

# Courthouse Shadows MPUD (PL20180003658)

## Evaluation Criteria

Pursuant to LDC subsections 10.02.13 B, 10.02.08 F and Chapter 3 G. of the Administrative Code, staff's analysis and recommendation to the Planning Commission, and the Planning Commission's recommendation to the Board of County Commissioners shall be based upon consideration of the applicable criteria. Provide a narrative statement describing the rezone request with specific reference to the criteria below. Include any backup materials and documentation in support of the request.

**The Courthouse Shadows Mixed Use Planned Unit Development (MPUD) is a 20.35± acre property located on the southeast corner of the intersection of Tamiami Trail East (U.S. 41) and Airport Road. The property is designated Activity Center #16 on the Future Land Use Map. A companion small-scale plan amendment has been submitted which proposes to permit an increase in density for a 10 acre portion of this project located within the activity center as a development option for this PUD.**

**The PUD has been developed to date with approximately 150,000 square feet of retail and office commercial uses. This amendment adds development of up to 300 multi-family apartments as an option for the site. An alternative Master Plan (Exhibit C1) option identifies the location of the potential residential dwellings and the area that would remain for commercial uses. Additional deviations have been requested for the residential development option.**

- a. The suitability of the area for the type and pattern of development proposed in relation to physical characteristics of the land, surrounding areas, traffic and access, drainage, sewer, water, and other utilities.

**The Courthouse Shadows is an established commercial PUD, which has been substantially developed with a variety of commercial uses. Infrastructure is in place to serve the existing and proposed uses. The residential mixed-use development option if developed will reduce transportation impacts versus that of the approved commercial PUD.**

- b. Adequacy of evidence of unified control and suitability of any proposed agreements, contract, or other instruments, or for amendments in those proposed, particularly as they may relate to arrangements or provisions to be made for the continuing operation and maintenance of such areas and facilities that are not to be provided or maintained at public expense. Findings and recommendations of this type shall be made only after consultation with the county attorney.

**The applicant controls a majority (approximately 18.8± acres) of the developed land within the Courthouse Shadows PUD.**

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- c. Conformity of the proposed PUD with the goals, objectives and policies of the Growth Management Plan. (This is to include identifying what Sub-district, policy or other provision allows the requested uses/density, and fully explaining/addressing all criteria or conditions of that Sub-district, policy or other provision.)

**The Courthouse Shadows PUD is located in the Urban Commercial District, Mixed Use Activity Center Subdistrict and the Bayshore/Gateway Triangle Redevelopment Overlay of the Future Land Use Element of the Collier County Growth Management Plan. The list of permitted uses within the PUD is being modified to add residential dwelling units as a permitted use, along with appropriate development standards. Uses are consistent with the Collier County Growth Management Plan.**

### FUTURE LAND USE ELEMENT

**The project is located within Activity Center #16 on the Future Land Use Map. The project is also located within the Bayshore/Gateway Triangle CRA Overlay. Mixed Use Activity Centers are intended to provide for both commercial and residential development. The PUD amendment is accompanied with a small-scale comprehensive plan amendment, which proposes to permit increased density on a 10-acre portion of the site. The application proposes a total of 300 multi-family apartments on approximately 18.8 acres of the 20.35 acre PUD. The property plans to utilize up to 97 units from the density pool, in addition to the base density of 4 dwelling units per acre, with the balance of the 300 units resulting from the units permitted by the small-scale amendment. The density calculations are as follows:**

<b>Activity Center</b>	<b>18.8 ac x 4 du/ac = 75 units</b>
<b>Bonus Pool Units</b>	<b>97 units</b>
<b>Proposed Small-scale</b>	<b>10 ac x 12.8 du/ac = 128 units</b>
<hr/>	
<b>Total</b>	<b>300 units</b>

<b>Net Density for 18.8 acres residential area</b>	<b>16 du/ac</b>
<b>Gross Density for PUD (20.35)</b>	<b>14.74 du/ac</b>

**A map amendment to Activity Center #16 is also included with the small-scale amendment application, which identifies the 10-acre area in which the increased density will be applicable.**

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The PUD as proposed is consistent with the Future Land Use Element as revised by the companion small-scale amendment.

Policy 5.5 of the FLUE discourages urban sprawl, by confining urban levels of development to the urban designated areas of the County. The subject site is within the urban boundary, and is designated for higher intensity commercial and residential uses. Urban services are available to the site and adequate capacities exist for water, sewer and transportation.

