

## BELLEAIR PLANNING AND ZONING BOARD MEETING NOTICE

**DATE:** May 8, 2014

**TO:** Bonnie-Sue Brandvik, Chairman  
Gloria Burton, Vice Chairman  
Al Acken  
Rogers Haydon  
Jim Millspaugh  
Peter Marich  
Randy Ware

Stephen R. Fowler, Commission Advisor  
JP Murphy, Assistant Town Manager

There will be a meeting of the Belleair Planning and Zoning Board on **MONDAY, MAY 12, 2014 at 5:30 p.m.** in the Town Hall auditorium.

Please plan to attend. In the event you are unable to attend this meeting, please notify the Town Clerk's office at 588-3769 ext. 214 or 312.

Your attendance is very important!

The following agenda items are provided for your consideration:

1. Approval of Minutes - March 10, 2014

Documents: [MARCH 10, 2014.PDF](#)

2. Citizen's Comments

(Discussion of items not on the agenda. Each speaker will be allowed 3 minutes to speak.)

3. Discussion and Recommendation of Ordinance 497 - Amending the Land Development Code

Documents: [ORDINANCE 497 SUMMARY.DOCX](#), [ORDINANCE 497.DOCX](#)

4. Other Business

5. Commission Advisor Report

6. Adjournment

\*\* To be distributed.  
\* Previously distributed.

Copy to: Micah Maxwell, Town Manager  
Donna Carlen, Town Clerk  
JP Murphy, Assistant Town Manager

**MINUTES OF MEETING OF THE PLANNING AND ZONING BOARD HELD AT TOWN HALL, BELLEAIR, FLORIDA ON MARCH 10, 2014 AT 5:30 PM**

**MEMBERS PRESENT:** Gloria Burton, Vice Chairman  
Allen Acken  
Jim Millspaugh  
Randy Ware

**MEMBERS ABSENT:** Bonnie Sue Brandvik  
Rogers Haydon  
Peter Marich

**OTHERS PRESENT:** JP Murphy, Assistant Town Manager  
Stephen R. Fowler, Commission Advisor  
Donna Carlen, Town Clerk

Quorum present with Mrs. Burton presiding; the meeting was called to order at 5:30 pm.

**APPROVAL OF MINUTES – FEBRUARY 10, 2014**

Mrs. Burton stated that the board had for consideration the minutes of the February 10, 2014 to consider for approval.

Mr. Ware stated that he was not in attendance at the February 10, 2014 meeting; stated that there was a vote taken regarding Ordinance No. 495; that there was an unanimous vote against the ordinance; stated that for the record, that he would have voted for the recommendation of Ordinance No. 495 and the sale of the requested acres to the Belleair Country Club; stated that he wanted to let the board know his opinion regarding the matter.

Mr. Murphy inquired as to whether Mr. Ware was a member of the executive board for the Belleair Country Club.

Mr. Ware stated that he was not an executive board member of the Belleair Country Club; stated that he was a member of the country club.

Mr. Acken moved approval of the minutes for the February 10, 2014 meeting as submitted. Motion was seconded by Mr. Ware and approved unanimously.

**CITIZEN'S COMMENTS**

Mrs. Burton stated that anyone who wished to speak regarding items not on the agenda could do so at this time.

Mr. Murphy provided a review of the procedures regarding citizen's comments.

**CITIZEN'S COMMENTS, cont.**

LaVonne Johnson, 222 Belleview Blvd., stated that the Belleview Biltmore Resort could be restored; spoke about the structure of hotel; provided documentation regarding the hotel along with photos; read for the record the information provided at the meeting; spoke in favor of saving the hotel.

Steve Johnson, 1717 Indian Rocks Rd., stated that the planning and zoning board had suggested to wait 6 months for the RM-10 designation; expressed his concerns regarding the commission going forward with the RM-10 designation; spoke about the art center property; inquired about the number of condominiums to be allowed on the hotel property; expressed his concerns regarding the deterioration of green space and how the town was changing.

**DISCUSSION OF DUTIES AND RESPONSIBILTIES OF THE PLANNING AND ZONING BOARD**

Mr. Murphy stated that in April the commission would be reviewing the roles of all of the advisory boards and seeking input from the board and the possibilities of changes to those roles; stated that the planning and zoning board did have some Charter language that designated roles for the board; that beyond that there was relatively large room of what items the board would like to take up and ones that the board could self-initiate; stated that number 4 under 66-93 of the Town Code stated the board was to conduct or obtain special studies; that those studies were things that the board wanted to undertake; stated that staff and the commission would like to hear some feed back to how the board felt its roll should be either expanded, contracted or left the same; reviewed Section 66-42 which covered the boards having administrative powers within land development.

Discussion ensued regarding the board of adjustment and appeals and their duties.

Mr. Murphy reviewed the primary duties listed in Chapter 66-93 of the Town Code; spoke about the board's ability to look at the code and study its effectiveness and make any recommendations to the commission on amendments that are believed necessary; stated that staff believed that the board could be the catalyst for an amendment if it so desired; that in some matters, the commission may want the board to review and make recommendations on certain issues.

