

**Application No.**  
**PA-15-10-14-LS**  
**(Large Scale Plan Amendment)**

**Applicant**  
**Board of County Commissioners /**  
**Revisions to Comp Plan, Pt. II, TDU**

**Legislative**

**Countywide**



## MEMORANDUM

DATE: December 22, 2015

TO: Honorable Board of County Commissioners  
Planning and Zoning Board

FROM: Claire Jubb  
Community Development Department Director

RE: **A Large Scale Plan Amendment Petition Number PA-15-10-14-LS:  
Revisions to Future Land Use (FLU) Policy 1.2.7 (The old number is FLU Policy 1.2.6): Transfer of Density Units (TDU) Program Intent, FLU Policy 1.2.8 (The old number is FLU Policy 1.2.7: TDU Applicability): TDU Program, FLU Policy 1.2.9 (The old number is FLU Policy 1.2.8): TDU Sending Zones, FLU Policy 1.2.10: TDU Receiving Zones, FLU Policy 1.2.11: Prohibited Receiving Zones, FLU Policy 1.2.14: TDU Waivers, and FLU Policy 1.2.15: Revitalizing Neighborhood Incentive Density; and delete old FLU Policy 1.2.9: Restrictions on Sending Zones (Part II.2)**

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### **Staff Recommendation**

Approve transmittal of Petition No. PA-15-10-14-LS to the Department of Economic Opportunity (DEO) for review and comment, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated December 22, 2015 and any evidence presented at the public hearing.

### **The Planning and Zoning Board Proposed Recommendation**

Motion to forward application No. PA-15-10-14-LS to the Board of County Commissioners with a recommendation of Approval/Denial of transmittal of PA-15-10-14-LS to the Department of Economic Opportunity (DEO) for review and comment, based on the findings and analysis in the Comprehensive Planning staff memorandum dated December 22, 2015, and the evidence presented at the public hearing.

### **COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle  
Port Charlotte, FL 33948  
Phone: 941.764.1589 | Fax: 941.764-4108

## **Data and Analysis**

### **1. History of Transfer Density Units (TDU) Program**

The original Transfer of Development Rights (TDR) ordinance (see Attachment 1: Transfer of Development Rights, Ordinance Number 94-37) was adopted in 1994 to be consistent with the 1988 Comprehensive Plan policies that called for the preservation of natural, historical, archeological and cultural resources. The 1988 Comprehensive Plan did not contain policies that specifically established or required a TDR program, but the ordinance was adopted to implement preservation of these resources. The ordinance allowed residential development rights to be severed from properties containing natural, historical, archeological and cultural resources and transferred to properties more suitable for development.

Policies addressing the transfer of development rights were first added to the 1997-2010 Comprehensive Plan to address the platted lots issue. In 2004, the TDR ordinance was replaced by a Transfer Density Units (TDU) ordinance (see Attachment 2: Article XX, Transfer of Density Units, Ordinance Number 04-067). In addition to protecting ecologically valuable, historic and archeological resources as the TDR ordinance did, the TDU ordinance also directed growth away from areas less suited for development toward areas better suited for development, protected agricultural lands, promoted creative and compact development, attempted to reduce substandard lots, and allowed excess density to be transferred from property that was “vacant” and had “an approved residential development plan”.

The TDU ordinance was revised in 2007. There were many changes to the ordinance, but only a few major changes. The purpose of these revisions were to make the ordinance understandable, make the TDU process fair to all involved, and re-establish the intent of the ordinance, to “move development from areas less suited for development to areas more suited for development.” One of the major changes was to amend the requirement pertaining to excess density as follows: “the proposed SZ (Sending Zone) is located in the Infill area of the USA (Urban Service Area) and the property owner has obtained a building permit to develop a residential use at a density below the Base Density, or a school, house of worship, park, cemetery or mausoleum. This density may only be transferred to an RZ (Receiving Zone) in the Infill Area of the USA”.

Since 1994, the TDU program has been implemented by the adopted TDR and TDU ordinances, the table attached to this staff report is the summary of the TDU program since it was established in 1994. The 2007 version TDU ordinance (see Attachment 3: Article XX. Transfer of Density Units, Ordinance Number 2007-083) is consistent with the 1997-2010 Comprehensive Plan.

The 2050 Comprehensive Plan, which was adopted in 2010 and took effect in June 2011, included 10 policies specifically related to the TDU program. These policies addressed the intent of the TDU program, criteria for the TDU Sending and Receiving zones, possible TDU bonus programs, TDU waivers, and a program for providing incentive density for revitalizing neighborhoods. In addition, Infill Area and Suburban Area of the Urban Service Area, established in 1997-2010 Comprehensive Plan, were replaced with different neighborhoods, economic districts and centers. The adopted plan policies are more restrictive than the adopted TDU ordinance, which has been successfully implemented since 1994. During the implementation of the 2050 Comprehensive Plan, staff also discovered that some of the new policies do not truly reflect the overall vision and intent which were established in the 2050 Comprehensive Plan; for example, the ability to transfer the excess density, which was established to

#### **COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

“move development from areas less suited for development to areas more suited for development,” was excluded from FLU Policy 1.2.8: TDU Sending Zones. There have been at least two Sending Zones that have severed excess density.

Petitioner	Sending Zone Criteria	Certificate No.	Adopted Resolution No.	Date of County Approval	Number of Units of Density Approved	Number of Units of Density Retained on Sending Zone
LO Land Assets, LP	Excess Density	CSZ-016	2006-078	May 23, 2006	795	705
The Hammocks Cape Haze, LLC	Excess Density	CSZ--036	2007-067	April 24, 2007	227	234

It is staff’s professional opinion that TDU related policies must be revised in order to truly implement the vision of the Comprehensive Plan as a whole and reflect the successful TDU program. Following this revision to the Comprehensive Plan, staff intends to review and revise where needed the existing TDU Ordinance to ensure consistency. For example, the existing TDU ordinance still references the Infill and Suburban Areas which was removed from the County’s Comprehensive Plan.

## **2. Overall Proposed Revisions**

The existing TDU ordinance outlines the intent, applicability, definitions, and criteria for sending and receiving zones, as well as related procedures for transferring density. The proposed revisions to the TDU-related policies (set forth in the Future Land Use Element of the Comprehensive Plan) retain the intent, applicability and criteria, but eliminate the implementing regulations, which are already located in the TDU Ordinance and have been successfully implemented since 2007. Specifically, the intent of the TDU program, the TDU Sending and Receiving zones related to different neighborhoods established in the Comprehensive Plan, and the requirement of Rural Receiving Zones are all retained in the Future Land Use (FLU) Element of the Comprehensive Plan. Staff also revised TDU-related policies in the FLU Element to be consistent with the existing TDU Ordinance. Additionally, the proposed revisions to the TDU-related Policies will not result in increased density on Barrier Islands, because density cannot be transferred to the barrier islands from the mainland. To illustrate, the existing TDU Ordinance, Sec. 3-9-430. Requirements (b) Receiving Zone (1)(iv)A, specifically restricts density units from being transferred from:

- a Category I Hurricane Storm Surge zone into a Tropical Storm Surge zone;
- an AE flood zone into a VE flood zone; or
- a less to a more restrictive flood zone.

Furthermore, according to Article XX, Transfer of Density Units, Section 3-5-430: Requirements, (b) Receiving Zone, (iv) It must not located within the Coastal High Hazard Area, (c), “Density on property within the West County Planning District, which constitutes all property west of the Myakka River, may only be increased by a transfer of density from other property located within the West County Planning District.”

It is not the intent of Section 163.3177(1), F.S., to require the inclusion of implementing regulations in the comprehensive plan; rather, the intent is to require identification of those programs, activities, and Land Development Regulations (LDRs) that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and LDRs will be carried out. Therefore, in keeping with the intent of the Florida Statutes and as directed by the Board of County Commissioners’ to remove implementing regulations and duplications, the proposed revisions

### **COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle  
 Port Charlotte, FL 33948  
 Phone: 941.764.4909 | Fax: 941.764-4108

include removing language that should not be in the County's Comprehensive Plan because it relates to regulatory standards which should be located in the LDRs.

