54.~~ \_\_\_\_—No modification pursuant to this section shall be made to or for any development on property located on a key, a barrier island or within the Manasota Key overlay district.

~~5. 6.—In order to allow public input early in the concept review process, prior to the scheduling of the concept plan review before the DRC, the applicant for any proposed PD seeking to modify height above the thirty-five foot limit will hold a neighborhood public meeting with notice given to any property owner within one thousand (1,000) feet of the proposed PD as to the height to be added and the open space to be provided in mitigation thereof.~~

~~7.—Request for~~ ~~if there has been a~~ modifications from previously approved plans ~~there shall be initiated by submitting an application for modification if the modification is not minor. Minor modifications may be approved by the Zoning Official or his/her designee.~~ Any modification of mitigation measures provided pursuant to subsection ~~ij.1 or ij.2~~ above shall always be considered a major modification.

~~6. 8.—Requests to allow modifications to~~ ~~section 3-9-47.5,~~ Permitted Uses ~~under ,Section 3-9-47,~~ Charlotte Harbor Community Development Regulations, as may be amended, is prohibited.

(d) \_\_\_\_—Procedures for rezoning to PD.

~~(1) —Planned developments approved prior to this section. All PDs granted concept or detail plan approval prior to the effective date of this section, as amended, shall have the option of either applying for further approvals and modifications in accordance with the procedures in effect at the time of original approval; or applying for further approvals and modifications in accordance with the procedure set forth herein. The applicant must inform the zoning official of the selected process to proceed.~~

~~(21) —Approval~~ ~~p~~Process for ~~P~~planned ~~D~~developments. The approval process for a PD shall be divided into two ~~(2)~~ phases: ~~concept approval~~ PD rezoning (a. or b. below) -and ~~F~~final ~~Detail Site Plan~~ approval (c. and d. below). The following diagram tracks the two ~~(2)~~ phases through the required review procedure from the project's inception through the final approval.

~~aA. —Concept review~~ PD Rezoning with a General PD Concept Plan. A General PD Concept Plan shall contain development standards including but not limited to the proposed uses, density and intensity, setbacks and building heights requirements, proposed access point(s), and major internal traffic circulation.



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1. —Preapplication conference with ~~development review committee (DRC)~~ appropriate County staff.
  2. —~~Development review committee~~Site Plan Review (SPR).
  3. —Planning and Zoning Bboard (P&Z Board), public hearing.
  4. —~~Board of county commissioners~~BCC, public hearing.
- b. PD Rezoning with a Detail PD Concept Plan. A Detail PD Concept Plan shall include ~~contain~~ the development standards requirements for ~~set forth in~~ a General PD Concept Plan and meet design criteria set forth in (c)(1) above and development standards set forth in (c)(2) above, and in addition a landscaping plan, signage plan if the applicant proposes to deviate from Sec. 3-9-85, Signs, and for multi-family development with two or more buildings or more than 12 units, whichever is greater, and non-residential developments, elevations and building details, such as materials and colors, are required. These design elements will be approved in concept by the BCC and final approval will occur during a Final Site Plan Review by staff.
1. Preapplication conference with appropriate County staff.
  2. SPR.
  3. P&Z Board, public hearing.
  4. BCC, public hearing.
- c. —~~Final Detail Site Plan review~~Approval ~~after PD Rezoning with a General PD Concept Plan Approval.~~
1. ~~Development review committee~~SPR.
  2. BCC, consent agenda.
- d. Final Detail Site Plan Approval after PD Rezoning with a Detail PD Concept Plan Approval.
1. SPR.
  2. ~~BCC,~~
- (32) —Preapplication conference.
- a. —Purpose. The purpose of this meeting is to discuss with ~~the development review committee~~County staff early and informally the purpose and intent of the proposed ~~P~~planned development project, and the criteria and standards which may apply. It will also familiarize the applicant with the objectives and policies of ~~appropriate~~applicable elements of the ~~comprehensive~~Comprehensive planPlan.
  - b. Procedure. Unless waived by the Zoning Official, ~~T~~the applicant shall meet with the ~~development review committee or their~~appropriate County staff ~~—designees~~ prior to formally submitting a request for a PD. The Zoning Official shall schedule the meeting to be held within ~~fifteen (15)~~ working days of the applicant's request for such meeting.
  - c. Requirements. The applicant shall prepare for the preapplication conference a generalized sketch plan for the proposed development which shall include preliminary data regarding