Mr. Millspaugh stated that the board had many consistent exceptions that residents had come to the board; that the board usually grants those exceptions and variances; inquired as to whether there was some mechanism to change that issue; stated that at some point, if those same issues kept coming before the board for approval that maybe those rules should be changed to make those consistent requests be allowed.

Donna Carlen Town Clerk stated that there are criteria that should be considered by the board when a variance of some nature was presented to the board; that there were approximately 6 of those criteria that needed to be considered and met at the time of reviewing of the variance.

**DISCUSSION OF DUTIES AND RESPONSIBILITIES, cont.**

Mr. Murphy stated that the code forces staff to take strict construction of the code when looking at the items, that there were items that were approved by the board that had been generally denied by staff; that if the board wished to change the code to maybe mitigate some of those issue that came before the board, that the board could actually look at changing the land development code to add rules for irregularly shaped lots or other issues in that nature; that the ordinances would be constructed in such a way that staff, taking a strict view of the code, could approve it without the need for a variance.

Ms. Carlen stated that one of the criteria in the list for granting variances was that for a situation that was not a result or actions of the applicant; stated that for instance having an irregularly sized lot; that describing and determining the hardship was probably the most critical criteria for granting a variance.

Discussion ensued regarding hardships; regarding staff's interpretation of the code as it pertained to hardship criteria.

Mr. Ware inquired about the Comprehensive plan regarding land use changes.

Mr. Murphy stated that some land development code changes that were made would also need to be done as a comprehensive land use change; stated that the mixed use and R-10 changes for today's needs had a forward looking element to them; that if there was a concern for the town as being primary residential, that there would need to be some increase in light commercial and retail; that this was something that the board could be discussed; stated that there had been some amendments done less than a year ago; that the last comprehensive EAR based amendment process was in 2008; that in addition to the historic preservation ordinance which was a separate issue, there was amendments done through the EAR based amendment; that there were goals and objectives items and then the ordinances and land use changes would be done to address those items to the Comprehensive Plan.

Discussion ensued regarding reviewing the Comprehensive Plan; regarding the strategic plan document.

Ms. Carlen stated that in 2011 the Legislature changed the process for amending the Comprehensive Plan; stated that before, it could only be changed during certain times of the year; that now, it was on a fast track and can be done more often than in the past years and were not limited to those two specific times of the year.

Mr. Murphy stated that for purposes of reviewing and looking at the future goals of the town, this was something that the board could always do.

Mr. Ware asked Commissioner Fowler his views and recommendations as to reviewing the Comprehensive Plan.

Commissioner Fowler stated that the town had an excellent planner as a consultant and would strongly recommend that we have Dave Healey look at our Comprehensive Plan on an annual basis to see that we were dovetailing with what the County and State required.

**DISCUSSION OF DUTIES AND RESPONSIBILITIES, cont.**

Mr. Ware asked if staff could get a cost of the fee for Mr. Healey reviewing the plan on an annual basis.

Mr. Murphy stated that the comprehensive land use plan was more of a long range land use plan; that it did not give specific measureable goals; that it acted as the guiding document for how the commission, staff and the board went about identify programs and policies; that this board had the opportunity to discuss more so than the practice and policy, to realistically look at the future vision for land use if it needed to be changed for reasons such as economic issues.

Mrs. Burton stated that certainly economics and other factors played a large role in what can be done today; that the town had put in writing the Comprehensive Plan as to what we are as a town, our heart and soul, and this was what we want to keep; that the heart and soul initially was a single family residential town and then over the years we had amended that because of different circumstances; that when something comes up before this board, for change, that we all need to look at how it would affect the town regarding the goals for the community; stated that the town had changed over the years; that the board needed to keep in mind what we are as a town and that if someone wanted to propose a change then we look at it very carefully.

Mrs. Carlen asked if everyone on the board had read the Comprehensive Plan.

Mr. Ware stated that he would like to have the board review the Comprehensive Plan chapter by chapter at a future meeting.

Mr. Acken stated that a few years ago the board reviewed the plan in its entirety; stated that with things that came before the board, that he always went back to what he thought the Town of Belleair should be; that it was a family orientated single family residential community, even though there were condominiums; spoke about the hotel property; stated that it would be good if we could save the hotel, but we have to go back to the family values we have in the town; stated that was why the Dimmitt Community Center was built.

Mr. Millspaugh stated he was one of the originally members of the Planning and Zoning Association of Pinellas County; stated that David Healey was probably the best choice for planning; stated that it was just a few years ago that someone reviewed the codes to bring us to be consistent with the Countywide rules.

Mrs. Carlen stated that the Comprehensive Plan was something that was consistently being worked on and that she had worked with Mr. Healey when he was with the Pinellas County Planning Council in 2003 when they were amending the plan; that the PPC and the MOP are the ones that kept us apprised of things that we need to take into consideration when amending our plan.

Mr. Ware stated that some of the changes made in 2009 was where a lot of historic preservation verbiage was added to our Comprehensive Plan; stated that there may need to be some changes made to the plan; spoke about writing business plans.

**DISCUSSION OF DUTIES AND RESPONSIBILITIES, cont.**

Mr. Acken stated that some of the sections written in the plan regarding historic preservation were added for structures other than the hotel; stated that there was a number of historic buildings located in Belleair that were also protected by the plan.