The following is a list of the data which is used to support the proposed revisions (Part II.2):

- All data used to create the "Smart Charlotte 2050 Comprehensive Plan."
- Transfer of Development Rights, Ordinance Number 94-37. (Attachment 1)
- Article XX, Transfer of Density Units, Ordinance Number 04-067. (Attachment 2)
- Article XX, Transfer of Density Units, Ordinance Number 2007-083. (Attachment 3)
- Charlotte County Board of County Commissioners Strategic Plan. (Attachment 4)
- Sec. 3-9-30. Agriculture (AG), Ordinance Number 2014-049. (Attachment 5)
- Future Land Use Map Series Map #3: 2030 Service Area Delineation. (Attachment 6)
- Manasota and Sandpiper Key Zoning District Overlay, Ordinance Number 2015-016. (Attachment 7)
- Sandhill Development Order, Resolution Number 2014-174. (Attachment 8)
- Babcock Mixed Use FLU designation. (see Attachment 9)
- Murdock Village Mixed Use FLUM designation. (see Attachment 10)
- Charlotte Harbor Revitalization Plan, Ordinance Number 2015-03. (Attachment 11)
- CSZ-016, Resolution Number 2006-078. (Attachment 12)
- CSZ-036, Resolution Number 2007-067. (Attachment 13)

### **3. Specific Proposed Revisions**

- *FLU Policy 1.2.7 (The old number is FLU Policy 1.2.6): Transfer of Density Units (TDU) Program Intent*

#### **FLU Policy 1.2.67: Transfer of Density Units (TDU) Program Intent**

The County shall employ a transfer of density units (TDU) program whereby the development rights of property may be severed in perpetuity and transferred to designated locations that are more appropriate for development. The TDU program identifies sending and receiving zones. The intent is to create a TDU process that will:

1. Assist and encourage the removal of old, outdated, platted lots and subdivisions throughout the County.
2. Assist and encourage the replacement of an unsustainable and inefficient form of development with compact, higher density, mixed use development that is more sustainable and efficiently utilizes resources.
3. Incentivize the retention of long-term agricultural activities and the clustering of rural development densities to promote the reduction of ~~as an alternative to rural large lot sprawl in order to reduce~~ the premature conversion of rural lands and preserve rural character and viewsheds.
4. Incentivize the voluntary preservation of environmentally sensitive lands.
5. Help preserve archeological and historic sites.
6. Prevent density increases within the Coastal High Hazard Area (CHHA) while permitting reduction or redistribution of density within CHHA.

#### **Staff's Analysis:**

In order to better meet the intent of the TDU program, which is to *provide a mechanism, consistent with protection of the health, safety and welfare of the public, by which the following may be*

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18500 Murdock Circle  
Port Charlotte, FL 33948  
Phone: 941.764.4909 | Fax: 941.764-4108

*accomplished: Residential development rights associated with real property ..., which contains a bona fide agricultural use, ..., may be properly transferred to property better suited for higher density residential development...;* staff is only proposing to revise the second half of the sentence in item 3 by replacing “as an alternative to rural large lot sprawl in order to reduce” with “to promote the reduction of.” Item 6 is revise to make sure that no density will be allowed to be transferred in to the CHHA, but clarifies that the density could be transferred within the CHHA.

- FLU Policy 1.2.8 (The old number is FLU Policy 1.2.7: TDU Applicability): TDU Program

**FLU Policy 1.2.78: TDU Applicability Program**

~~The TDU program shall be used during the review and approval process for all plan amendments and rezonings that propose to increase the base density on land and street vacations that would result in an accumulation of acreage allowing development of new units of density; this requirement shall continue to apply to lands within the County, including the lands that have been annexed by the City of Punta Gorda. Density units shall only be severed in whole units; a fractional unit shall not entitle an applicant to an additional unit. All density transfers shall be on a one-for-one basis.~~

The following are descriptions of those situations wherein transfers of density will not be required by the County:

1. When developed consistent with a Revitalization Plan approved in accordance with FLU Policy 4.2.1 and 4.2.2, properties located in a Revitalizing Neighborhood may rezone to the maximum density allowed by their existing Future Land Use Map category. Density for this increase shall may be granted by the County from RAPID density, described in FLU Policy 1.2.15. ~~Further instances of density transfers being granted by the County in Revitalizing Neighborhoods may be explored through the creation of a neighborhood’s Revitalization Plan.~~ Density granted for increases in a Coastal High Hazard Area (CHHA) in accordance with a Revitalization Plan shall only be allowed when the RAPID density also comes from a CHHA. Notwithstanding the foregoing, any addition of density to the Placida Revitalizing Neighborhood may be implemented only through the transfer of density units (TDU Program). The boundaries of the Placida Revitalizing Neighborhood are shown on SPAM Series Map #96.
2. Any other specifically recognized area under FLU Policy 1.2.14 of this Comprehensive Plan.

**Staff’s Analysis:**

This policy explains where the TDU program applies and when there may be exemptions to it; therefore, staff is proposing to replace the title of this policy from “TDU Applicability” with “TDU Program.”

According to Sec. 3-5-429. Process and Procedures, *A TDU petition, if approved, will serve to transfer the number of density units that will be increased by a use amendment to that parcel of land upon which the increase occurs.* The definition of “Use amendment” set forth in the TDU Ordinance is any “*plan amendments, except those initiated by Charlotte County, rezonings, changes to the County Code, developments of regional impact approvals or amendments, plat vacations, street vacations, variances, special exceptions or any other official action by the county having the effect of permitting the development of land, which results in an increase or transfer of density units.*” Sec.3-5-429. Process and

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18500 Murdock Circle  
 Port Charlotte, FL 33948  
 Phone: 941.764.4909 | Fax: 941.764-4108

procedures (b) Certification of a sending zone (2) Determination of density for an SZ (iii) states that “density units shall only be certified and transferred in whole units. A fractional unit shall not entitle the petitioner to an additional density unit.”

Additionally, the definition of “Base density” set forth in the TDU Ordinance states that “density calculated utilizing the zoning district of the parcel and the method of calculation described according to article 1, section 3-9-2, rules of construction; definitions, Charlotte County Code. If there is an inconsistency between the future land use map designation and the zoning district, the least intensive zoning district that implements the future land use map designation shall be utilized.” Therefore, for any increase in density above the base density, the property owner or a developer must apply for a rezoning or a plan amendment. “Base density” is also defined in FLU Appendix III: Definitions, which is as follows:

Base Density	<ul style="list-style-type: none"> <li>• When consistency exists between the future land use map category and the zoning designation, the base density is the number of residential density units permitted by a lot or parcel's existing zoning district per gross acre of land and is determined by multiplying the zoning unit density by the total land area within the boundaries of a lot or parcel.</li> <li>• If there is an inconsistency between the future land use map category and the zoning district, the base density is determined using the least intensive zoning district that implements the existing future land use map designation.</li> <li>• If the future land use map category does not allow residential development, as in the case of Public Lands and Facilities, then the base density is considered zero despite the fact that the zoning district may allow residential development.</li> <li>• Outside the Urban Service Area, the density for platted lands that existed as of February 1, 1992 which are divided into individual lots of size less than that allowed by existing Zoning shall be one density unit per lot or parcel. In all other instances, the density shall be base density.</li> </ul>
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Therefore, the first sentence of this policy is just a description of the process to increase base density and the detailed language exists in the current TDU Ordinance. It is staff’s professional opinion that this sentence is not necessary in this policy, which applies to the rest of the proposed deletion of this policy.