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proposed land use, intensity of use, residential density, lot coverage, project amenities, natural resources, stormwater retention and disposal, sewage treatment, and potable water supply. ~~The applicant shall be advised at the preapplication conference of existing plans and policies to be considered in the preparation of subsequent PD concept or final plans, and any other information relevant to the proposed PD.~~

(43) ~~—~~ Concept approval PD Rezoning.

- a. ~~—~~ Definition. The purpose of ~~concept approval~~ PD rezoning is to approve the density and intensity of land use and to establish appropriate conditions, including deviation of Land Development Regulations, such as Subdivision Regulations, prior to ~~proceeding to final site plan review~~ Final Detail Site Plan review.

~~All PD projects must receive concept approval of the entire PD project prior to any phase receiving final approval. Concept PD rezoning approval is an agreement in principle between the developer and the board of county commissioners BCC indicating general acceptance of the proposed uses, size, type, and intensity and conditions of the PD. Approval of the concept plan PD rezoning shall constitute an amendment to the official Zoning map Atlas, and the subject parcel shall be labeled with the description "PD" (and PD number, and date of board of county commissioners approval). The granting of concept PD rezoning approval shall not authorize any development activity to take place on the newly designated PD site.~~

- b. ~~—~~ PD Concept Plan (General PD Concept Plan or Detail PD Concept Plan) application, PD rezoning application, and the associated fees are required at the time of submission of an application.

- bc. ~~—~~ Review P procedure. ~~Applications for concept approval shall include an application, supportive materials, and concept plans as set forth in this subsection (d). The original application package, along with copies of the application package, shall be filed with the zoning department, where it will be reviewed for sufficiency. If the application package is found sufficient, the zoning director will schedule the concept review before the DRC. Additional copies of the application package shall then be submitted to the planning department for the purposes of securing a public hearing date before the planning and zoning board. If deficient, the application will be returned to the applicant no later than ten (10) working days after submission with a written explanation of deficiencies.~~

~~If platting is required, the preliminary plat may be reviewed simultaneously with review of the final PD plan. Plats shall meet all requirements of the subdivision regulations. In the event of conflict between the subdivision regulations and the zoning regulations, unless a variance to the subdivision regulations is approved by the planning and zoning board and county commissioners, the zoning regulations and the approved final PD plan shall prevail. The final plat shall be reviewed to ensure conformity with the subdivision regulations and as specified by the density and intensity of use defined in the PD. Upon approval, the PD final plan shall be filed with the concept plan and entered on the official zoning map. Following the effective date of such approval, the arrangement and use of all buildings, structures and other improvements within the PD shall be in accordance with the approved final PD plan.~~