Discussion ensued regarding the historic preservation section in the Comprehensive Plan; regarding the tax base and revenues.

Ms. Carlen stated that reviewing the Comprehensive Plan would give the board a better idea of the language; that there was language in the plan regarding historic preservation; that it did not speak only to the hotel.

Mr. Murphy stated that the board could take up this item as an issue; that staff could bring some of the elements and languages and staff interpretations; that the board did not have to look at the whole comprehensive plan.

Mr. Ware stated that maybe this was something that this board should look at and also have the commission review as well.

Mrs. Burton stated that in the future when a member of this board wanted to speak to the board with a matter of concern that they wanted the town to take up, that there should be an item on the agenda to hear those concerns such as a new business item.

Mr. Murphy stated that there could be an item for "New Business"; stated that this item would be the perfect place to bring up those items that the members wished to discuss; that then that matter could be scheduled for a future date.

Mr. Ware inquired as to whether there had been a joint meeting of the planning and zoning and historic preservation boards; stated that if there was an extended dais together that it would a very interesting conversation regarding the comprehensive plan and historic preservation; that the boards overlap in a in a few ways.

Discussion ensued regarding the historic preservation board members; regarding members serving on more than one board; regarding historic preservation requirements for historically designated buildings.

Ms. Carlen stated that the duties and responsibilities of the historic preservation board are not the same as the planning and zoning board; stated that the planning and zoning board had a broader spectrum for amending the comprehensive plan and the land development code; that the historic preservation board did not.

Mr. Ware stated that it was his understanding that the historic preservation board did have a say about the future of specific properties; stated that he would like to have both the historic preservation board and the planning and zoning board together in a joint meeting to discuss this issue; asked Commissioner Fowler what his views would be on the subject.

**DISCUSSION OF DUTIES AND RESPONSIBILITIES, cont.**

Commissioner Fowler stated that it would be a good idea; stated that it would have to be a noticed meeting.

Mr. Ware expressed his concerns regarding the definition and of the role of commission advisors; stated that as a commission advisor, if there was something the board missed or talked about that the advisor should tell the board; that as from what he had been told that it really wasn't an advisory role; that it was more of a conduit to the commission to report back to their piers; that we should re-define the advisor's roles.

Mr. Murphy stated that the roles was listed under 95-13; that if the board and the commission have that conversation.

Mr. Ware stated that maybe Resolution No. 95-13 might need to be modified.

Mr. Murphy stated that a formal action by the commission would need to take place by resolution; stated that a board member or citizen could requested that the commission look at the issue as an item and then they would look at the issue; should they desire the change.

Mr. Murphy read Section No. 1, (l), to the board regarding the Commission Advisor; stated that the last part of that section might construe that the commission advisor would not be participating the board's discussion; that if a board member asked for the advisors opinion, he could decline.

Mr. Ware expressed his views regarding the commission advisor's roles; stated that he felt that paragraph l) should be rewritten; that he would study the resolution more.

Mr. Murphy asked the board if there were any other items that needed clarification for discussion; continued to review the roles of the board as shown on the summary under Section 66-93; spoke about the board's participation in the review of the development plans such as the 2008 redevelopment for the hotel; that those powers required in the Charter and Codes would be best to retain.

Mr. Murphy stated that what he heard from the board, was that the board would like to do a review in terms of structural changes and that the board wants to look at 95-13; stated that he did not hear any expansion or contraction, but rather there were a couple of items that the board had an opportunity to look and review as a result of the discussions.

Mrs. Burton stated that she did not feel that the board was obligated to make these decisions tonight.

Mr. Murphy stated that if there were specific items the board wanted to be changed in the advisory capacity of this board to let him know so that staff could draft those concerns and bring it to the commission for their meeting in April.

**DISCUSSION OF DUTIES AND RESPONSIBILITIES, cont.**

Mr. Ware made the motion to review Resolution No. 95-13 in terms of the role of the commission advisor in expanding and redefining their roles and responsibilities. There was no second to the motion. The motion died for a lack of a second.

Mr. Ware made the motion to take a close look at and study the historic preservation verbiage that was added to the Comprehensive Plan in 2009. There was no second to the motion. The motion died for a lack of a second to the motion.

Mr. Acken suggested that when there was a full board at a meeting, they could look at the Comprehensive Plan; stated that there was a lot of history with historic preservation and other items.

Mr. Millspaugh stated that since Mr. Ware had an interest in this issue, that Mr. Ware could review the plan and then maybe bring it up under new business at a future meeting; that the historic preservation ordinance had been in existence for many years.

Mrs. Burton stated that the original historic preservation ordinance was written in the 1990s'; stated that she was on the commission at the time and she was the one that worked with the town attorney's assistant to prepare that original draft; that it was originally written as an educational tool.

Mr. Ware stated that his concern was the language that was added to the Comprehensive Plan regarding historic preservation and then maybe the ordinance.

Mr. Murphy stated that the board could look at future changes and can review information at any time.

Discussion ensued regarding having a work session or special meeting to review the Comprehensive Plan.

Mrs. Burton stated that if there was no objection, the board could continue the subject until we hear from staff; stated that the planning and zoning board could then further discuss its interest regarding the Comprehensive Plan and zoning issues for the Town of Belleair.