- *FLU Policy 1.2.9 (The old number is FLU Policy 1.2.8): TDU Sending Zones*

**FLU Policy 1.2.89: TDU Sending Zones**

The following sending zones are recognized by the County:

1. Lands within Managed Neighborhoods (FLUM Series Map #2). Excluding the Babcock Ranch Overlay District (BROD), excess non-RAPID density units may be removed from residentially zoned properties. One unit of density may be retained on the subject parcel. Such excess density may only be transferred, consistent with FLU Policy 1.2.7 through FLU Policy 1.2.15, to an area located in the Urban Service Area

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18500 Murdock Circle  
 Port Charlotte, FL 33948  
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- that is currently served by water and sewer or which will be served by water and sewer prior to issuance of a Certificate of Occupancy.
2. ~~Lands within the Rural Service Area (FLUM Series Map #3) properties retaining a bona fide agricultural use or consisting of substandard platted lots.~~
  3. ~~Lands within the Resource Conservation and Preservation FLUM categories.~~
  4. ~~Land within the Coastal High Hazard Area (FLUM Series Map #14).~~
  5. Any ~~land~~ properties containing historical or archeological resources, or land deemed to contain environmentally sensitive resources.
  6. ~~Lands within the Prime Aquifer Recharge Area (FLUM Series Map #6).~~
  7. ~~Lands~~ Properties within the one-half mile setback of the Watershed Overlay District and Tippen Bay and Long Island Marsh (FLUM Series Map #4).
  8. ~~Land within a Public Water System Wellhead Protection Area (FLUM Series Map #7).~~
  9. ~~Land designated as a Wildlife Corridor Critical Linkages (FLUM Series Map #22).~~ These ~~lands~~ properties may sever density at one unit per five acres, gross, if designated as Agriculture or Burnt Store Limited Development on the FLUM, and two units per five acres if designated Rural Estate Residential on the FLUM.
  10. Property located in the Urban Service Area for which a building permit has been issued, or will be issued subsequent to December 3, 2007, to develop a school, house of worship, park, cemetery or mausoleum, or a residential use at a density below the Base Density. The excess density on these properties may only be transferred consistent with FLU Policy 1.2.7 through FLU Policy 1.2.15 to an area located in the Urban Service Area that is currently served by water and sewer or which will be served by water and sewer prior to issuance of a Certificate of Occupancy.

**Staff's Analysis:**

As demonstrated in the Future Land Use Data and Analysis, which was part of preparing and rewriting the County's 2050 Comprehensive Plan, Managed Neighborhoods are areas where the County does not support future development or intensification of existing zoning entitlements. These areas are sparsely developed pre-platted areas possibly containing environmentally sensitive lands, are indicated as being a high priority Critical Lands and Waters Identification Project area, or are adjacent to waterways or wetlands. To be consistent with the overall intent and vision of the Comprehensive Plan, and in line with Charlotte County Board of County Commissioners Strategic Plan (see Attachment 4: Charlotte County Board of County Commissioners Strategic Plan) regarding Economic Development, Growth Management and Infrastructure, the County would encourage those properties that are undeveloped to remain undeveloped and the base density of those lands transferred to more appropriate locations in the Urban Service Area. FLU Policy 1.2.13: Possible TDU Bonus Programs, states that "The County shall explore the feasibility of utilizing a bonus for removing density from Managed Neighborhoods..." In order to fulfill the intent of the Managed Neighborhoods and protect the private property rights, it is staff's professional opinion to revise item 1 of this policy to allow one unit of density be retained on the property.

Additionally, staff is proposing to add item 10 to FLU Policy 1.2.10. This suggested change is in order to be consistent with the overall vision and intent of the Comprehensive Plan, which is to promote development in the most appropriate areas, item 2 FLU Policy 1.2.6: Transfer of Density Units (TDU) Program Intent and the existing TDU Ordinance, which was adopted by the Board in November 2007, specifically, Section 3-5-430: Requirements, (a) Sending Zone. (1) In order for property to qualify as an SZ, (vi), which states that *the proposed SZ is located within the suburban area of the USA and the*

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle  
 Port Charlotte, FL 33948  
 Phone: 941.764.4909 | Fax: 941.764-4108

property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum, and the property is not currently served by water or sewer or within any utility's five-year capital improvements program for extension of water and sewer. Or, if the property owner is choosing to sever all density, a building permit is not required. This density may only be transferred to an RZ in the infill area of the USA; or item (vii), which states that the proposed SZ is located in the infill area of the USA and the property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum. This density may only be transferred to an RZ in the infill area of the urban service area.

- *FLU Policy 1.2.9: Restrictions on Sending Zones*

**FLU Policy 1.2.9: Restrictions on Sending Zones**

The County shall apply the following restrictions to sending zone sites:

- ~~1. Once density is removed from a sending zone it shall not be restored to that site unless such area becomes targeted as a growth area through an amendment to this Plan.~~
- ~~2. Sending zone sites qualifying under item 1 of FLU Policy 1.2.8 shall be placed under a conservation easement and all density severed except that owners of contiguous lots may retain one unit of density per each contiguous acre.~~
- ~~3. Sending Zone sites qualifying under item 2 and 9 of FLU Policy 1.2.8 shall be placed under a conservation easement if environmentally sensitive land or agricultural easement if under active agricultural use and the intent is to continue that use.~~
  - ~~a. For sending zones that qualify under item 2, if under active agricultural use, density may be retained for use by the property owner, family members of the property owner, and a land manager at one unit per 30 acres of active agricultural use, up to a maximum of 5 units.~~
  - ~~b. For sending zones that qualify under item 9 that contain an active agricultural use, one unit of density may be retained and active agricultural uses may continue but not be intensified or expanded. If the property owner does not choose to manage the land for wildlife, the County or appropriate State or non-profit agency will be given rights to manage any non-agricultural and non-residential portions of the property for wildlife usage.~~
- ~~4. Sending zone sites qualifying under items 3, 4, 5, 6, 7, and 8 of FLU Policy 1.2.8 shall be placed under a conservation easement and no density shall be retained.~~
- ~~5. The more restrictive of the sending zone qualifications shall apply.~~

**Staff's Analysis:**

The criteria regarding the restrictions on sending zones are listed in detail in the existing TDU Ordinance and have been successfully implemented and utilized throughout the life of the program. These are located in the existing TDU Ordinance, Section 3-5-432: Covenant.

Sec. 3-5-432. - Covenant.

- (a) *The covenant shall be prepared by the petitioner and executed in accordance with the requirements of this article. Once the draft is approved, the covenant shall be signed by the petitioner and held in escrow pending the approval of the certification.*

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18500 Murdock Circle  
 Port Charlotte, FL 33948  
 Phone: 941.764.4909 | Fax: 941.764-4108

- (b) *The form of each covenant shall be reviewed by the county attorney. The covenant shall contain such provisions that are reasonably required by the county attorney proscribing the use of the proposed SZ following the approval of the certification, including the following:*
- (1) *If the property contains environmentally sensitive resources or historic or archeological resources, the covenant shall limit or preclude uses of the proposed SZ such that the resources, whichever may be applicable, will be maintained in perpetuity following the completion of the certification.*
  - (2) *If the property is submitted as a bona fide agricultural use, the covenant shall restrict the uses of the property to bona fide agricultural uses and the use of any retained density to family members of the property owner or employees, and their families, engaged in the agricultural operation.*
  - (3) *Limit or preclude activities which are determined through the processes of this article to be detrimental to the appropriate maintenance of the proposed SZ.*
  - (4) *Indicate the property or portions thereof that is restricted from future development and/or subject to limitations on future development. If the SZ consists of only a portion of the property, the covenant shall not contain provisions over the use of the remainder of the property unless such provisions are deemed necessary to ensure the viability of the SZ. The covenant may provide for spreading the remaining density onto the portion of the property used as an SZ. Environmentally sensitive resources or historic or archeological resources shall be protected.*
  - (5) *Bind all owners of the proposed SZ and their respective heirs, successors and assigns.*
- (c) *The covenant shall be accompanied by a management plan if required herein.*
- (1) *A management plan shall be required if the applicant proposes to qualify the property as an SZ because it contains an environmentally sensitive resource, or historic or archeological resource, or a bona fide agricultural use. The management plan shall describe how the proposed SZ will be maintained in perpetuity, how the resource shall be protected, and shall contain any other information reasonably requested or required by the community development director regarding the use, maintenance and the protection of the resources of the proposed SZ following the approval of the certification.*
  - (2) *Substandard lots and property located within the coastal high hazard area shall not require a management plan.*

Current Agriculture Zoning District allows the maximum residential density to one unit per ten acres. (see Attachment 5: Sec. 3-9-30. Agriculture (AG), Ordinance Number 2014-049) The restriction limiting the maximum density with bona fide agricultural uses shown in this policy conflicts with the current zoning district. In addition, the County does not, and cannot, regulate who can occupy the residential units. Bona fide agricultural uses are very diverse and require varied intensity and types of labor. It is staff's professional opinion that owners should be able to retain the level of residential units they need to facilitate that particular agricultural activity in line with the current zoning district requirements and be allowed to determine how many density units they would like to transfer out. Florida Statute Section 163.3161 (10) & (12) requires the protection of private property rights and it is staff's professional opinion that these proposed revisions are in compliance with this section.