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1. ~~—Development review committee (DRC)-Site Plan Review (SPR).~~ The proposed PD DRC Concept Plan application shall be filed with the Department of the County, where it will be reviewed for sufficiency. Such Department shall maintain a Site Plan Review checklist listing the required components for a completed application. Within 30 days after receiving such application, the Department will review the application for completeness and notify the applicant, in writing, indicating that all required information is submitted or specifying with particularity any areas that are deficient. If such application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. If the application is found sufficient, the Zoning Official will schedule a Site Plan Review (SPR). The SPR will review the PD Concept Plan application for technical compliance to County codes and may attach appropriate conditions and safeguards it deems necessary. The DRC-SPR recommendation will be forwarded in writing as part of the PD rezoning to the P&Z Board planning and zoning (P&Z) board for their consideration and review. In order to have sufficient time for preparation of packet materials, the minimum amount of time between the DRC-SPR and the P&Z Board meeting shall be three-four (3) weeks.
2. ~~—Planning and zoning board (P&Z) review~~PD Rezoning. The PD rezoning application shall be filed with the Department, where it will be reviewed for sufficiency. Within 30 days after receiving such application, the Department will review the application for completeness and notify the applicant, in writing, indicating that all required information is submitted or specifying with particularity any areas that are deficient. If such application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. If the application is found sufficient, the Zoning Official will schedule public hearing dates before the P&Z Board and the BCC. Upon completion of its review, P&Z board will review the application for concept approval upon review and consideration of the recommendation of the DRC. The planning department upon completion of its review shall issue a staff report and recommendation will be issued, which will be forwarded to the P&Z Board members and the applicant along with the recommendation of the PD Concept Plan from SPR no later than one (1) week prior to the public hearing. The P&Z Board will review the application, recommendation of the SPR, staff report, and evidence presented at the public hearing. The staff report shall discuss the rationale behind the recommendation.  
The hearing before the P&Z board shall be a public hearing in accordance with section 3-9-11. The P&Z board shall attach any conditions of approval it deems appropriate, and its recommendation will be forwarded to the board of county commissioners.  
The P&Z board shall recommend approval of the proposed project to the board of county commissioners upon a finding in the affirmative of the following:
  - (i) ~~The concept development plan is consistent with the intent and purpose of the PD section.~~
  - (ii) ~~The benefits, combination of various land uses (if applicable), physical design, and the interrelationship with the land uses in the surrounding area justify the PD designation.~~

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~~(iii) — The proposed project is consistent with the comprehensive plan.~~

~~(iv) — The proposed project is compatible with adjacent land uses.~~

3. ~~\_\_Board of county commissioners (BCC) Rreview.~~ Upon receipt of the P&Z ~~Bb~~oard's recommendation, ~~\_\_~~the BCC shall conduct a public hearing with due public notice. The BCC shall then grant approval or disapproval based upon the criteria listed within this Code. If ~~disapproveddenied~~, the BCC shall state the reasons for denial. In approving the ~~concept~~PD rezoning, the BCC may establish reasonable conditions and may require modifications deemed necessary to protect the public health, safety or general welfare. These conditions shall be binding upon the applicant or any successors in interest.

~~ed.~~ *Time limitation.* The PD Concept Plan approval shall be valid until a Final Detail Site Plan for the entire site is approved, unless a subsequent rezoning occurs on the subject property. ~~for a period not to exceed twelve (12) months after approval (calculated from the BCC approval date). Failure to submit an application for final approval for a portion or a phase of the PD within twelve (12) months shall cause concept approval to expire. However, the applicant may petition the zoning official for a one-year extension of the concept plan approval. Such request must be received by the zoning department not later than one (1) month before the approval expires, and shall be accompanied by a fee as established by the board of county commissioners. The zoning official may grant a one-year extension for good cause but shall grant no more than one (1) such extension.~~

~~d.~~

~~—PD concept plan application requirements.~~ In addition to the PD rezoning application form, a concept plan shall accompany such application and shall include the following:

- ~~1.— The title of the project and the names of the representatives of the landowner of record.~~
- ~~2.— Scale, date, north arrow and general location map.~~
- ~~3.— Legal description of the property.~~
- ~~4.— Map showing all existing streets, buildings, watercourses, easements, and other important physical features in and adjoining the property.~~
- ~~5.— Overall concept design map showing general locations, acreage, density, and intensity for each proposed land use.~~
- ~~6.— Map showing points of access and general traffic flow.~~
- ~~7.— Tabulations of total gross acreage in the proposed development, the percentage of total acreage to be devoted to each proposed use, projected density of dwelling types, and intensity of use.~~
- ~~8.— Development time schedule and phasing plan for the entire PD.~~
- ~~9.— Additional information identified at the preapplication conference or requested by the zoning official or planning director.~~