Policy 5.6 of the FLUE requires that new projects are compatible with and complimentary to surrounding land uses. The proposed mixed-use development will provide shopping and living opportunities for the surrounding area. The conceptual PUD master plan has been designed to insure compatibility with the planned residential communities located to the south and east of this project. The residential options for this PUD will provide buffers meeting the minimum landscape buffer requirements between residential dwellings as required by the Land Development Code, which have been determined to provide a compatible relationship with adjacent projects. The subject PUD will also be installing a vegetative buffer meeting minimum standards per the Land Development Code for buffers separating commercial and residential development. Appropriate development standards have been included in the PUD.

Objective 7 and the implementing objectives and policies of the FLUE promote smart growth initiatives and connectivity. The subject PUD application will be a mixed-use planned community and although the residential and commercial will be built on separate building tracts, the residential dwellings will have internal access to the commercial component of the PUD. This interconnectivity will encourage walkability and reduce the necessity to utilize the adjacent arterial roadway for access to commercial needs. A local roadway connection to Peters Avenue will be maintained, which meets the intent of Objective 7.

The site is within the City of Naples Water District and the Collier County Sewer District and the development proposed will be served by the City of Naples and Collier County. There is potable water and wastewater capacity available to serve the project. Therefore, the project is consistent with the Sanitary Sewer and Potable Water Elements of the Growth Management Plan.

### Conservation and Coastal Management Element (CCME)

Policy 6.1.1 requires projects to retain a portion of on-site native vegetation. For mixed-use projects greater than 2.5 acres located within the Coastal High Hazard Area (CHHA), 25% of the existing native vegetation is to be retained or mitigated through off-site preservation or payment in lieu of. The Courthouse Shadows PUD was approved and developed prior to adoption of this CCME Policy. At the time of development, no-site vegetation was required.

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The only native vegetation occurring on-site at this time is an area adjacent to Haldeman Creek and consists of approximately 4,000 square feet. The PUD contains language in Section 3.7.14, which identifies that this approximately 4,000 square foot area of native vegetation will be retained or mitigated off-site.

CCME Policy 12.1.2 requires land use plan amendments in the Category 1 hurricane vulnerability zone to provide appropriate mitigation to reduce impacts of hurricane evacuation times. A portion of the subject property is located within the Category 1 storm surge area as determined by the Hurricane Evacuation Study prepared by the Southwest Florida Regional Planning Council. The applicant will coordinate with the County's Emergency Management staff to determine appropriate mitigation. For similar small-scale amendments, mitigation has typically been payment toward additional emergency cots, generators, etc.

CCME Policy 12.2.6 indicates that the County shall require all new sanitary sewer facilities located in the Coastal High Hazard Area be flood-proofed and designed to reduce leakage to the extent practical. The applicant will coordinate with Public Utilities staff to determine whether new sanitary sewer facilities will be required to serve this PUD, and appropriate flood proofing applicable for those facilities.

The factors to consider during review of a rezone petition for a project, or portion thereof, within an Activity Center, are as follows:

- a. *Rezoning is encouraged to be in the form of a Planned Unit Development. There shall be no minimum acreage limitation for such Planned Unit Developments except all requests for rezoning must meet the requirements for rezoning in the Land Development Code.*

**The subject rezoning is for a Mixed Use Planned Unit Development and therefore is consistent with this criteria.**

- b. *The amount, type and location of existing zoned commercial land, and developed commercial uses, both within the Mixed Use Activity Center and within two (2) road miles of the Mixed Use Activity Center.*

**The project currently permits up to 165,000 square feet of commercial uses and approximately 149,000 square feet have been constructed. No additional commercial square feet is proposed.**

- c. *Market demand and service area for the proposed commercial land uses to be used as a guide to explore the feasibility of the requested land uses.*

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The applicant is a seasoned commercial and residential developer. The site is located at a strategic intersection, which provides arterial road access for both north/south and east/west traffic volumes. A market analysis was prepared by an economist, which concludes there is demand for the proposed 300 rental units.

- d. *Existing patterns of land use within the Mixed Use Activity Center and within two (2) radial miles.*

All quadrants of the Activity Center are developed with commercial land uses. Commercial uses dominate the U.S. 41 and Airport Road frontages within two miles of the site. Established residential neighborhoods are located on local roadways located south, north and east of the property.

- e. *Adequacy of infrastructure capacity, particularly roads.*

The site has access to water, sewer and other public services, which will have capacity to serve the proposed development. A traffic impact analysis has been prepared which identifies that available roadway capacity exists to serve the proposed development.