- *FLU Policy 1.2.10: TDU Receiving Zones*

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18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

**FLU Policy 1.2.10: TDU Receiving Zones**

Receiving zones inside the Urban Service Area include lands within the following designations of FLUM Series Map #2: 2050 Framework:

1. Emerging Neighborhoods.
2. Maturing Neighborhoods.
3. Economic Corridors and Centers.
4. CRAs
5. Revitalizing Neighborhoods prior to adoption of a Revitalization Plan and also what may be required in accordance with a Revitalization Plan.
6. The Rural Settlement Area Overlay District.

Receiving Zones within the Rural Service Area include lands within:

1. Rural Community Mixed Use areas.
2. ~~The Rural Settlement Area Overlay District.~~

**Staff's Analysis:**

Staff is proposing to remove "The Rural Settlement Area Overlay District" from "Receiving Zones within the Rural Service Area" and add it to "Receiving Zones within the Urban Service Area" because the area designated as Rural Settlement Area Overlay District is already located within the Urban Service Area. This is to correct a scrivener's error. (see Attachment 6: Future Land Use Map Series Map #3: 2030 Service Area Delineation)

- *FLU Policy 1.2.11: Prohibited Receiving Zones*

**FLU Policy 1.2.11: Prohibited Receiving Zones**

Density shall not be transferred into:

1. ~~Lands within~~ Managed Neighborhoods (FLUM Series Map #2).
2. ~~Lands within the~~ Resource Conservation and Preservation FLUM categories.
3. ~~Land Properties~~ containing historical or archeological resources, or land deemed to contain environmentally sensitive resources; except that when a portion of a property contains these resources, that area deemed not to contain resources may receive density if it meets one of the criteria of a receiving zone, a conservation easement may ~~will~~ be required over the resource along with an undeveloped buffer of at least 100 feet. An historical structure or archeological resource that is to be integrated into a development will not need to be buffered. When a portion of the property contains environmentally sensitive resources, the area containing environmentally sensitive resources may receive density if impacts have been approved through an environmental resource permit or applicable State or Federal permit, or may have the required 100-foot buffer reduced if approved through an environmental resource permit or applicable State or Federal permit.
4. ~~Lands within~~ The Prime Aquifer Recharge Area (FLUM Series Map #6).
5. ~~Lands Properties~~ within the one-half mile setback of the Watershed Overlay District and Tippen Bay and Long Island Marsh (FLUM Series Map #4).
6. ~~Land within a~~ Public Water System Wellhead Protection Area (FLUM Series Map #7).

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7. Land on a bBarrier islands, except that density may be transferred within Manasota Key or Sandpiper Key.

**Staff's Analysis:**

The County has a comprehensive and robust site plan review process which requires detailed analysis and assessment of any historical, environmental or archeological resources which may be located on any site. The purpose of this review is to ensure the protection of these resources in line with local, state and federal requirements. Each site is unique and as such protection and mitigation of each resource should be on a site by site basis. It is staff's professional opinion that the 100-foot buffer requirement has no rational nexus to the resource to be protected and it does not afford any flexibility to best protect and preserve these resources. For example, TAG Creekside LLC was required to amend more land to preservation in order to protect Alligator Creek and its shoreline at the same time, achieving their unique development proposal. Furthermore, it is the Board's direction to revise the Comprehensive Plan to be consistent with the intent of Florida Statutes to remove the implementing regulations. Furthermore, the proposed revisions to item 3 under this policy are also in compliance with Florida Statutes Section 163.3161 (10) & (12) relating to private property rights. It is staff's professional opinion that an undeveloped buffer width shall be determined at the site plan review stage and should be reviewed and determined on a case by case basis. Item 7 is also revised to be consistent with the provisions set forth in the Manasota and Sandpiper Key Zoning District Overlay, which was adopted by the Board in April via Ordinance Number 2015-016. (see Attachment 7: Manasota and Sandpiper Key Zoning District Overlay, Ordinance Number 2015-016)

- *FLU Policy 1.2.14: TDU Waivers*

**FLU Policy 1.2.14: TDU Waivers**

The following are waivers, ~~depicted on FLUM Series Map #21~~, from the requirement to transfer density to a Receiving Zone:

1. Development within the ~~Babcock Ranch Overlay District (BROD)~~ is exempt from any Transfer of Density Units policies in the Comprehensive Plan and from the Transfer of Density Units requirements of the Land Development Regulations, depicted on FLUM Series Map #21.
2. Development entitlement amendments pursuant to an adopted equivalency matrix or conversion table, provided such property is located outside of the Coastal High Hazard Area. Any conversion to residential dwelling units above the maximum approved by the Comprehensive Plan or DRI development orders shall be subject to FLU Policy 1.2.7 through FLU Policy 1.2.15.

**Staff's Analysis:**

There are three developments within the County that currently use either an adopted equivalency matrix or conversion table. These are Tern Bay Development of Regional Impact (DRI) (see Attachment 8: Sandhill Development Order, Resolution Number 2014-174), Babcock Community DRI (see Attachment 9: Babcock Mixed Use FLU designation) and Murdock Village (see Attachment 10: Murdock Village Mixed Use FLUM designation). The maximum residential development rights are already established in the Comprehensive Plan or the Development Orders. An adopted equivalency matrix or conversion table allows for increases or decreases in land uses which does not increase the number of external peak hour trips and does not reduce open space and conservations within the development. The adopted equivalency matrix or conversion table provides flexibility for development within its project

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18500 Murdock Circle  
Port Charlotte, FL 33948  
Phone: 941.764.4909 | Fax: 941.764-4108

without any negative impacts on surrounding properties. Therefore, there is no need to transfer any density if the density is increased within one part of the development but does not exceed the maximum approved residential development rights.

- *FLU Policy 1.2.15: Revitalizing Neighborhoods Incentive Density*

**FLU Policy 1.2.15: Revitalizing Neighborhoods Incentive Density**

FLUM Series Map #2: 2050 Framework illustrates those lands within the County that are now designated as Managed Neighborhoods. FLU Policy 4.5.1, #3, states that no increases of density or intensity are allowed in these Neighborhoods. By removing the ability of these lands to increase in density, the County has removed 13,092 units of potential density from underneath the Future Land Use Map. The County shall hold this potential density, to be known as Revitalizing Area Plan Incentive Density (RAPID), and utilize it to incentivize redevelopment efforts consistent with FLU Policy 4.2.1. For all Revitalization Neighborhoods with plans created and adopted consistent with FLU 4.2.1, ~~all~~ density increases above base density shall may be granted by the County through utilization of the RAPID from Managed Neighborhoods. The County shall maintain a record of all density transferred into Revitalizing Neighborhoods under this policy, which shall be no greater than the total amount of RAPID.

**Staff's Analysis:**

During implementation of the Comprehensive Plan, staff created the Charlotte Harbor Revitalization Plan, which was adopted by the Board through Ordinance Number 2015-031 (see Attachment 11: Charlotte Harbor Revitalization Plan, Ordinance Number 2015-03) and has been working on creating the Parkside Revitalization Plan. In order to receive any free RAPID density, a set of criteria must be met. However, not every developer or property owner can meet or may not choose to meet these criteria. Its staffs professional opinion that it is reasonable to allow any developers or property owners who have a proposed residential development above base density, to have the opportunity to go through the normal TDU process to potentially receive additional density. It is staff's professional opinion to remove the word "all" and replace "shall" with "may" to allow this kind of opportunity.

