

DIVISION 5. - MIXED USE OVERLAY DISTRICTS

Sec. 98-959. - Establishment and jurisdiction of overlay districts.

In addition to the conventional zoning districts established by the zoning code, the following regulatory and incentive based overlay district is hereby created:

Mixed use overlay district for a special needs community (MOD-SN). This district shall only apply in conjunction with these conditions:

- (1) The underlying zoning (base zoning) district is R-2, one-, two- and multifamily dwelling, R-3, multiple-family dwelling; and
- (2) Specific parcels of land have received or are in the process of receiving conceptual multifamily plan approval under the R-2 or R-3 zoning for the residential component; and
- (3) A mixture of three or more uses is proposed on a project area of at least ten acres of vacant land with significant physical integration of uses and facilities shown in a conceptual master plan accompanying the request for the overlay zoning; and
- (4) Land uses in the immediate area are compatible with the living environment required by special needs residents as demonstrated by the surrounding areas of a significant portion of the site being vacant undeveloped sites or having physical separation on at least three sides characterized as roads, canals, wetlands and other non-habitable land features with land mass. Fences and a ten-foot wide landscape buffer are not sufficient to meet these criteria; and
- (5) A narrative is submitted that describes the target population's clinical diagnostic special needs and the manner that the project accommodates this group.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-960. - Purpose and intent.

- (a) The purpose of the MOD-SN district is to establish areas within the city limits of the City of West Melbourne to further the goals, objectives and policies of the housing element of the comprehensive plan relating to "the development of effective local development practices to support successful private development efforts to meet the city's diverse housing needs" and to "increase housing options and community livability by establishing mixed-use development and design standards through which residential dwelling units, and nonresidential uses such as commercial and office space which are intermixed with public amenities".
- (b) The intent is to maximize housing opportunities for the city's persons with disabilities/special needs in areas that are in close proximity and are accessible to other community resources as characterized in part by ease of access to the regional highway system, and to provide opportunity for new development which is aesthetically pleasing, sensitive to existing development and fiscally beneficial to city services in a compact area.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-961. - Area.

For purposes of this section, the term "mixed use overlay district for special needs community" shall only apply to those properties which meet the criteria described above, including a size of ten acres, and applying for the mixed use overlay with an initial master plan.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-962. - Initial master plan required.

The application of the mixed use overlay district for special needs community requires an approved initial master plan to ensure that all types of uses and associated services are compatible. This initial master plan may be combined with the multifamily conceptual plan or processed after the multifamily residential conceptual plan has been approved. The planning and zoning board is designated as the approval authority. The decision of the planning board for the initial master plan may be approval, approval with conditions, or denial.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-963. - Permitted types of uses and associated services.

All uses by right and uses by conditional use shall be identical to those uses so permitted in the R-2 zoning district with the following additional regulations:

(1) *General requirements.*

- a. The residential component shall comprise at least 33 percent of the overall mixed use project and no more than 75 percent of the total project.
- b. Significant physical integration of at least three distinct uses and facilities shall be shown in an initial master plan.

(2) *Types of uses.* The site may also contain any of the following uses and associated services to ensure there are at least two other principal uses in addition to the residential component:

- a. Therapeutic services to include "equestrian amenities" for horse riding program to include barn and stables along with a designated fenced riding area or ring; or small domestic animal care and training, but not dog kennels.
- b. Either commercial or resident-only agricultural gardening related uses.
- c. Either commercial or resident-only vocational training and opportunities of on-site facilities including:
 1. A farmer's market.
 2. Plant nursery.
 3. Thrift store.
 4. Hair/nail salon.
 5. Dog daycare (continuous kennel not allowed).
 6. Culinary arts.
 7. Cafe and bakery.

8. Landscaping and property maintenance.
9. Special needs "bed and breakfast".

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-964. - Prohibited uses.

The prohibited uses and structures in the mixed use overlay district for special needs community (MOD-SN) are as follows:

- (1) Manufacturing activities, transportation terminals, storage warehousing (other than the goods produced or needed for the uses on-site) and other activities of a similar nature.
- (2) "Bed and breakfast" or other hotel arrangement with more than ten rooms.
- (3) Dog kennel.
- (4) All uses not specifically or provisionally permitted.
- (5) Any use not in keeping with the character of the district.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-965. - Initial master plan review and approval.

Initial master plans shall be submitted to and approved by the city in accordance with the following provisions listed here in addition to the minimum conceptual multifamily site plan criteria. Final master plans are subject to the site plan criteria in the city codes and those developments for which plat approval is otherwise required by applicable ordinances and laws, such as single-family subdivisions and townhouse lots, which are regulated by the subdivision code.

Initial master plan submittals shall provide:

- (1) Draft documents that demonstrate that all land included for purpose of development as a mixed use overlay are under the legal control of the applicant, whether the applicant is an individual, partnership or corporation or group of individuals, partnerships or corporations, or is delegated to a professional management organization. The applicant shall state agreement to:
 - a. Proceed with the proposed development according to the provisions of this section and such conditions as may be attached during the conceptual site plan for the multifamily component;
 - b. Provide agreements, contracts, deed restrictions, and sureties for completion of the development according to the approved plans and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at public expense unless connected to funding by the State of Florida and federal government; and
 - c. Bind their successors in title to any commitments made under subsections a. and b. aforementioned.
- (2) All such agreements and evidence of unified control shall be examined by the city attorney and no mixed use overlay shall be approved without determination by the city attorney that such agreements and evidence of unified control meet the requirements of this district.
- (3) Within the boundaries of the MOD-SN project area, the R-2 and R-3 zoning district minimum lot sizes

are not applicable. However, the density, percent of the site covered by paved surfaces and open space shall be included and all perimeter setbacks shall apply.