- f. *Compatibility of the proposed development with, and adequacy of buffering for, adjoining properties.*

The residential buildings would displace existing retail space and buffers will be provided to assure compatibility. The residential buildings will comply with architectural standards in the LDC.

- g. *Natural or man-made constraints.*

There are no man-made or natural constraints that prohibit development of the site as a mixed use PUD.

- h. *Rezoning criteria identified in the Land Development Code.*

The criteria for rezonings per the LDC have been addressed in Item F of this Evaluation Criteria, Exhibit 3.

- i. *Conformance with Access Management Plan provisions for Mixed Use Activity Centers, as contained in the Land Development Code.*

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LDC Sections 4.04.02 establishes that mixed-use projects must provide internal interconnection among land uses. The Conceptual PUD Master Plan depicts internal accessibility between the mixed use and residential development tracts consistent with this LDC provision. The project will maintain an access to the local street, Peter's Avenue.

- j. *Coordinated traffic flow on-site and off-site, as may be demonstrated by a Traffic Impact Analysis, and a site plan/master plan indicating on-site traffic movements, access point locations and type, median opening locations and type on the abutting roadway(s), location of traffic signals on the abutting roadway(s), and internal and external vehicular and pedestrian interconnections.*

**Existing access points to U.S. 41 will remain. Pedestrian connections currently exist and will be maintained.**

- k. *Interconnection(s) for pedestrians, bicycles and motor vehicles with existing and future abutting projects.*

**The existing access to Peter's Avenue will remain. No additional access to Peter's Avenue is requested. Sidewalks are available on U.S. 41 and Peter's Avenue. Internal vehicular and pedestrian access will be available internal to the site.**

- l. *Conformance with the architectural design standards as identified in the Land Development Code.*

**The PUD proposes no deviations from the County's architectural design guidelines for the residential component of the project. Deviations have been approved for the commercial component of the project and no changes are proposed to those deviations.**

- d. The internal and external compatibility of proposed uses, which conditions may include restrictions on location of improvements, restrictions on design, and buffering and screening requirements.

**No changes to the commercial permitted uses are proposed. A residential development option has been included. The uses are compatible with surrounding land uses and are permitted under the Growth Management Plan.**

- e. The adequacy of usable open space areas in existence and as proposed to serve the development.

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**A minimum of 30% usable open space for mixed use projects will be provided within the PUD as required by the LDC. The applicant may propose to utilize Haldeman Creek for open space and recreation uses such as kayak launch/dock.**

- f. The timing or sequence of development for the purpose of assuring the adequacy of available improvements and facilities, both public and private.

**The project is subject to concurrency and adequate infrastructure must be in place to support future development on the site. At this time there are no known deficiencies for any public facility.**

- g. The ability of the subject property and of surrounding areas to accommodate expansion.

**The Courthouse Shadows PUD is an existing PUD, which is surrounded by zoned, developed and undeveloped land. Expansion of the PUD boundary is not proposed. There are no other adjacent properties under control by the applicant available for inclusion in the PUD.**

- h. Conformity with PUD regulations, or as to desirable modifications of such regulations in the particular case, based on determination that such modifications of justified as meeting public purposes to a degree at least equivalent to literal application of such regulations.

**The PUD was originally approved and developed before many of the current LDC provisions and standards were established. Appropriate development standards for the residential development option have been included.**

*10.02.08 - Requirements for Amendments to the Official Zoning Atlas*

- F. Nature of requirements of Planning Commission report. When pertaining to the rezoning of land, the report and recommendations of the Planning Commission to the Board of County Commissioners required in LDC section 10.02.08 E shall show that the Planning Commission has studied and considered the proposed change in relation to the following findings, when applicable:

1. Whether the proposed change will be consistent with the goals, objectives, and policies and future land use map and the elements of the Growth Management Plan.

**The MPUD, as proposed, is consistent with the companion small-scale plan amendment, which permits residential and mixed-use projects within the MPUD and increased density on a 10 acre portion of the site as identified in the Activity Center #16 Map exhibit to the FLU Element.**



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2. The existing land use pattern.