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18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

**CERTIFICATED SENDING AND RECEIVING ZONES**

ID	PETITION	Certificate	RETAINED	SEVERED	EXISTING	TRANSFERRED	NEEDED	PETITION DATE	PETITIONER	PETITION TYPE	SENDING OR RECEIVING	CONSERVATION EASEMENT	REGION	TO ID	UNITS	FROM ID	UNITS
<b>RECEIVING ZONES</b>																	
23	PA-01-11-35-LS & Z-01-11-36-TDR	TDR-001			0	528		10/28/2003	BISCAYNE TRUST_RZ	TDR	Receiving-Complete	YES	MID			64	528
26	Z-05-05-27-TDU	CSZ-022A			35	12		5/16/2006	Dugan Porter	TDU	Receiving-Complete	YES	MID			72	12
27	Z-05-11-79-TDU				9		38	6/20/2006	Landshore of Port Charlotte LLC	TDU	Receiving-Incomplete	YES	MID				
28	Z-03-11-40-TDR	TDR-004			0	45		3/9/2004	DEVONSHIRE_RZ	TDR	Receiving-Incomplete	YES	MID			78	45
29	Z-10-06-21-TDU				1,785		3,859	11/15/2010	PEACE RIVER ASSOCIATES, LLC et.al.	TDU	Receiving-Incomplete	YES	MID				
<i>Mid-County Totals</i>						585	3,897										585
33	Z-05-05-36-TDU				60		236	2/21/2006	Greg Eagle	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
37	PA-10-01-04 & Z-10-01-05-TDU	CSZ-003A.1A.1B			0	99		4/20/2010	New Foundland Five, Inc.	TDU	Receiving-Complete	YES	SOUTH/EAST			75	99
38	Z-04-04-11-TDR	TDR-006			49	55		3/15/2005	TUSCANY ISLES	TDR	Receiving	YES	SOUTH/EAST			51	55
39	Z-06-12-68-TDU				49		31	3/20/2007	Old Burnt Store 50, LLC	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
40	Z-03-11-41-TDR	TDR-003			87	193		2/10/2004	KB CREEKSIDE_RZ	TDR	Receiving	YES	SOUTH/EAST			53	193
41	PA-06-10-58 & Z-06-10-59-TDU				578		25	4/26/2007	SW FLORIDA LAND FIFTEEN LLC	TDU	Receiving	YES	SOUTH/EAST				
43	Z-04-10-46-TDR	TDR-005			349	650		1/18/2004	REALMARK_RZ	TDR	Receiving	YES	SOUTH/EAST			79	650
44	Z-07-04-18-TDU				7		385	8/21/2007	The Groves At Burnt Store Ranch	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
45	Z-07-02-10-TDU				33		956	5/15/2007	CORAL CREEK BURNT STORE	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
46	Z-07-12-96-TDU				13		650	3/18/2008	BRIAN PAUL FAMILY LIMITED PARTNERSHIP	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
47	Z-06-06-40-TDU				30		780	9/19/2006	BURNT STORE ROAD INVESTMENTS	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
48	Z-07-06-44-TDU				26		973	9/18/2007	SOUTH CHARLOTTE PROPERTIES	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
49	Z-10-04-14-TDU				9		346	8/17/2010	PRINCE RANCH, LLC	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
50	Z-07-06-40-TDU				33		861	9/18/2007	BURNT STORE ROAD INVESTMENTS	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
54	Z-06-02-16-TDU				135		216	7/18/2006	KB Homes Ft. Myers	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
57	Z-07-09-61-TDU				510		75	12/18/2007	WATERFRONT HOMES OF CHARLOTTE LLC	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
59	Z-05-10-66-TDU	CSZ-006.2A			90	168		2/21/2006	Westfield Homes	TDU	Receiving-Complete	YES	SOUTH/EAST			70	168
65	Z-11-11-22-TDU				33		817	5/14/2012	McNew Ranch	TDU	Receiving-Incomplete	YES	SOUTH/EAST				
<i>South/East County Totals</i>						1,165	6,351										1,165
02	PA-05-10-68 & Z-05-10-69-TDU	CSZ-012.1A			6	6		1/17/2006	DCS GROUP LLC	TDU	Receiving-Complete	YES	WEST			8	6
05	Z-05-11-77-TDU				1		40	4/18/2006	REYNOLDS	TDU	Receiving-Incomplete	YES	WEST				
07	Z-06-02-24-TDU				0	2		6/20/2006	Andrew J. and Sherry A. Dodd	TDU	Receiving	YES	WEST				
11	PA-06-03-20 & Z-06-03-21-TDU	CSZ-012.1B			0	1		5/16/2006	TRONT	TDU	Receiving-Complete	YES	WEST			8	1
12	PA-03-04-11 & Z-03-04-12-TDR	LATF-003			0	2		7/8/2003	FITZSIMMONS_RZ	TDR	Receiving-Complete	YES	WEST			LATF	2
13	PA-02-11-33 & Z-02-11-34-TDR	LATF-002			0	1		2/11/2003	PAWLIKOWSKI_RZ	TDR	Receiving-Complete	YES	WEST			LATF	1
14	PA-02-10-27 & Z-02-10-28-TDR	LATF-001			0	1		2/11/2003	LEMMAIN_RZ	TDR	Receiving-Complete	YES	WEST			LATF	1
15	PA-06-07-46 & Z-06-07-47-TDU	CSZ-008.1A			0	20		5/15/2007	PRESERVE AT CAPE HAZE	TDU	Receiving-Complete	YES	WEST			17	20
20	PA-10-03-11-TDU				0		13	6/15/2010	SITTI ENGINEERING GROUP	TDU	Receiving-Incomplete	YES	WEST				
22	PA-02-05-15-LS & Z-02-05-16-TDR	TDR-002			0	102		8/11/2003	LAGO DEL SOL_RZ	TDR	Receiving-Complete	YES	WEST			52	102
<i>West County Totals</i>						135	53										133

ID	PETITION	Certificate	RETAINED	SEVERED	EXISTING	TRANSFERRED	NEEDED	PETITION DATE	PETITIONER	PETITION TYPE	SENDING OR RECEIVING	CONSERVATION EASEMENT	REGION	TO ID	UNITS	FROM ID	UNITS
<b>SENDING ZONES</b>																	
<i>TDR Land Acquisition Trust Fund Totals</i>														12	2		
														13	1		
														14	1		
18	CSZ-09-04-01	CSZ-041	0	8				5/12/2009	HRSTKA	TDU	Sending	YES	MID				
21	CSZ-05-06-03	CSZ-002	0	41				8/16/2005	TREETOPS	TDU	Sending	YES	MID				
24	CSZ-06-11-20	CSZ-032	1	5				1/23/2007	ROB BERTSSON	TDU	Sending	NO	MID				
30	CSZ-09-03-01	CSZ-040	0	54				4/14/2009	Roll's Landing	TDU	Sending	YES	MID				
51	Resolution #2005-105	TDR-006	0	55				6/21/2005	TUSCANY ISLES_SZ	TDR	Sending	YES	MID	38	55		
52	Resolution #2003-135	TDR-002	0	102				8/11/2003	LAGO DEL SOL_SZ	TDR	Sending	YES	MID	22	102		
53	Resolution #2004-026	TDR-003	0	193				2/10/2004	KB CREEKSIDE_SZ	TDR	Sending	YES	MID	40	193		
<i>Mid-County Totals</i>			1	458											350		
31	CSZ-06-06-14	CSZ-028	0	1				9/12/2006	NORTON	TDU	Sending	NO	SOUTH/EAST				
32	CSZ-06-06-13	CSZ-027	0	2				9/12/2006	ASBURY - HYDE	TDU	Sending	NO	SOUTH/EAST				
34	CSZ-11-06-01	CSZ-044	0	86				11/8/2011	Peace River Island, LLC	TDU	Sending	YES	SOUTH/EAST				
35	CSZ-09-07-03	CSZ-042	5	105				10/13/2009	Punta Riverside, Inc	TDU	Sending	YES	SOUTH/EAST				
36	CSZ-06-04-09	CSZ-016	705	795				5/16/2006	LO LAND ASSETS	TDU	Sending	NO	SOUTH/EAST				
42	CSZ-06-04-07	CSZ-019	2	8				5/23/2006	BARAKAT	TDU	Sending	NO	SOUTH/EAST				
55	CSZ-06-05-10	CSZ-029	8	21				10/10/2006	COLLINS	TDU	Sending	NO	SOUTH/EAST				
56	CSZ-08-12-02	CSZ-039	4	21				1/27/2009	Joe & Marjorie Bixby	TDU	Sending	NO	SOUTH/EAST				
58	CSZ-06-01-01	CSZ-015	28	9				4/11/2006	HUNTER CREEK	TDU	Sending	NO	SOUTH/EAST				
60	CSZ-07-10-07	CSZ-037	0	4				11/27/2007	Lot Vestors, LLC	TDU	Sending	YES	SOUTH/EAST				
61	CSZ-07-04-03	CSZ-035	0	4				4/24/2007	NOTTINGHAM	TDU	Sending	YES	SOUTH/EAST				
62	CSZ-06-10-19	CSZ-031	0	14				1/9/2007	LOT VESTORS	TDU	Sending	YES	SOUTH/EAST				
63	CSZ-06-04-05	CSZ-017	0	27				5/23/2006	CHRISTA WILLIAMS #1	TDU	Sending	YES	SOUTH/EAST				
64	Resolution #2003-104	TDR-001	0	528				7/8/2003	BISCAYNE TRUST_SZ	TDR	Sending	YES	SOUTH/EAST	23	528		
66	CSZ-06-07-17	CSZ-026	0	10				9/12/2006	ALLIGATOR FARMS #2	TDU	Sending	NO	SOUTH/EAST				
67	CSZ-07-01-01	CSZ-033	0	5				2/27/2007	ALLIGATOR FARMS #4	TDU	Sending	NO	SOUTH/EAST				
68	CSZ-06-06-15	CSZ-023	0	18				8/22/2006	ALLIGATOR FARMS #1	TDU	Sending	NO	SOUTH/EAST				
69	CSZ-06-05-12	CSZ-021	0	3				6/27/2006	DODD #2	TDU	Sending	YES	SOUTH/EAST				
70	CSZ-05-08-10	CSZ-006	21	1,695				10/18/2005	WELLES	TDU	Sending	NO	SOUTH/EAST	59	168		
71	CSZ-05-09-11	CSZ-009	3	237				11/22/2005	HALL & ROONEY	TDU	Sending	NO	SOUTH/EAST				
72	CSZ-06-07-16	CSZ-022	0	12				8/8/2006	JULIAN WRIGHT	TDU	Sending	NO	SOUTH/EAST	26	12		
73	CSZ-07-01-03	CSZ-034	0	30				2/27/2007	ALLIGATOR FARMS #5	TDU	Sending	NO	SOUTH/EAST				
74	CSZ-06-10-18	CSZ-030	0	10				1/9/2007	ALLIGATOR FARMS #3	TDU	Sending	NO	SOUTH/EAST				
75	CSZ-05-06-04	CSZ-003	1	343				8/16/2005	CREWS	TDU	Sending	YES	SOUTH/EAST	37	99		
76	CSZ-06-04-08	CSZ-020	0	133				5/23/2006	SEMINOLE RANCHES	TDU	Sending	NO	SOUTH/EAST				
77	CSZ-05-06-05	CSZ-004	2	427				9/20/2005	FIVE CROSS	TDU	Sending	NO	SOUTH/EAST				
78	Resolution #2004-048	TDR-004	0	45				3/9/2004	DEVONSHIRE_SZ	TDR	Sending	YES	SOUTH/EAST	28	45		
79	Resolution #2005-032	TDR-005	0	650				2/15/2005	REALMARK_SZ	TDR	Sending	YES	SOUTH/EAST	43	650		
80	CSZ-05-12-13	CSZ-011	0	237				1/24/2006	KHUDAIRI	TDU	Sending	YES	SOUTH/EAST				
81	CSZ-05-07-07	CSZ-010	10	1,351				1/10/2006	DAUGHTRY-WILLIAMS-HITCHCOCK	TDU	Sending	NO	SOUTH/EAST				
82	CSZ-06-01-02	CSZ-013	11	1,403				3/14/2006	TRIPLE I	TDU	Sending	NO	SOUTH/EAST				
83	CSZ-08-10-01	CSZ-038	12	1,534				12/16/2008	ROEBUCK-SWINDLE	TDU	Sending	YES	SOUTH/EAST				
84	CSZ-05-04-01	CSZ-001	6	3,583				6/21/2005	CHASTAIN	TDU	Sending	YES	SOUTH/EAST				
85	CSZ-13-01-01	CSZ-046	0	650				2/12/2013	REALMARK TUCKERS GRADE LLC	TDU	Sending	YES	SOUTH/EAST				
86	CSZ-14-01-01	CSZ-047	0	285				1/29/2014	CITY OF PUNTA GORDA	TDU	Sending	YES	SOUTH/EAST				
<i>South/East County Totals</i>			818	14,286											1,502		

