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ORDINANCE
NO. 2006 - 008

AN ORDINANCE PERTAINING TO HEIGHT INCREASES IN THE CHARLOTTE HARBOR RIVERWALK DISTRICT AND/OR THE GATEWAY DISTRICT AS PROVIDED IN THE CHARLOTTE HARBOR COMMUNITY DEVELOPMENT CODE; PROVIDING FOR THE AMENDMENT OF SECTION 3-9-50.5 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA BY ADDING A NEW SECTION 3-9-50.5 (c); PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND, PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Charlotte Harbor Community Redevelopment Area

(hereinafter "Charlotte Harbor CRA") was created by Resolution No. 92-251 on November 3, 1992, by the Board of County Commissioners of Charlotte County ("Board"); and

WHEREAS, the Charlotte Harbor Community Development Code was enacted by the Board on February 20, 1996, pursuant to Ordinance No. 96-0110A0, and included in the Code of Laws and Ordinances of Charlotte County ("Code") as Section 3-9-50 through 3-9-50.7; and

WHEREAS, the Charlotte County CRA Committee, an advisory committee to the Board (hereinafter "CRAC"), in consultation with Charlotte County staff, has recommended that increases in structure height limits be allowed in the Charlotte Harbor Riverwalk District provided certain performance standards are met and that all applicable portions of Section 3-9-98 are applied to projects; and

WHEREAS, the Charlotte County Planning and Zoning Board has recommended approval of the changes recommended by the CRAC; and

IMAGED
2-15-06
AP


Transmits
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1 WHEREAS, the Board agrees with the changes recommended by the
2 CRAC and the Planning and Zoning Board; and

3 WHEREAS, the Board has determined that the proposed changes will
4 promote the Charlotte Harbor CRA's aesthetic and visual environment and
5 character and create a more attractive residential climate.

6 NOW, THEREFORE, BE IT ORDAINED by the Board of County
7 Commissioners of Charlotte County, Florida:

8 **Section 1.** Section 3-9-50.5 is hereby amended by adding Subsection 3-9-
9 50.5(c) to read as follows:

10
11 (c) *Increases in structure heights in the Charlotte Harbor Riverwalk District.*
12 A) Properties which are within the Charlotte Harbor Riverwalk District and
13 immediately abut the Peace River. This category includes all those
14 waterfront parcels within the Riverwalk District that are not zoned Coastal
15 Residential. When a project includes waterfront properties and non-
16 waterfront properties, the provisions contained in this section shall apply to
17 the entirety of the project, provided said project develops in one-phase
18 and under single ownership at the time of development. The provisions
19 contained in this section can be used for additions of land to existing
20 waterfront projects which have been permitted according to this section,
21 as this section may be amended.

22
23 Waterfront projects seeking to increase structure height in any amount of
24 feet, but limited to a maximum structure height of 90 feet, may increase such
25 height in the increments provided below. To be eligible to any increase in
26 structure height, waterfront projects must meet all of the above classifications,
27 and all of the following obligatory performance standards:

- 28
29 1) Interior side yards for the project shall contain a minimum of 7.5
30 feet of green space. The 7.5 feet minimum yard shall not
31 contain any structural elements on any of the floors or roof of
32 the structure. Said green space shall be unencumbered by any
33 structures, including balconies, sidewalks, driveways, and/or
34 staircases. Projects which meet this performance standard
35 shall be eligible for an additional height of ten (10) feet.
36
37 2) Waterfront projects shall dedicate a 12-foot wide easement for
38 public access to the waterfront. Said easement shall lie
39 immediately adjacent and parallel to the Charlotte Harbor

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Shore, or as designated by the zoning official and/or the Development Review Committee with a recommendation for approval made by the majority of the Charlotte Harbor CRA Advisory Committee. The easement shall be for access of the general public and shall have as a goal the completion of a complete walkway system which links all of the waterfront projects. Notwithstanding the contents of this section, setbacks shall be measured from the outmost boundary of said easement. Projects which meet this performance standard shall be eligible for an additional height of ten (10) feet.