~~(54)~~ *Final Detail Site Plan approval.*

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- a. ~~—Definition.~~ Final Detail Site Plan approval authorizes ~~construction-permitting~~ of the project. ~~The approved final plan and supporting documentation become the official and enforceable zoning.~~ The applicant may apply for and be granted final approval for the entire PD or any phase of the project.
- b. PD Final Detail Site Plan Application and its associated fee are required at the time of submission of an application.
- b.c. ~~—Review procedure.~~
1. Site Plan Review (SPR): Application for ~~F~~final Detail Site approval shall include an application, supportive materials, and plans as listed on the Site Plan Review checklist maintained by the Department as set forth in herein. ~~The original package shall be filed with the zoning department.~~ The ~~zoning~~ County Department will conduct a sufficiency review of the application ~~package~~; and if found sufficient, the ~~Z~~oning ~~O~~fficial or his/her designee will coordinate various departments for review. ~~schedule the final application and site plan review before the DRC.~~ Within 30 days after receiving such application, the Department will review the application for completeness and issue a letter indicating that all required information is submitted or specifying with particularity any areas that are deficient. If such application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. ~~If deficient, the application will be returned to the applicant no later than ten (10) working days after submission with a written explanation of deficiencies.~~
  1. ~~Development review committee (DRC) review.~~ The DRC will review the application for technical compliance to county codes and consistency with the approved concept plan and any conditions, and may attach appropriate conditions and safeguards relating to deviations to the concept plan. The DRC recommendation will be forwarded in writing to the board of county commissioners for their review in a nonpublic hearing. The zoning director shall forward to the board of county commissioners the appropriate materials in a timely fashion.
  2. ~~Board of county commissioners (BCC) Rreview.~~ The BCC shall consider the application for final on a consent agenda approval in a nonpublic hearing. The BCC shall render a decision at this time and may impose whatever conditions are deemed appropriate to ensure consistency with the comprehensive plan.
    - (i) Based on the proposed Final Detail Site Plan, comments and recommendations, the BCC shall determine whether the Final Detail Site Plan complies with the County's Land Development Regulations and the conditions of the PD rezoning with General PD Concept Plan. The applicant shall be notified by a letter from an appropriate County Department of the BCC's decision. ~~The decision of the BCC shall be by resolution. A resolution which grants final approval shall state all of the terms and conditions for approval, including the projected period of development.~~
    - (ii) Final Detail Site Plan approval for projects which contained a Detail PD Concept Plan which was approved by the BCC and did not require final approval by the BCC, shall be reviewed and approved by staff.

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~~Annual progress report.~~ Following final approval, the developer of the PD shall be required to submit an annual progress report through buildout to the zoning official on or before the anniversary date of the BCC final approval or until the project is complete. The intent is to maintain an updated inventory of the current status of development within the PD by establishing a reporting requirement. At a minimum, the annual progress report shall include the following information:

- ~~(i) A site plan for the entire development indicating the status of approvals, phasing schedule, undeveloped areas, and within developed areas, the number, size, type, and locations of all structures and improvements.~~
- ~~(ii) The names of any subsequent developers or owners of any increments, phases, or portions of the PD project.~~

~~ed.~~ **Time limitation.** The Department shall, in writing, notify the applicant approval of or denial resolution of approving the Final Detail Site Plan shall include a schedule for the project from commencement to buildout. The Final Detail Site Plan shall be valid for a period of three years from the date of approval. One two-year extension may be granted by the Zoning Official. No additional extensions will be granted thereafter. If a portion of the approved Final Detail Site Plan has been constructed and received a certificate of occupancy, the remainder of the approved plan shall remain valid unless a major modification is requested. Local government staff shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If construction does not remain consistent with the approved schedule, the applicant may petition the board of county commissioners (BCC) for an extension. The BCC may grant extensions up to five (5) years in accordance with F.S. section 163.3220. If the Final Detail Site Plan is expired, the applicant may apply for a reactivation of the Final Detail Site Plan. If deemed that a minor modification is required, the Final Detail Site Plan can be reactivated at the SPR level; and if deemed that a major modification is required, the applicant shall follow the same procedure as a new PD application.