- (4) Direct access to arterial streets, collector streets and other transportation facilities without creating or generating traffic along local streets in residential areas.
- (5) All necessary stormwater management, street access, paved streets, parking facilities, fire hydrants and street lighting making provision for service and access with adjoining properties under other ownerships.
- (6) Further, where existing streets or traffic control devices are affected by the development, the developer shall provide the necessary changes or additions as may be required by the city, including installation of a street illumination light at the intersection of the project entrance and a public road.
- (7) MOD-SN mixed use projects shall be so located and developed in relation to sanitary sewer and potable water lines, storm and surface drainage systems and other utility systems and installations such that neither extensions, nor enlargement of such systems will be required in manner, form, location, degree, scale or timing resulting in higher public costs or earlier inclusion of public costs than would development generally permitted under existing zoning in the area.
- (8) The developer shall place all utility lines underground. All telephone lines shall be placed underground. Service lateral electrical distribution lines serving individual installations shall be placed underground. Other high voltage electrical lines may be placed underground or on concrete poles provided the poles are within street right-of-way and have provisions for street lighting. Large transformers shall be placed on the ground and be contained in pad mounts, enclosures or vaults. Where enclosures or vaults are used, the construction shall be compatible with the primary building design. Landscaping with shrubs and plants shall be provided to screen the pad mount transformers.
- (9) Common open space shall be a required component of the overall development and shall be calculated as a percentage of the total gross acreage of the MOD-SN project area.
- (10) Open space shall include active and passive recreation areas such as urban plazas, playgrounds, golf courses, waterways, nature trails and other similar open spaces, and shall not include retention areas (unless improved with park amenities, such as fountains, benches, and walkways). Additionally, the developer may be given open space credit for privately owned water bodies.
- (11) Internal compatibility and design:
 - a. The MOD-SN project area shall provide for a cohesive system of pedestrian and bicycle pathways, as well as an interesting vista that includes street trees, sidewalk treatments, and lighting;
 - b. The overall development shall make use of existing natural features and interesting topography;
 - c. The mix of land uses should be designed to be compatible and complimentary.
 - d. Building designs shall provide for architectural styles that are compatible with surrounding development or design standards consistent with the architecture.
 - e. Open space shall provide for quality recreational amenities, including fountains, passive recreational amenities such as benches and lighting.
 - f. Projects in existing urban contexts shall provide urban amenities, such as on street parking,

amenities for bicycle users, and public meeting areas.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-966. - Design requirements and other standards.

In evaluation and consideration of an application for the mixed use overlay district for special needs community, the city shall consider the following design criteria:

- (1) *Architecture.* Architectural renderings shall be submitted along with the initial master plan to assist in identifying a unified architectural theme throughout the site. Exterior building facades, roof materials and signage shall use similar building materials and display a consistent use of these elements in the overall design. The architectural design shall incorporate the following design features:
 - a. Roofline accessories: Cornice molding, parapets, fake dormers and similar features on buildings with sloped roofs, except pole barns and utility buildings less than 150 square feet.
 - b. Building massing relief features: Columns, faced engraving/etchings, recessed and protruding wall planes, overhangs, lighting or other similar features.
 - c. Special pavement treatment at the entrance and pedestrian crosswalks: Bricks, stones, etched or painted surfaces or other contrasting natural materials.
 - d. Wide entrance sidewalk for safe, comfortable and attractive pedestrian access and circulation.
 - e. Amenities: Open space shall provide for quality recreational amenities including fountains, passive recreational amenities such as benches, picnic tables, trails and lighting.
- (2) *Site layout.* Site design and compatibility controls are provided to ensure that the physical and operational characteristics of proposed development are compatible when considered within the context of the surrounding areas and uses.
 - a. "Equestrian amenities" shall be located to the interior of the site and use natural vegetative or other amenities to create a visual buffer from any adjacent sites.
 - b. On-site facilities that may be "open to the public" shall be oriented toward the street to be easily accessed by the public. Clearly identify the facilities that will be open to the public.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)

Sec. 98-967. - Expiration periods.

The initial master plan approval shall be effective for 18 months. The final master plan approval shall be:

- (1) Filed within 18 months from the approval by the planning and zoning board of the initial master plan. At the request of the developer, and for good cause shown, city staff may extend for not more than two years the period required for the filing of said application for final master plan approval. In order for city staff to grant said extension the developers shall be required to provide documentation showing good cause for the extension (i.e., cause from other reviewing agency, actions from other reviewing agency causing delay, natural disaster, etc.).
- (2) If the developer has not obtained final master plan approval prior to the expiration of this two-year

extension by city staff, or after 36 months total from time of initial master plan approval, the developer may apply to the planning and zoning board for a final extension up to two years. No extensions (from the city staff and planning and zoning board) will be granted beyond a total of five years.

- (3) Approval of this final two-year extension by the planning and zoning board is in no way guaranteed. The board has the option to re-evaluate the development and place additional conditions/restrictions on the developer, including but not limited to, requiring the developer to comply with any development regulations enacted subsequent to the approval to the initial master plan and to ensure that public health and safety is assured.
- (4) The final application may request approval for the entire development or any stage specified in the initial master plan. If approval is not requested for the entire development, the developer shall have one year from approval of the final application to file for approval of any or all of the remaining stages specified in the preliminary master development plan. Request for extension shall be as previously noted.

(Ord. No. 2013-28, § 1(Exh. A), 12-3-2013)