ID	PETITION	Certificate	RETAINED	SEVERED	EXISTING	TRANSFERRED	NEEDED	PETITION DATE	PETITIONER	PETITION TYPE	SENDING OR RECEIVING	CONSERVATION EASEMENT	REGION	TO ID	UNITS	FROM ID	UNITS
01	CSZ-06-04-06	CSZ-018	0	2				5/23/2006	CHRISTA WILLIAMS #2	TDU	Sending	YES	WEST				
03	CSZ-11-11-02	CSZ-045	0	46				11/22/2011	CHARLOTTE CO. CONSERVATION CHARLOTTE	TDU	Sending	NO	WEST				
04	CSZ-05-07-06	CSZ-007	19	58				11/15/2005	UP THE CREEK LLC	TDU	Sending	YES	WEST				
06	CSZ-06-02-03	CSZ-014	2	19				4/11/2006	JERRY PAUL	TDU	Sending	YES	WEST				
08	CSZ-05-07-08	CSZ-012	0	17				3/14/2006	DODD #1	TDU	Sending	YES	WEST	2 11	6 1		
09	CSZ-06-05-11	CSZ-024	0	73				8/22/2006	DODD #3	TDU	Sending	YES	WEST				
10	CSZ-07-01-02	CSZ-036	234	227				5/8/2007	HAMMOCKS CAPE HAZE	TDU	Sending	YES	WEST				
16	CSZ-05-08-09	CSZ-005	3	39				10/18/2005	CORAL COVE	TDU	Sending	NO	WEST				
17	CSZ-05-10-12	CSZ-008.1A	10	32				11/22/2005	THUNDERATION	TDU	Sending	YES	WEST	15	20		
19	CSZ-10-03-01	CSZ-043	0	24				6/15/2010	Najmi Properties	TDU	Sending	YES	WEST				
25	CSZ-06-03-04	CSZ-025	0	151				9/12/2006	T AND G TOWER	TDU	Sending	NO	WEST				
<i>West County Totals</i>			268	688											27		
<b>County Totals</b>			<b>1,087</b>	<b>15,432</b>											<b>1,883</b>		<b>1,883</b>

# **Attachment 1: Transfer of Development Rights, Ordinance Number 94-37**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108



County Commissioners finds that it is desirable and in the public interest to create a process whereby development rights associated with properties containing these resources may be severed and transferred to other, more suitable areas.

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

**SECTION 1. SHORT TITLE.** This ordinance shall be known and may be cited as the Charlotte County Transfer of Development Rights Ordinance.

**SECTION 2. DECLARATION OF INTENT AND PURPOSE.** It is the intent of this ordinance to provide a mechanism by which sensitive areas may be preserved and maintained during both the development process and for perpetuity by allowing landowners and developers to transfer development rights and densities out of sensitive areas into other areas better suited for development. Further, it is the intent of this ordinance to provide an economic incentive for landowners to place sensitive areas in a land use classification which will ensure their preservation and the continued presence of their unique and special resources. The purpose of this ordinance is to create a process by which development rights associated with privately owned lands may be severed from the property, properly recorded, and transferred to a more developable property.

**SECTION 3. RELATIONSHIP WITH THE COMPREHENSIVE PLAN.** This ordinance implements the following policies of the Charlotte County Comprehensive Plan:

- |                                   |                           |
|-----------------------------------|---------------------------|
| Future Land Use Element           | Policy 1.6, 2.2, 7.4, 9.3 |
| Housing Element                   | Policy 2.6, 4.6           |
| Recreation and Open Space Element | Policy 9.1                |
| Conservation Element              | Policy 11.1               |

**SECTION 4. DEFINITIONS.** Unless specifically defined below, all words or phrases used in this ordinance shall be ascribed the meaning which they have in common usage and which give this ordinance the most reasonable application.

- A. **Board of County Commissioners** - The elected governing body of unincorporated Charlotte County, Florida.
- B. **Board of Zoning Appeals** - The appointed body having the functions, powers, and duties as set forth in Section 3-9-6 of the County Code, or its successor agency.
- C. **Comprehensive Plan** - The 1988 Charlotte County/City of Punta Gorda Comprehensive Plan and its subsequent amendments.
- D. **County Code** - The official rules of Charlotte County as set forth in the most current version of Codes of laws and Ordinances, Charlotte County, Florida.
- E. **Density** - The number of dwelling units allowed within a given property based on its gross acreage, zoning classification, and Future Land Use Map designation.
- F. **Development Right** - An interest in real property which entitles its owner to improve said property as may be permitted by the County Code and other applicable State or Federal regulations.
- G. **Dwelling Unit** - An increment of housing designed and intended for residential use by one (1) family, whether a single family residence, mobile home, or as part of a duplex, apartment, or condominium project.
- H. **Receiving Zone** - A property into which development rights may be transferred.
- I. **Sending Zone** - A property from which development rights may be severed and transferred.