~~Once construction has commenced, the building permit must remain valid. Should the PD expire, or should the building permit become invalid, the BCC in its discretion shall do one (1) of the following:~~

- ~~1. The PD designation for the entire area be continued with revised time limits.~~
- ~~2. The PD designation be continued for part of the area with revised time limits and the remainder rezoned to an appropriate zoning district.~~
- ~~3. The entire area be rezoned from PD to an appropriate zoning district.~~

~~The recommendation may also include proposals for appropriate action in respect to any Legal instruments involved in the PD. The recommended action would require a public hearing before the planning and zoning board and the board of county commissioners.~~

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~~de. —Building permits.~~ No building permit or certificate of occupancy or certificate of zoning compliance shall be issued for a PD except in conformity with all provisions of the approved Final Detail Site Plan

~~, as amended.~~ All buildings and improvements in a particular phase need not be complete before the issuance of a certificate of occupancy for a completed building in that phase unless otherwise required by the Final Detail Site Plan ~~as approved.~~

~~e. —Application requirements.~~ The final PD application package shall include a site plan and narrative containing the following information:

- ~~1. —A copy of any deed restrictions, protective covenants, and other statements or devices which will be used to control the use, development and maintenance of the land and improvements thereon, including those areas which are to be commonly owned and maintained.~~
- ~~2. —In areas involving isolated wetlands, these wetlands shall be identified and delineated, and shall be determined by application of department of environmental regulations (DER) vegetative insurance rule (Ch. 17.4.022, FAC).~~
- ~~3. —The location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity, final building configurations, structures and improvements, areas in acres, and other features of the development site for the phase to be reviewed.~~
- ~~4. —A schedule of the development of units to be constructed in progression and general description of the buildings and streetscapes; tabulation of the number of housing units proposed by type; and standard for height, open space, building density, parking area, and public improvements proposed for each section of the development whenever the applicant has proposed an exception from the standard zoning ordinance, subdivision regulations, or other features of the development site for the phase to be reviewed.~~
- ~~5. —A site plan which contains the following:~~
  - ~~(i) —Name of the project.~~
  - ~~(ii) —Names of the project's planner, engineer, and/or architect.~~
  - ~~(iii) —Name of the developer.~~
  - ~~(iv) —Date.~~
  - ~~(v) —North arrow.~~
  - ~~(vi) —Boundaries for the property.~~
  - ~~(vii) —Existing streets, buildings, watercourses, easements and section lines.~~
  - ~~(viii) —The location of all buildings and structure, proposed access and traffic flow.~~
  - ~~(ix) —The manner in which the vehicular traffic will be separated from pedestrian traffic.~~
  - ~~(x) —Off street parking and loading areas and facilities.~~
  - ~~(xi) —Recreational facilities and open space.~~
  - ~~(xii) —Screens, fences, walls and landscape buffers.~~



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~~(xiii) — Refuse collection areas.~~

- ~~6. — Letters of availability and commitment to provide potable water and/or sanitary sewage disposal if these utilities are to be provided by an entity other than the developer.~~
- ~~7. — Plans showing the stormwater management plan and water and sanitary sewer mains by location and size, fire suppression facilities and utility easements.~~
- ~~8. — Any additional material and material deemed reasonably appropriate by the zoning official and/or planning director.~~

~~(5)f. —~~ Modification of PD Concept Plan, PD Conditions, or PD plans~~Final Detail Site Plan.~~

~~a. 1. —~~ Minor Modification. General. ~~Any modification to an approved PD which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, locations of signs, buildings/structures or other improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications.~~ All PD plans submitted for approval shall be reviewed by the zoning official to determine whether a major modification from previously approved plans or conditions has occurred. If such a variation has occurred, the applicant shall apply for a modification of PD plans. The applicant may also initiate an application for modification of PD plans to propose changes to the PD. Upon determination that the proposed modification is a minor modification, the Zoning Official shall render a decision to the applicant within 15 working days after submission of a complete application. Applications for a minor modification shall include an updated, revised PD plan indicating the effect of the proposed change and the reasons why such a change is necessary.