**The subject property is located at the intersection of two arterial roadways. The properties located to the east, west and north are zoned for commercial development. Properties to the south are zoned residential and are developed with single-family homes. Buffers are proposed consistent with the LDC to insure compatibility of uses.**

3. The possible creation of an isolated district unrelated to adjacent and nearby districts.

**The MPUD for property permitting the residential development option is under the ownership of the applicant and therefore no isolated district is being created.**

4. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

**The boundaries are not illogically drawn and comprise all of the property under the unified control of the applicant.**

5. Whether changed or changing conditions make the passage of the proposed amendment necessary.

**The property is currently zoned Courthouse Shadows CPUD, which does not permit the proposed residential and mixed-use project uses. The PUD amendment is necessary to add the residential development option.**

6. Whether the proposed change will adversely influence living conditions in the neighborhood.

**The MPUD document includes development standards to insure that it is compatible with the immediately surrounding properties. The MPUD master plan identifies appropriate buffers and open spaces, which will further insure that the development of the mixed-use option will have no adverse impacts to the neighborhood. Access to the project will be from U.S. 41. An existing single access from Peter's Avenue will remain.**

7. Whether the proposed change will create or excessively increase traffic congestion or create types of traffic deemed incompatible with surrounding land uses, because of peak volumes or projected types of vehicular traffic, including activity during construction phases of the development, or otherwise affect public safety.

**A traffic impact analysis has been submitted in support of the proposed PUD amendment. No level of service issues have been identified and the site will have access to a signalized**



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intersection at U.S. 41. The character of traffic will not be discernably different than that historically permitted for the subject property.

8. Whether the proposed change will create a drainage problem.

The project will be required to obtain an Environmental Resource Permit (ERP) through the South Florida Water Management District. The ERP review evaluates historic surface water flows and controls the off-site discharge of stormwater from the site. The project will have internal water management facilities including detention areas to control the drainage for the project. No drainage issues will result from this project.

The Project is a redevelopment project located in the Bayshore Gateway Redevelopment Area. The property is currently built as a commercial shopping center with existing commercial outparcels that discharges stormwater runoff into Haldeman Creek, which is a tidally influenced waterway. The Project will be designed to maintain existing drainage patterns and provide the required water quality treatment onsite as outlined in Collier County Ordinance 2017-09. The post development discharge rate will not exceed that of the current predevelopment discharge rate of the commercial shopping center.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Given the limitation on building heights, setbacks, and buffering, there will be no reduction in light or air for adjacent properties.

10. Whether the proposed change will adversely affect property values in the adjacent area.

The MPUD rezone proposes to establish a residential development option. The uses are controlled by development standards in the MPUD document, which provide setbacks from adjacent properties. Development subject to the MPUD standards will not adversely affect property values in the adjacent area.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

All immediately adjacent properties to the south and east are developed and the addition of multi-family residential within this PUD should not be a deterrent to improvement or redevelopment of adjacent properties.

12. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

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**The MPUD rezone is a companion to a small-scale growth management plan amendment. This process does not grant a special privilege to a property owner and the process is consistent with the process outlined in Chapter 163, F.S. for amendments to growth management plan.**

13. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

**The existing zoning is CPUD, which does not permit residential or mixed-use development. The amendment is necessary to establish residential land use within the MPUD.**

14. Whether the change suggested is out of scale with the needs of the neighborhood or the county.

**The proposed rezone is in scale with the needs of the neighborhood and Collier County. The County has a demand for more multi-family dwelling units. The central location and proximity to the Collier County government complex makes this an ideal mixed-use site.**

15. Whether it is impossible to find other adequate sites in the county for the proposed use in districts already permitting such use.

**It is not impossible to find other adequate sites in the county for residential uses; however, this site has existing infrastructure including roads, water, and sewer available to serve the project, and is located in an Activity Center where mixed-use projects are encouraged. A market analysis was prepared for the small-scale amendment, which concludes that there is demand for the proposed rental apartment option.**

16. The physical characteristics of the property and the degree of site alteration which would be required to make the property usable for any of the range of potential uses under the proposed zoning classification.

**The subject property is a variety of commercial buildings. The area proposed for residential uses has been developed for commercial uses and these buildings would be razed in order to construct the mixed-use development option.**

17. The impact of development on the availability of adequate public facilities and services consistent with the levels of service adopted in the Collier County Growth Management Plan and as defined and implemented through the Collier County Adequate Public Facilities Ordinance [Code ch. 106, art. II], as amended.

**There are adequate roadways and utilities available at the site. There are no public facilities deficiencies at the present time and none will occur as a result of this project.**

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18. Such other factors, standards, or criteria that the Board of County Commissioners shall deem important in the protection of the public health, safety, and welfare.

**The project is consistent with the proposed small-scale Growth Management Plan for Activity Center #16 and it is compatible with surrounding development.**