Mr. Murphy stated that since the commission would be taking the item up in April, that after that meeting, staff would report back to the board as to the results of the commission conversation.

**COMMISSION ADVISOR'S REPORT**

Commissioner Fowler stated that he did not feel that it was the advisor's position to interject their thoughts where they may be contrary to what this board wants to do; stated that case and point was the RM-10 designation; that he firmly believed that the 80 foot limitations had huge unintended consequences; that he was meeting with Mr. Healey to discuss that issue as well as buffering and additional benefits that could be received from reducing it increasing green space and other items to make the RM-10 basically fit the Comprehensive plan as to the open green space, maintain the vistas

**COMMISSION ADVISOR'S REPORT, cont.**

and park like settings of the town; stated that he thought that having a joint meeting of the historic preservation board was a good idea; spoke about the insurance premium increase for historic properties; that there were some unintended consequences there as well.

Discussion ensued regarding the proposed purchase of the Belleview Biltmore Hotel.

Mr. Acken spoke about the rainwater debris pooling along Mehlenbacher.

Mr. Murphy inquired about the outfall and pollutants going into the bay along Sunset Bay and Winston; stated that the outfall was structured there to capture debris and does requires maintenances; that the stormwater department did go and clean those structures.

Discussion insured regarding stormwater issues along Mehlenbacher, Sunset Bay and Winston; regarding debris being blown out into the street; regarding the infrastructure board.

**ADJOURNMENT**

There being no further business to come before the board the meeting was adjourned in due form at 6:50 p.m.

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**Chairman**

# Summary

To: Mayor and Commissioners

From: Micah Maxwell, Town Manager

Subject: Discussion and Recommendation of Ordinance 497 – Amending the Land Development Code

Date: 5/8/2014

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**Summary:** The attached ordinance adds a new zoning category entitled “Planned Mixed Use” into the town’s Land Development Code.

**Previous Board Action:** The board has taken no action to date on the Planned Mixed Use option, though the idea of some type of planned mixed use was discussed by the board last fall.

**Background/Problem Discussion:** The purpose of the Planned Mixed Use (PMU) zoning district is to recognize the need and desirability of combining temporary lodging use with residential use in a manner that facilitates the redevelopment of the property that includes a historic recognition component consistent with and based upon any Special Certificate of Appropriateness approved in accordance with Sec. 74-332 of the Land Development Code,.

In particular, it is the objective of this district to provide an expanded range of uses and flexible standards directed at providing the economic incentives and practical considerations required to foster redevelopment in a manner that gives recognition to the historic tradition of the Belleview Biltmore property.

**Alternatives/Options:**

- I. Recommend Approval of Ordinance 497 to the town commission
- II. Recommend changes of Ordinance 497 to the town commission
- III. Recommend rejection of Ordinance 497 to the town commission
- IV. Make no recommendation

**Financial Implications:** N/A

**Proposed Motion:** I move that the planning and zoning board recommend to the town commission (Approval of Ordinance 497/ Approval of Ordinance 497 as amended/Rejection of Ordinance 497)

**PROPOSED ORDINANCE NO. 497**

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING THE TOWN OF BELLEAIR CODE OF ORDINANCES, PART II, SUBPART B LAND DEVELOPMENT CODE, PURSUANT TO THE REQUIREMENTS THEREFOR INCLUDING SECTIONS 66-10, 74-82, 74-84, 74-85, 74-86, 74-112; PROVIDING FOR NEW DEFINITIONS; PROVIDING FOR A NEW ZONING DISTRICT ENTITLED “PLANNED MIXED USE” (PMU); PROVIDING FOR THE PERMITTED USES AND STANDARDS APPLICABLE THERETO, INCLUDING DENSITY/INTENSITY, BUILDING SETBACKS, BUILDING HEIGHT AND A HEIGHT BONUS FORMULA; PROVIDING FOR FLEXIBILITY PURSUANT TO THE PLANNED DEVELOPMENT PROCESS; PROVIDING FOR A HISTORIC RECOGNITION COMPONENT; PROVIDING FOR DEVELOPMENT AGREEMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission of the Town of Belleair adopted the Code of Ordinances as set forth in Ordinance No. 349, on April 19, 1994, including Subpart B, Land Development Code; and

**WHEREAS**, the Town Commission of the Town of Belleair has from time to time approved amendments to the Land Development Code in order to reflect changed conditions and current needs in the Town; and

**WHEREAS**, the Town Commission over an extended period of time has reviewed and determined it necessary and prudent to update and revise the Land Development Code as set forth in the Ordinance; and

**WHEREAS**, the Town Commission has received and considered the input and recommendation of the Planning and Zoning Board as well as relevant public comment and testimony; and

**WHEREAS**, the Town Commission desires to amend the Land Development Code to establish a new planned mixed use zoning district that provides for a combination of temporary lodging and residential use designed to recognize an important historic resource in the Town; and

**WHEREAS**, the Town Commission finds it necessary and beneficial to establish provision for Development Agreements consistent with the Florida Local Government Development Agreement Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE** Town Commission of the Town of Belleair, as follows:

**Section 1.** The Land Development Code, Sec. 66-10 Definitions, is amended to add the following terms in their appropriate alphabetical order:

Historic Recognition Component – shall mean a project that includes a component part that both symbolizes and is directed at recognizing the historic value and importance of the Belleview Biltmore Hotel for the Town’s cultural, social, economic, political and architectural heritage based on an affirmative determination pursuant to the criteria for such determination set forth in Sec. 74-85(j) of this code.