~~The zoning official is authorized to approve minor changes in the approved PD plan, as long as they are in harmony with the originally approved PD plan, but shall not have the power to approve changes that constitute a major modification of the approval. A major modification shall require approval of the BCC, and shall be handled as a new application.~~

~~2. —~~ Major modification.

- ~~(i) — Generally, additions, deletions, changes in the use, density, sequence of development or other specifications of an approved PD plan are to be viewed as a major modification.~~
- ~~(ii) — Procedure. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new PD request. An application for a major modification shall be filed in the zoning department, where the item will be placed on the development review committee agenda.~~

~~Applications for a major modification of PD plans shall require: 1) a narrative description of the modification and reasons such a change is necessary; 2) an updated, revised PD plan indicating the effect of the proposed change; and 3) additional information as required by the zoning official to adequately review the proposed modification.~~

~~3. —~~ Minor modification.

- ~~(i) — Any modification to an approved PD plan which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, buildings/structures or other improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications.~~



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- ~~(ii) — Procedure. Upon determination that the proposed modification is a minor modification, the zoning official shall render a decision to the applicant within fifteen (15) working days after submission of a complete application. Applications for a minor modification shall include an updated, revised PD plan indicating the effect of the proposed change and the reasons why such a change is necessary.~~
- ~~4. — PD expansion. Any addition or reduction to the area of a PD shall require a major modification of the conceptual and final plan.~~
- ~~5b. Major — Modification review criteria. Generally, additions, deletions, changes in the use, density, or other specifications of an approved PD Concept Plan or Final Detail Site Plan are considered a major modification. In reaching a decision as to whether or not the change(s) are substantial enough to be considered a major modification, and subject to reapplication as a new development plan, the Zoning Official shall, after reviewing the following criteria, determine whether the changes are substantial enough to be considered a major modification: the record of the project, determine if any of the following changes are present:~~
- ~~1. (i) — Increase or decrease in intensity of use. An increase in intensity of use shall be considered to be aAn increase of more than five (5) percent of usable floor area or an increase of more than five (5) percent in the number of dwelling units or an increase of more than five (5) percent of outside land area devoted to sales, displays, or demonstrationsdevelopment rights shall generally be considered a major modification. In no case shall the intensity or density be increased over the maximum permitted by the PD districtFuture Land Use Map designation of the subject property.~~
- ~~2. (ii) — Any change in parking areas resulting in an increase or reduction of ten (10) percent or more in the number of spaces approved.~~
- ~~3. (iii) — Structural alterations significantly affecting the basic size and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within two hundred (200) feet of the boundary of the PD district.~~
- ~~4. (iv) — Any reduction in the amount of open space of more than five (5) percent or substantial change in the location or characteristics of open space uses.~~
- ~~54. (v) — Substantial changes in location or type of pedestrian or vehicular accesses or circulation, as determined by the County Engineer.~~
- ~~6. (vi) — Any change which would increase traffic generation by more than ten (10) percent.~~
- ~~(vii) — Any change in land use or increase within five hundred (500) feet of the zoning district boundaries or within two hundred (200) feet of any part of the planned district which has been constructed or sold to an owner or owners different from the applicant requesting the change.~~
- ~~(viii) — Any deviation exceeding twelve (12) inches from the setbacks, height, and any area or dimensional standards approved as part of the concept development plan.~~