Waterfront projects seeking to increase structure height in any amount of feet but limited to a maximum structure height of 90 feet may increase such height in the increments provided below. The following performance standards are optional and additional to those found in 3-9-50.5(c)(A)(1) and 3-9-50.5(c)(A)(2), above. Projects which meet any of the following optional performance standards shall be eligible for structure height increases as these may apply:

- i) Mixed Use. Projects which dedicate an area equivalent to at least 50% of the square footage of the largest story of the project to uses other than residential/hotel, such as retail and restaurants, shall be eligible to an additional height of 15 feet. Said non residential/hotel uses shall be accessible to the general public in perpetuity, and shall be located on the lowest habitable floor of the structure.
- ii) Projects which agree to fund a proportionate share of the US41 Revitalization Plan shall be eligible to an additional height of ten (10) feet. A project shall be entitled to the benefits of this subsection by contributing a monetary amount which shall be determined as follows: for every foot that the project abuts a public Right-of-Way, the project shall contribute the monetary amount to fund one (1) linear foot of the US41 Revitalization Plan. The monetary amount per linear foot of the plan shall be determined according to the county's approved estimate for the project which is valid at the time the project obtains its first Development Review Committee (DRC) approval. Upon expiration of said DRC approval, the monetary amount per linear foot shall be determined by the county's estimate at the at the time of their following DRC approval.
- iii) Projects which agree to fund or construct their dedicated 12-foot wide easement portion of the Riverwalk Concept Plan shall be eligible to an additional height of ten (10) feet. Private

1 construction of the Riverwalk must meet the minimum design
2 standards assigned to the Riverwalk project.
3

- 4 B) Properties which are within the Charlotte Harbor Riverwalk District and do
5 not abut the Peace River. This category includes all those parcels within
6 the Riverwalk District that do not contain any waterfront and are not zoned
7 Coastal Residential. When a project includes waterfront properties and
8 non-waterfront properties, the provisions contained in Section 3-9-
9 50.5(c)(A) shall apply to the entirety of the project, provided said project
10 develops in one-phase and under single ownership at the time of
11 development approval. The provisions contained in this section can be
12 used for additions of land to existing waterfront projects which have not
13 been permitted according to Section 3-9-50.5(c)(A), as said section may
14 be amended.
15

16 Projects seeking to increase structure height in any amount of feet but
17 limited to a maximum structure height of 90 feet may increase such height
18 in the increments provided below. To be eligible to any increase in
19 structure height, non-waterfront projects must meet the following
20 performance standards:
21

- 22 1) Interior side yards for the project shall contain a minimum of 7.5
23 feet of green space. The 7.5 feet minimum yard shall not
24 contain any structural elements on any of the floors or roof of
25 the structure. Said green space shall be unencumbered by any
26 structures, including balconies, sidewalks, driveways, and/or
27 staircases. Projects which meet this performance standard
28 shall be eligible for an additional height of ten (10) feet.
29
- 30 2) Mixed Use. Projects which dedicate an area equivalent to at
31 least 50% of the square footage of the largest story of the
32 project to uses other than residential/hotel, such as retail and
33 restaurants, shall be eligible to an additional height of 15 feet.
34 Said non residential/hotel uses shall be accessible to the
35 general public in perpetuity, and shall be located on the lowest
36 habitable floor of the structure.
37
- 38 3) Projects which agree to fund a proportionate share of the US41
39 Revitalization Plan shall be eligible to an additional height of ten
40 (10) feet. A project shall be entitled to the benefits of this
41 subsection by contributing a monetary amount which shall be
42 determined as follows: for every foot that the project abuts a
43 public Right-of-Way, the project shall contribute the monetary
44 amount to fund one (1) linear foot of the US41 Revitalization
45 Plan. The monetary amount per linear foot of the plan shall be
46 determined according to the county's approved estimate for the

1 project which is valid at the time the project obtains its first
2 Development Review Committee (DRC) approval. Upon
3 expiration of said DRC approval, the monetary amount per
4 linear foot shall be determined by the county's estimate at the
5 time of their following DRC approval.
6

- 7 4) Projects which agree to fund or construct a proportionate share
8 of the Riverwalk Concept Plan shall be eligible to an additional
9 height of ten (10) feet. Private construction of the Riverwalk
10 must meet the minimum design standards assigned to the
11 Riverwalk project. The monetary amount per linear foot of the
12 Riverwalk shall be determined according to the county's
13 approved estimate for the project which is valid at the time the
14 project obtains its first Development Review Committee (DRC)
15 approval. Upon expiration of said DRC approval, the monetary
16 amount per linear foot shall be determined by the county's
17 estimate at the time of their following DRC approval.
18