Inn – A temporary lodging use providing individual sleeping rooms for overnight guests for temporary occupancy and such accessory uses as dining, meeting, recreational, sundry and like facilities normally attendant to and in proportion to the number of temporary lodging units available.

Temporary Lodging Use – A facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one(1) month, more than three (3) time in any consecutive twelve (12) month period, including a hotel or inn. A temporary lodging use does not include a residential dwelling, group home, boarding house or residential equivalent use.

Temporary Lodging Unit – An individual room, rooms or suite within a temporary lodging use designed to be occupied as a single unit for temporary occupancy.

**Section 2.** The Land Development Code, Sec. 74-82. Schedule of district regulations, is amended to insert the Planned Mixed Use (PMU) district in the table as set forth below:

<i>District</i>	<i>Purpose</i>	<i>Permitted Use</i>	<i>Accessory Structures and Accessory Uses</i>
RM-10, multifamily residential	This district is composed of low medium-density (10 units per acre) multiple-family residential dwelling areas where it is likely and desirable to provide for such type of development.	Single-family dwellings Duplex dwellings Multifamily residential (See section 74-83(a))	Private garages and carports Private swimming pools, hot tubs, and cabanas Gazebos Storage buildings, fences and fence walls Public parks, playgrounds and recreation areas Utility service structures
RM-15, multifamily residential	This district is composed of medium-density multiple-family residential areas with additional open areas where it is likely and desirable to extend such type of development.	Single-family dwellings Duplex dwellings Multifamily residential (See section 74-83(b))	Private garages and carports Private swimming pools, hot tubs, and cabanas Gazebos Storage buildings, fences and fence walls Public parks, playgrounds and recreation areas Utility service structures
RPD, residential planned development	This district allows variable-density areas with supporting service facilities	Planned unit development Single-family dwellings Multiple-family dwellings (See section 74-83(c))	Private garages and carports Private swimming pools, hot tubs and cabanas Fences and fence walls Parks Utility service structures Golf courses, provided that the clubhouse is located over 300 feet from any dwelling Recreational facilities and structures Marinas
H, hotel	This district is intended to provide transient residential accommodations compatible with medium-density multifamily residential development.	Hotels and uses permitted in the RE district (See section 74-83(d))	Guest cottages Private swimming pools, hot tubs and cabanas Servant's quarters Spas Tennis courts Fences and fence walls Playgrounds, public parks and recreation areas Public rooms for eating and drinking within the primary hotel structure Shops and offices authorized in the C-1 district and within the primary hotel structure Utility service structures
PMU, planned mixed use	This district provides for temporary lodging and multifamily residential use with the objective of facilitating the redevelopment of the property inclusive of a historic recognition component.	Temporary Lodging use, including Hotel and Inn Multifamily Residential, when done in conjunction with Temporary Lodging Use (See section 74-85)	Uses accessory to Residential Use enumerated for the other Residential categories; and uses accessory to Temporary Lodging Uses, including dining, meeting, recreation, sundry and like facilities common to a Hotel or Inn

Note: All other parts of this table in Sec. 74-82, including the footnotes thereto, other than as noted above in red and underlined remain as previously set forth.

**Section 3.** The Land Development Code, Sec. 74-84. Schedule of dimensional regulations, is amended to insert the PMU district in the table as set forth below:

DRAFT

The schedule of dimensional regulations for the various zoning districts is as follows:

District	Lot Minimums			Density Maximum Dwelling Units per acre	Minimum Yard Setbacks			Minimum Offstreet Parking per Dwelling Unit <sup>1</sup>	Maximum Offstreet Dwelling	Maximum Height <sup>3</sup> (feet)	Flood Zone	Minimum Living Area per Unit <sup>2</sup> (square feet)	Floor Area Ratio (FAR)
	Area (Square Feet)	Width (feet)	Depth (feet)		Front (feet)	Side (feet)	Rear (feet)						
RM-10 <sup>5</sup>	5 acres	---	---	10	25	15 <sup>4</sup>	25	1.5		32	34	1,500	---
RM-15	10,000	100	100	15	25	7.5 <sup>4</sup>	15	1.5		32	34	1,000	---
RPD	5 acres	---	---	5	(See section 74-83)			1		32	---	1,200	---
H	17.5 acres	---	---	28	(See section 74-83)			1		32	34	300	0.4
<u>PMU</u>	<u>17.5 acres</u>				<u>See Sec. 74-85 for standards applicable to the Planned Mixed Use (PMU) District</u>								

Note: All other parts of this table in Sec. 74-84 other than as noted above in red and underlined are as previously set forth.

<sup>1</sup> See article III, division 3, of this chapter, pertaining to Off-street parking regulations.

<sup>2</sup> Exclusive of garages, breezeways, porches and patios.