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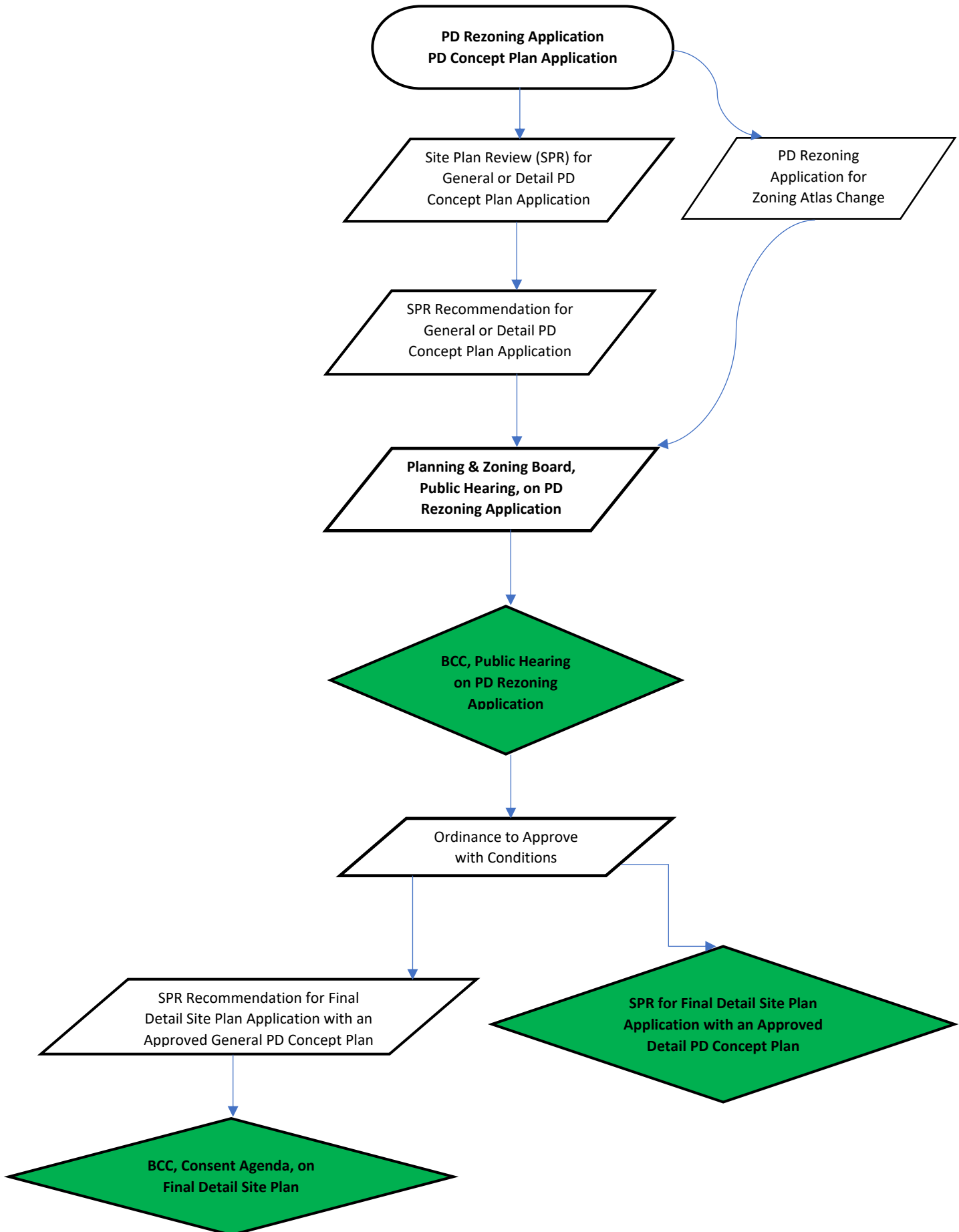
~~(ix) Any change in a condition specifically required by the board of county commissioners as part of the PD approval. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new PD application.~~