19 C) Properties which are within the Charlotte Harbor Riverwalk District and do
20 not abut the Peace River, and/or properties located within the Charlotte
21 Harbor Gateway District and are not zoned Coastal Residential.
22 Properties that meet this classification shall be eligible for an increase in
23 height not to exceed a total of 90 feet when the following are met:
24

- 25 1) Structures shall be eligible for an additional height of ten (10)
26 feet when all of the following are allowed:
27
28 i) Allowing public parking on at least 50% of their non-
29 residential parking spaces between the following hours:
30 Monday through Thursday 6:00 P.M. to 12:00 P.M.
31 (Midnight) Friday 6:00 P.M. through Monday 2:00 A.M.
32
33 ii) Whenever possible, parking lots shall be inter-connected
34 with adjacent parking lots. If the project site is adjacent to a
35 vacant parcel, adequate provisions shall be made during the
36 DRC/permitting process to provide a lane for inter-
37 connectivity for future parking lots.
38
39 iii) Whenever possible, the number of access points shall be
40 minimized in order to reduce the number of driveways
41 connecting private parking lots to public Rights-of-Way.
42

- 43 4) Mixed Use. Projects which dedicate an area equivalent to at
44 least 50% of the square footage of the largest story of the
45 project to uses other than residential/hotel, such as retail and
46 restaurants, shall be eligible to an additional height of 15 feet.

1 Said non residential/hotel uses shall be accessible to the
2 general public in perpetuity, and shall be located on the lowest
3 habitable floor of the structure.
4

5 3) Projects which agree to fund a proportionate share of the US41
6 Revitalization Plan shall be eligible to an additional height of ten (10)
7 feet. A project shall be entitled to the benefits of this subsection by
8 contributing a monetary amount which shall be determined as follows:
9 for every foot that the project abuts a public Right-of-Way, the project
10 shall contribute the monetary amount to fund one (1) linear foot of the
11 US41 Revitalization Plan. The monetary amount per linear foot of the
12 plan shall be determined according to the county's approved estimate
13 for the project which is valid at the time the project obtains its first
14 Development Review Committee (DRC) approval. Upon expiration of
15 said DRC approval, the monetary amount per linear foot shall be
16 determined by the county's estimate at the
17 time of their following DRC approval.
18

19 4) Projects which agree to fund or construct a portion of the
20 Riverwalk Concept Plan shall be eligible to an additional height of ten
21 (10) feet. Said portion shall include the same number of linear feet as
22 the proposed project's public Right-of-Way frontage. Construction of
23 the Riverwalk must meet the minimum design standards assigned to
24 the Riverwalk project. The monetary amount per linear foot of the
25 Riverwalk shall be determined according to the county's approved
26 estimate for the project which is valid at the time the project obtains its
27 first Development Review Committee (DRC) approval. Upon
28 expiration of said DRC approval, the monetary amount per linear foot
29 shall be determined by the county's estimate at the time of their
30 following DRC approval.
31

32
33 **Section 2.** Conflict With Other Ordinances. The provisions of this
34 article shall supersede any provisions of existing ordinances in conflict herewith
35 to the extent of said conflict.

36 **Section 3.** Severability. In the event that any portion of this article
37 is for any reason held invalid or unconstitutional by any court of competent
38 jurisdiction, such portion shall be deemed a separate, distinct and independent

1 provision, and such holding shall not affect the validity of the remaining portions
2 of this article.

3 **Section 4.** Effective Date. This Ordinance shall take effect upon
4 filing in the office of the Secretary of State.

5
6 PASSED AND DULY ADOPTED this 25 day of January, 2006.
7

8
9 BOARD OF COUNTY COMMISSIONERS
10 OF CHARLOTTE COUNTY, FLORIDA

11
12 By: Thomas G. Moore
13 Thomas G. Moore, Chairman
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16

17 ATTEST:
18 Barbara T. Scott, Clerk of Circuit Court
19 and Ex-Officio Clerk to the Board of
20 County Commissioners

21
22 By: Anne L. Pfahler
23 Deputy Clerk
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28 APPROVED AS TO FORM AND
29 LEGAL SUFFICIENCY:

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31 By: Janette S. Knowlton
32 Janette S. Knowlton, County Attorney
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