J. **Zoning Classification** - A group of distinct uses and structures assigned to a given property pursuant to Section 3-9 of the County Code.

K. **Zoning District** - An area assigned a distinct group of uses and structures pursuant to Section 3-9 of the County Code.

**SECTION 5. PROVISIONS.**

A. Generally. It is the right of every owner of real property in Charlotte County to petition the Board of Zoning Appeals (*BZA*) for a transfer of development rights (*TDR*) per the provisions of this ordinance. TDRs are established to allow the severance of development rights from one parcel of land for transference to another parcel, and to provide a record of such transfer as a permanent restriction of the subject parcels.

B. TDRs allow an increase of density of use, that would not be permissible generally or without restriction throughout a zoning district, but which, if controlled as to location and relation to the neighborhood and other such constraints as may be deemed appropriate in each case, would be compatible with surrounding land uses and found to be consistent with the Charlotte County Comprehensive Plan, Zoning Code, and other LDRs.

**SECTION 6. APPLICATION, REVIEW, AND APPROVAL PROCESS**

A. Pre-Application Meeting. Applicants are encouraged to meet with the Planning, Zoning, Land Development, Utilities, and Budget Departments, as well as the Metropolitan Planning Organization, to discuss potential TDRs, and how they may affect,

or be affected by, the County's Zoning Regulations, Comprehensive Plan, or other provisions of the County Code. It is intended that this meeting (*or meetings*) be used as a forum for the development of design standards for the receiving zone, as well as to discuss the restrictions associated with the sending zone.

B. Eligible Properties. Properties eligible for a TDR include those within the following sending and receiving zones:

1. Sending zones are properties from which development rights may be severed and transferred. Sending zones include:

a. Properties illustrated on the adopted Charlotte County Future Land Use Map (*FLUM*) series as "Agriculture Conservation", "Limited Development", or "Environmentally Sensitive".

b. Properties shown on the *FLUM* series as lying within the Conservation Overlay District (*COD*) or Special Surface Water Protection Overlay District (*SSWPOD*).

c. Any property which contains historical, archeological, architectural, cultural, or floral and faunal resources which place constraints on the subject property such that development is not desirable or economically feasible.

2. Receiving zones are properties into which development rights may be transferred. Receiving zones are limited to lands shown on the *FLUM* series as lying within the Urban Service Area and illustrated on *FLUM* series as "Medium Density", "High Density", or "PD – High Density", and to all Planned Developments (*PDs*).

C. Application and Written Petition. Applications for TDRs shall be obtained from, and filed with, the Charlotte County Zoning Official and shall be accompanied by the applicable fee as established by resolution of the Board of County Commissioners. The Zoning Official shall review the application for sufficiency, including completeness of the application. If additional information is required, the Zoning Official shall advise the applicant within ten (10) working days after receipt of the application. Upon finding the application to be correct and complete, it shall be scheduled for a public hearing at the next available BZA meeting. The Zoning Official, with assistance from the Planning Department, shall also review the application for consistency with the Comprehensive Plan and its implementing LDRs. TDR applications shall include, at a minimum, the following:

1. A legal description of the sending zone accompanied by a survey which illustrates boundaries, elevation, existing easements, existing zoning categories and FLUM series designations, and a brief description of any on-site historical, archeological, architectural, cultural, or floral and faunal resources.
2. A legal description of the receiving zone accompanied by a survey which illustrates boundaries, elevation, existing easements, existing zoning categories and FLUM series designations, and a brief description of any on-site historical, archeological, architectural, cultural, or floral and faunal resources.
3. Development standards which establish building heights, setbacks, parking, lot size, perimeter buffering and landscaping, and other requirements, as necessary, specific to the development proposed within the receiving zone. These standards

will reflect the character of the receiving zone's neighborhood to ensure that the proposed development is harmonious with its surroundings and will not detract from adjacent properties.

4. An appropriately scaled site plan of the receiving zone which illustrates, at a minimum, the placement of structures on the property; provision for ingress and egress; off-street parking and loading areas (*where applicable*); refuse and service areas (*where appropriate*); utility locations and hookups; plans for perimeter landscaping and buffering with references to type, dimensions, and character which meet, at a minimum, the standards provided by Section 3-9-83, *Charlotte County Code*, as may be amended; and required yards and other spaces as deemed appropriate to accommodate additional structures.

5. A narrative explaining the proposed uses in the sending zone following the completion of the TDR.

6. An executed agreement between the owner(s) of the sending zone and the owner(s) of the receiving zone acknowledging the transfer and acceptance of development rights.

7. A notarized affidavit which lists the names and addresses of property owners within 200 feet of the sending zone.

8. A notarized affidavit which lists the names and addresses of property owners within 200 feet of the receiving zone.

9. Copies of the documents to be filed for recording with the Office of the Clerk of the Circuit Court acknowledging the TDR and restrictions limiting the land uses

in the sending zones to those listed in Section E. 1 a.b.c., and draft copies of the documents to be filed with the Office of Clerk of the Circuit Court pertaining to the activities in the receiving zone per Section E. 2.

D. Notice of Public Hearing. Upon the receipt of an application for a TDR, the Zoning Official will schedule a date, time, and place for the hearing. Public notice shall be given at least fifteen (15) calendar days prior to the date of the public hearing by publication in a newspaper of general circulation in Charlotte County. The notice shall contain a description of the request, a brief description of the properties involved (*subject properties*), and the time, date, and place of the hearing; and shall invite all interested persons to appear and be heard. When a TDR is requested, the owners of properties within 200 feet of the subject properties shall be mailed written notice of the proposed request at least fifteen (15) days prior to the hearing. The notice shall contain the time, date, and place of the public hearing for the request and a brief description of the subject properties. Notice by mail shall be addressed to the property owner at the address shown on the latest available tax rolls of Charlotte County. Such notice shall be considered effective when placed in the United States mail, postage paid, and failure to receive notice shall not invalidate any proceeding. In addition, a sign shall be posted conspicuously on the subject properties. The sign shall contain the time, date, and place of the public hearing and shall state the action being considered. Said sign shall be placed on the subject properties at least ten (10) calendar days prior to the date of the public hearing. The Zoning Official, with assistance from the Planning Department, shall investigate the conditions pertaining to the particular request and submit a report

to the Board of Zoning Appeals which states the facts involved. Interested parties may appear at the public hearing in person or by agent or attorney.

E. Standards for Approval. A TDR will be granted by the Board of Zoning Appeals only if all of the following requirements are satisfied:

1. The number of units being transferred from the sending zone does not exceed that number which would ordinarily be permitted for construction within the sending zone based on its underlying land use, zoning category, and acreage.
2. The number of units proposed for construction within a receiving zone may not exceed by more than forty percent (40%) that number which would ordinarily have been allowed based on its underlying FLUM designation, and zoning category and acreage. Open spaces mandated by the LDRs which would have been required in receiving zones may be satisfied by areas preserved in the sending zone from which the development rights were transferred provided sufficient acreage exists.
3. The proposed increase of development will not violate concurrency standards regarding the levels of service for roadways and utilities which exist in the receiving zone.

F. Public Hearing and Approval. Following the public hearing, the BZA may grant or deny the TDR, or may grant approval subject to compliance with certain conditions, restrictions, or requirements as the BZA may deem necessary to protect the interest of the public health, safety, and welfare. Within thirty (30) days following approval, and prior to the use of any transferred density, the applicant(s) must file the following with the Zoning Official for recording with the Notice of Approval of Special Exception:

1. The documentation required by Section 6.C. 6. and 9. acknowledging the TDR from the sending zone to the receiving zone.
2. Restrictions of the sending zone to the following:
  - a. Nature parks which may be improved with trails, boardwalks, and interpretive displays.
  - b. Unimproved passive use recreation.
  - c. Other unobtrusive uses as may be agreed upon by the County and applicant(s) during the application and review process and approved by the Board of Zoning Appeals.
3. Appropriate documents recording the TDR onto the receiving zone and acknowledging that the initial structures or improvements developed within the receiving zone shall be counted against those gained through the transfer, the conditions of approval of the TDR, along with any stipulations placed by the BZA.

**SECTION 7. LIMITATIONS.**

- A. TDRs, when granted by the Board of Zoning Appeals, shall be recorded with the Clerk of the Circuit Court of Charlotte County, Florida, as a recorded notice of the restriction of such land and shall be binding to all present and subsequent owners, heirs, or assigns to such property. Such restrictions may not be amended, deleted, or otherwise altered except by:
1. a unanimous, affirmative vote of the BZA; or
  2. rezoning of the receiving zone to a zoning district which does not permit residential development.