~~6C.~~ *Appeal.* ~~The A appeal of a~~ decision rendered by the ~~Z~~ zoning ~~O~~ official as to whether a modification is major or minor ~~shall may~~ be ~~filed appealed~~ by the aggrieved applicant ~~and shall be filed~~ within ~~thirty (30)~~ days of such written determination. The appeal ~~would shall~~ be forwarded to the ~~board Board~~ of ~~Z~~ zoning ~~A~~ appeals in accordance with ~~S~~ section 3-9-6.

~~d. Property Owner Authorization.~~ If there are multiple property owners within a PD, and a property owner(s) files an application to amend the existing PD, it is not required to provide an authorization by the property owners who are not the applicants if the proposal will not increase or decrease density, intensity or development rights on their properties; however, notification of public hearings for such PD application shall be mailed to all other property owners within the PD.

~~(e) PD Rezoning Flow Chart.~~

# Planned Development (PD) Rezoning Flow Chart



Sec. 3-9-45.1 Planned development (PD) Open Space and Setback Special Requirements.

- (a) Intent: The purpose and intent of the section is to provide alternative design criteria for open space and setback within different types of development.
- (b) Development within the US 41 Overlay District (41OD): In order to promote compact and intense development within this overlay, the setback and open space requirements are reduced as follows:
1. Setback: The twenty-five-foot PD setback is not required.
  2. Open Space: A minimum of five percent and a maximum of ten percent of the entire site shall be allocated towards open space or recreational uses. Outdoor public gathering places may be considered as open space, such as open-air plazas.
- (c) Development within the Burnt Store Limited Development (BSLD) and Burnt Store Village Residential (BSVR) Future Land Use Map (FLUM) designations:
1. Open Space: Open Space shall include recreational facilities, parks, sidewalks and trails, natural preserve areas, or other commonly owned or maintained areas of pervious surface. However, commonly-maintained man-made water-bodies may count as ten percent of the total open space requirement.
- Development which includes recreational vehicle uses must contain at least three acres of active recreational amenities. Such amenities may be counted towards the required 20 percent minimum open space.
- (d) Development within the Compact Growth Mixed Use (CGMU) FLUM designation: In order to promote compact and intense mixed-use development, the open space requirements are reduced as follows:
1. Open Space: A minimum of five percent and a maximum of ten percent of the entire site shall be allocated towards open space or recreational uses. Outdoor public gathering places may be considered as open space, such as open-air plazas.
- (e) Development within the Rural Community Mixed Use (RCMU) FLUM designation or Conservation Subdivision: In order to protect and preserve the rural atmosphere, the setback and open space requirements are increased as follows
1. Setback: The minimum PD setback shall be 50 feet.
  2. Open Space:
    - i. For development within the Rural Community Mixed Use FLUM designation: A minimum of 50 percent of the total site shall be set aside as Rural Residential Open Space. A minimum of 40 percent of the total site shall be set aside as Rural Residential Open Space if the proposal meets the requirements of alternative development set forth in the County's Comprehensive Plan.
    - ii. For development within Conservation Subdivision: A minimum of 70 percent of the total site shall be set aside as Rural Residential Open Space.
- At least 50 percent of such open space shall remain undeveloped. The remaining 50 percent may contain:
- a. bike paths,

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b. hiking trails,

c. equestrian trails,

d. canoeing and kayaking facilities,

e. fishing facilities such as docks and limited storage for non-motorized boats,

f. agricultural uses including accessory uses,

g. stormwater management systems serving the community provided the stormwater systems are unfenced and are surrounded by, or adjoin, areas that are improved for use by wildlife and accessible to the residents of the development, and

h. any required buffers.

Existing agricultural areas may be maintained in agriculture, natural lands reserved as open space shall not be converted to agricultural uses.

Golf courses shall not qualify as Rural Residential Open Space.