<sup>3</sup> The height regulations contained in this section shall mean 32 or 34 feet from grade to the highest finished roof surface in the case of a flat roof, or to

<sup>6</sup>For impervious surface ratio, see section 74-112,

<sup>7</sup>On waterfront lots, all buildings, including guest cottages and servants quarters, shall be set back a minimum of 20 feet from the mean highwater mark or the seawall

<sup>8</sup>All setbacks are measured from property lines except as noted.

(Ord. No. 300, § III(2.02.02), 11-7-90; Ord. No. 318, § 5, 6-2-92; Ord. No. 328, § B(2.02.04), 8-3-93; Ord. No. 342, § 1, 11-2-93; Ord. No. 363, § 2, 3-19-96;

**Section 4.** The Land Development Code, Sec. 74-85. Create a new Sec. 74-85 to read as follows:

Sec. 74-85. Special Regulations for Planned Mixed Use (PMU) District.

- (a) *Purpose.* The purpose of the Planned Mixed Use (PMU) zoning district is to recognize the need and desirability of combining temporary lodging use with residential use in a manner that facilitates the redevelopment of the property that includes a historic recognition component consistent with and based upon any Special Certificate of Appropriateness approved in accordance with Sec. 74-332 of the Land Development Code,.

In particular, it is the objective of this district to provide an expanded range of uses and flexible standards directed at providing the economic incentives and practical considerations required to foster redevelopment in a manner that gives recognition to the historic tradition of the Belleview Biltmore property.

- (b) *Correlation with the Future Land Use Plan.* The PMU Zoning district shall only be eligible for consideration and utilization in conjunction with the Commercial General plan category of the Future Land Use Map.
- (c) *Permitted Uses.* Permitted uses in the PMU district include the following:
- (1) Temporary Lodging Use, including Hotel and Inn
  - (2) Multi-family Residential Use, when part of a plan that includes Temporary Lodging Use
  - (3) Accessory Uses to Temporary Lodging and Residential Use
- (d) *Density/Intensity Standards.* The maximum permitted density/intensity standards for the PMU district for projects that satisfactorily address the Historic Recognition Component criteria of this ordinance shall be as follows:
- (1) Temporary Lodging Use – Forty-two (42) temporary lodging units (tlu) per acre.
  - (2) Multi-family Residential Use in conjunction with Temporary Lodging Use – Ten (10) dwelling units (du) per acre.
  - (3) Mixed use projects may combine both Temporary Lodging Use and Multi-family Residential Use based on the maximum density/intensity allowed for each use, calculated on the basis of the proportionate share of the property attributed to each use.
  - (4) The maximum permitted impervious surface ratio (ISR) for the PMU district shall be sixty (60) percent.

- (e) *Minimum District and Unit Size.* Shall be as follows:
- (1) The minimum district size for utilization of the PMU district shall be seventeen and one-half (17.5) acres.
  - (2) The minimum living area of any residential dwelling unit shall be one thousand five hundred (1,500) feet.
  - (3) The minimum room size for any temporary lodging unit shall be three hundred (300) square feet.
- (f) *Building Setbacks and Separation Distances.* Shall be as follows:
- (1) The minimum required setback distance for the portion of any building or structure that does not exceed thirty two (32) feet in height shall be twenty five (25) feet from the edge of pavement/curb for the perimeter roadways.
  - (2) The minimum required setback distance for the portion of any building or structure, that exceeds thirty-two (32) feet in height shall be fifty (50) feet from the adjoining roadway centerline or property line – whichever provides for the greater setback distance.
  - (3) The minimum separation distance between buildings or structures shall be one-half (0.5) the height of the higher of any two structures and meet the minimum required by the applicable building code requirements.
- (g) *Building Height.* Shall be regulated as follows:
- (1) The maximum permitted building height shall be as follows, subject to the provisions for height bonus set forth as herein:
    - a. Temporary Lodging Use – Fifty-six (56) feet
    - b. Residential Use – Thirty-two (32) feet
  - (2) Height bonus provisions shall be as follows:
    - a. The provisions in this section are cumulative and additional height may be authorized on the basis of one or all of these provisions; however, in no event shall the height of any building in the PMU zoning district exceed eighty (80) feet.
    - b. To be eligible for any height bonus, the average height of all buildings in the development, in proportion to the floor area of the first habitable floor of all buildings in the development, must not exceed eighty-eight (88) feet.
    - c. Should a building take advantage of the parking height bonus identified in this section, the applicable height of the building will be reduced, as it relates to

height calculation for average height, by the distance, measured from floor to floor of any designated parking floor, provided that:

1. Seventy-five percent (75%) of parking floor area is dedicated to parking; and
  2. The cumulative height of all parking floors above grade in a given building is below twenty percent (20%) of the unadjusted building height.
- d. The following four provisions may be used to qualify for a height bonus, either singularly or in combination, consistent with the above stated conditions:
1. Setbacks – The height of a building may be increased by one-half (0.5) foot up to a maximum of one-half of the height permitted as of right for every additional one (1) feet of additional setback above and beyond that which is required based on the average setback for all buildings.
  2. Structured Parking – The height of a building may be increased up to a maximum of one-half of the height permitted as of right if fifty percent (50%) or more of the required parking is provided for in a parking structure beneath the building.
  3. Impervious Surface – The height of a building may be increased up to a maximum of one-half of the height permitted by right, provided that the impervious surface ratio for the site is less than fifty percent (50%) of the total site area.
  4. Average Height - The height of a building may be increased up to a maximum of one-half of the height permitted by right, provided that the average height of all buildings on the site, in proportion to the floor area of the first habitable floor of all buildings, does not exceed fifty-six (56) feet.
- (h) Parking. Parking requirements for the PMU district shall be as follows:
- (1) Temporary Lodging Use and uses accessory thereto – One (1) parking space per temporary lodging unit; plus one (1) parking space for each employee anticipated to be on the property at any one time.
  - (2) Residential Use and uses accessory thereto – Two (2) parking spaces per dwelling unit plus one (1) parking space for every three (3) dwelling units.
  - (3) All other provisions for parking and loading shall be consistent with Article III, Div. 3, Off Street Parking and Loading.
- (i) *Planned Development Flexibility Provisions.* The enumerated standards for district and unit size, and separation distances, setbacks, building height, and parking are as set forth herein, except that the Commission may approve such adjustment to one or more of these standards under the planned development district process based on the merits of the specific site development plan, consistent with and based upon achieving the objectives of the historic recognition components of this ordinance.

Any such flexible adjustment may only be approved, and will be explicitly determined and set forth, as part of a Development Agreement approved by the Commission pursuant to Sec. 74-86. Development Agreements of the Town Code.

- (j) *Historic Recognition Component.* The recognition of historic characteristics embodies a series of factors that reflect the importance of a given structure or property to a community and the larger public interest. These factors may include the nature of the use itself, the unique architectural or structural composition of a building, the historic significance of a site or location, and the economic, social, and cultural importance to a community or region. Each of these factors should be considered in determining the need, value and practicality of recognizing and preserving, replicating, or symbolizing in some form, one or more of these contributing aspects of historic preservation.

This Historic Recognition Component section shall apply only in the event that a Special Certificate of Appropriateness has been approved pursuant to and consistent with the criteria of Sec. 74-332, Historic Preservation of the Land Development Code and the proposed project accompanying the application for the Special Certificate of Appropriateness has submitted application for rezoning to Planned Mixed Use (PMU).

For the purposes of this ordinance and determining the eligibility of a given project to qualify for the combination of use, increased density/intensity, height bonus, and related planned development flexibility provisions set forth herein, the following criteria will be evaluated by the Town as part of its determination to approve a Planned Mixed Use zoning amendment and the corresponding site development plan and Development Agreement.

- (1) General Criteria. The factors to be evaluated shall include:
- a. Use of the Property. – The proposed Temporary Lodging Use shall provide temporary lodging that is representative of the historic use of the property.
  - b. Unique Architectural Composition. – The proposed Temporary Lodging Use shall reflect or replicate the character defining features of the exterior architectural style and appearance of the Belleview Biltmore Hotel as shown in Appendix A to a reasonable degree, such that any new building incorporates one or more of the original building’s defining architectural features.

There shall be a reasonable attempt to utilize building materials and artifacts from the existing building in any new or replicated structure, such that the history of the original structure and its memorabilia can be identified, observed and used as an educational link to the past.

- c. Site/Location. The project shall honor and reflect the original site through the location, addition, or any new replacement building relative to its positioning, approach and relationship to the site as a whole.

- d. Economic Contribution. The proposed project shall provide, to a reasonable degree, an economic contribution that is of benefit to the community that would be otherwise lost if no temporary lodging use was included.
  - e. Social, Cultural and Community Heritage. The proposed use shall contribute to the historical character, identity and social and cultural heritage of the Town as a whole.
- (2) Specific Design Criteria. The design of the temporary lodging use and any accessory use thereto shall replicate the character defining features of the original exterior architectural style of the original Belleview Biltmore Hotel as shown in Appendix A attached hereto and hereby made a part of this Ordinance. The intent of this provision is to include, to the extent practical and consistent with current building code standards, the following design components:
- a. Victorian architecture with Queen Anne style ornamentation
  - b. Minimum height of three (3) stories and maximum height of four and one-half (4.5) stories; with clear division of stories
  - c. Intersection gabled, moderately pitched, roof
  - d. Broad verandas at main entrances.
  - e. Multiple chimneys.
  - f. Exterior style and character of the architectural treatment.
  - g. Use of original construction material<sup>s</sup> indigenous to the area at the end of the 19<sup>th</sup> century, including those materials that may be salvaged or harvested from the existing building.

**Section 5.** The Land Development Code, Sec. 74-86. Create a new Sec. 74-86 to read as follows:

Sec. 74-86. Development Agreements

- (a) *Purpose.* The purpose of the Development Agreement process is to enable the detailed review of projects to be considered pursuant to the major development provisions of the Town Code in general and the Planned Mixed Use (PMU) zoning district in particular to ensure compliance with the objectives and standards thereof; as well as to comply with the requirements of Section 4.2.7.6 of the Countywide Rules with respect to temporary lodging use standards as may be necessary.
- (b) *Submission Requirements.* Application for a Development Agreement shall include the information required for site plan review, any additional information required to determine compliance with or the basis for adjustment of the development standards and historic recognition provisions of this ordinance, and as otherwise determined necessary by the Town based on the specific features of the proposed development project.

- (c) *Procedures.* The procedures for consideration and action on a Development Agreement shall, at a minimum, be consistent with and meet the requirements of the Florida Local Government Development Agreement Act (Sec. 163.3220-163.3243, F.S.). In particular, the procedure shall include the following:
- (1) *Public Hearings.* Before entering into, amending, or revoking a Development Agreement, the Town shall conduct at least two public hearings. At the option of the Town Commission, one of the public hearings may be held by the Planning and Zoning Board.
  - (2) *Notice of Intent.*
    - a. Notice of intent to consider a Development Agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in the county. Notice of intent to consider a Development Agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.
    - b. The notice shall specify the location of the land subject to the Development Agreement, the development uses proposed on the property, the proposed densities, intensities and building height, and shall specify a place where a copy of the proposed agreement can be obtained.
  - (3) *Commission Action.* Upon conclusion of the second public hearing, the Town Commission shall approve, approve with conditions, or deny the application to enter into a Development Agreement. If the Town Commission proposes a change to the proposed Development Agreement at the second public hearing, the Commission may continue the hearing on a date certain to allow for a written revisions of the proposed Development Agreement to be provided to the Commission for consideration.
  - (4) *Corresponding Relief.* The Town Commission, in approving a Development Agreement, is authorized, to grant relief from any provision of the Land Development Regulations that is otherwise authorized to be waived, varied, or granted by the Land Development Regulations, except that no such waiver or variance shall be made to the permitted uses or maximum permitted density and/or intensity standards.
  - (5) *Plan Incorporation.* All plans, schematics, and conditions approved by the Town Commission will become part of, or properly identified and referenced in the Development Agreement for the project.
- (d) *Content.* At a minimum, a Development Agreement shall include the following:
- (1) A legal description of the land subject to the agreement, and the names of its legal and equitable owners;
  - (2) The duration of the agreement;

- (3) The development uses permitted on the land, including densities, intensities and building height;
- (4) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development;
- (5) A description of any reservation or dedication of land for public purposes;
- (6) A description of all local development permits approved or needed to be approved for the development of the land;
- (7) A finding that the development permitted or proposed is consistent with the Town's Comprehensive Plan and Land Development Regulations;
- (8) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety, or welfare of its citizens;
- (9) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restriction; and
- (10) Such additional information or requirements as the Town may determine necessary.

A Development Agreement may provide that the entire development, or any phase thereof, be commenced or completed within a specific period of time.

(e) *Effect of Subsequent Code Changes.* Upon approval and execution of a Development Agreement, the Town's codes and ordinances governing the development of the land at the time of the execution of the Development Agreement shall govern the development of the land for the duration of the Development Agreement. The Town may apply subsequently adopted laws and policies to a development that is subject to a Development Agreement only if the Town has had a public hearing and determined that one or more of the following apply:

- (1) They are not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities, or densities in the Development Agreement;
- (2) They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a Development Agreement;
- (3) They are specifically anticipated and provided for in the Development Agreement;
- (4) The Town demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the Development agreement; or

- (5) The Development Agreement is based on substantially inaccurate information supplied by the developer.
- (f) *Duration, Amendment, Filing.* The following shall govern Development Agreements approved pursuant to the Section:
  - (1) The duration of a Development Agreement may not exceed 30 years, unless it is extended by mutual consent of the Town Commission and the developer, subject to public hearings as required for the initial approval.
  - (2) The Town shall review land subject to a Development Agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the agreement. If the Town finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the Development Agreement, the agreement may be revoked or modified by the Town.
  - (3) A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
  - (4) Within 14 days after execution of a Development Agreement, the Town shall record the agreement with the Clerk of the Circuit Court. A Development Agreement is not effective until it is properly recorded in the public records of the county. The burdens of the Development Agreement shall be binding upon, and the benefits of the agreement shall inure to, all successor in interest to the parties to the agreement.
  - (5) If state or federal laws are enacted after the execution of a Development Agreement which are applicable to and preclude the parties' compliance with the terms of a Development Agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

**Section 6.** The Land Development Code, Sec. 74-112. Impervious surface coverage, is amended to add the PMU district to subparagraph (e) Table of Impervious Surface Ratios as set forth below:

(e) *Table of impervious surface ratios.* Maximum impervious surface ratios shall be as follows:

<i>Zoning District</i>	<i>Maximum Impervious Surface Ratio<sup>1</sup></i>
RE, R-1 and R-2 (residential districts)	60 percent
RM-10 and RM-15 (multifamily districts)	60 percent
RPD (planned residential district)	60 percent
H (hotel district)	70 percent
PMU (planned mixed use)	60 percent
C-1 and C-2 (office and retail districts)	75 percent
C-3 and C-4 (retail and product distribution districts)	75 percent
C-5 (storage district)	75 percent
GC	As approved under site plan review
P: Institutional uses	85 percent
Transportation uses	90 percent
SPM	75 percent

<sup>1</sup> The maximum impervious surface ratio is given for each district, regardless of the type of use proposed and allowable pursuant to article II of this chapter.

**Section 7.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

**Section 8.** The effective date of this ordinance shall be the date the final ordinance is read and approved by the Town Commission as provided by law.

**PASSED ON FIRST READING:**

**PASSED ON SECOND AND FINAL READING:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Town Clerk**