In cases where the receiving zone is rezoned to a district which does not permit residential development, the density units previously gained through the TDR shall not revert to the sending zone, but may be transferred to a new receiving zone upon approval of a new TDR by special exception through the BZA. The rezoning of the receiving zone shall not be construed to nullify, void, or in any way alter the restrictions placed on the sending zone through the original TDR.

B. Whenever the BZA has denied an application for a TDR, it shall not thereafter consider an identical application for a period of six (6) months from the date of such action, except that this requirement may be waived by a positive vote of a majority of the members of the BZA when such action is deemed necessary to prevent an injustice. Should the TDR application be modified, the six (6) month waiting period shall not apply.

**SECTION 8. SEVERABILITY.** In the event this ordinance conflicts with any other provision of the Charlotte County Code or other applicable law, the more restrictive shall apply. If any subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remainder of the ordinance.

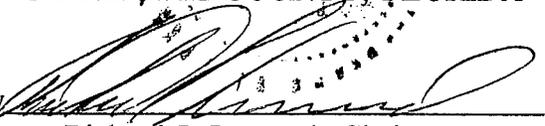
**SECTION 9. INCLUSION IN THE CHARLOTTE COUNTY CODE.** It is the intent of the Board of County Commissioners and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances, Charlotte

County, Florida, and the subsections of this ordinance may be renumbered to accomplish such intent.

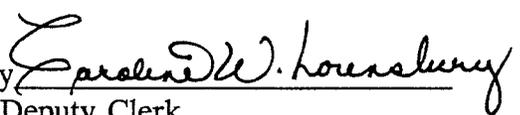
**SECTION 10. EFFECTIVE DATE.** This ordinance shall take effect upon receipt of the acknowledgment of its filing in the Office of the Secretary of State, State of Florida.

PASSED AND DULY ADOPTED this 23<sup>RD</sup> day of August, 1994.

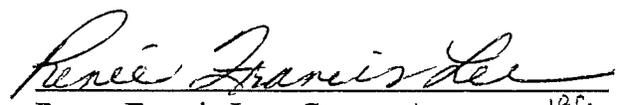
BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By   
Richard J. Leonard, Chairman

ATTEST:  
Barbara T. Scott, Clerk of the  
Circuit Court and Ex-officio Clerk  
to the Board of County Commissioners

By   
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
Renee Francis Lee, County Attorney *ABC*

# **Attachment 2: Article XX, Transfer of Density Units, Ordinance Number 04-067**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

December 22, 2004

1 2004 00 1100 000 111 001 1100 11 0010 001 1100 11 0010 11 0001 1 10001

FILE 1314140 OR BK 02810 Pgs 0330 - 352: (23pgs) REC'D 01/04/2005 07:33:28 AM  
BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY  
REC 197.00

ORDINANCE  
Number 04-067

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY REPEALING ARTICLE XX, CHAPTER 3-5, OF THE CODE OF LAWS AND ORDINANCES; CREATING A NEW ARTICLE XX, CHAPTER 3-5, OF THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR TRANSFER OF DENSITY UNITS ASSOCIATED WITH REAL PROPERTY; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATION, REVIEW AND APPROVAL OF TRANSFERS OF DENSITY UNITS; PROVIDING FOR PROCEDURE FOR MEASURING AND GRANTING DENSITY UNITS; PROVIDING FOR ADMINISTRATIVE RELIEF AND APPEAL PROCESS; PROVIDING FOR LIMITATIONS AND CONDITIONS FOR TRANSFERS OF DENSITY UNITS; PROVIDING FOR LAND ACQUISITION TRUST FUND ESTABLISHMENT AND PROCEDURES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Charlotte County Comprehensive Plan identifies environmentally sensitive, historic and archeological resources, and bona fide agricultural uses which it intends to ensure the continued presence of as the County grows and development activities take place on properties containing such resources; and

WHEREAS, the Charlotte County Comprehensive Plan also recognizes that Charlotte County has a surplus of platted lots which is greater than the County's long term need and encourages the reduction of those platted lots by one percent (1%) each year; and

WHEREAS, the Board of County Commissioners has adopted a variety of Goals, Objectives and Policies within the Charlotte County Comprehensive Plan, Zoning Districts, and land development regulations which place constraints on the use of certain properties to prevent or limit adverse impacts on those properties containing environmentally sensitive, historic and archeological resources, and bona fide agricultural uses, and to protect existing and future populations from the loss of life and property caused by catastrophic hurricanes, and to discourage urban sprawl; and

WHEREAS, in certain circumstances, the application of the provisions of the Charlotte County Comprehensive Plan, the zoning district regulations, and the land development regulations may constrain a property owner seeking to develop a property containing environmentally sensitive, historic and archeological resources, and bona



1 fide agricultural uses, or which contains substandard platted lots or which are located in  
2 a Tropical Storm Surge or Category 1 Hurricane Storm Surge zone; and  
3

4 **WHEREAS**, in order to alleviate such constraints on landowners, the Board has  
5 found in the past, and continues to find, that it is desirable and in the public interest to  
6 create and maintain a process whereby density units associated with properties  
7 containing environmentally sensitive, historic and archeological resources, and bona  
8 fide agricultural uses, properties located in the Tropical Storm Surge or Category 1  
9 Hurricane Storm Surge zone, and properties with surplus or substandard platted lots  
10 may be transferred to other properties more suitable for such development; and  
11

12 **WHEREAS**, the Board desires to create a transfer of density units process which  
13 will direct future growth in a logical, economical, and efficient manner away from those  
14 areas of the County less suited for such growth, and toward those areas of the County  
15 better suited to provide the public services and facilities necessary for such growth, and  
16 for the protection of environmentally sensitive, historic and archeological resources and  
17 bona fide agricultural uses, and the health, safety and welfare of the general public; and  
18

19 **WHEREAS**, the Board further desires to create a transfer of density units  
20 process which will assist and encourage private and public interests in reducing and  
21 reallocating the surplus and substandard platted lots throughout the County as is  
22 contemplated by the Comprehensive Plan; and  
23

24 **WHEREAS**, the Board desires to provide a record of the transfers of density  
25 units and impose appropriate restrictions on the properties involved in such transfers;  
26 and  
27

28 **WHEREAS**, on July 26, 1994, the Board adopted Article XX, Chapter 3-5, of the  
29 Code of Laws and Ordinances of Charlotte County, Florida, which provided a process  
30 whereby development rights associated with certain properties could be transferred to  
31 more suitable areas; and  
32

33 **WHEREAS**, on August 28, 2001, the Board amended Article XX, Chapter 3-5, of  
34 the Code of Laws and Ordinances of Charlotte County, Florida to more effectively  
35 provide for the transfers of development rights and further the Goals, Objectives and  
36 Policies of the then-current Comprehensive Plan; and  
37

38 **WHEREAS**, the Board finds it desirable to again amend Article XX, Chapter 3-5,  
39 to more effectively and efficiently provide for the transfers of density units and further  
40 the Goals, Objectives and Policies of the Comprehensive Plan.  
41

1           **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners  
2 of Charlotte County, Florida:

3  
4           **SECTION 1.** Article XX. Chapter 3-5, of the Code of Laws and Ordinances of  
5 Charlotte County, Florida, containing Sec. 3-5-431 through Sec. 3-5-437 of such Code,  
6 shall be deleted in its entirety and replaced with the following:

7  
8                           **ARTICLE XX. TRANSFER OF DENSITY UNITS**

9  
10           **Sec. 3-5-431. SHORT TITLE.**

11  
12           This article shall be known and may be cited as the Charlotte County "Transfer of  
13 Density Units Code."

14  
15           **Sec. 3-5-432. DECLARATION OF INTENT AND PURPOSE.**

16  
17           (a)    It is the intent of this article to provide a mechanism by which:

18  
19                   (1)    Residential development rights associated with real property with  
20 environmentally sensitive, historic, or archeological resources, or bona fide agricultural  
21 uses or real property otherwise deemed less suitable for development due to location,  
22 may be properly transferred to property better suited for higher density residential  
23 development upon satisfaction of the requirements of this article; and

24  
25                   (2)    Future growth will be directed in a logical, economical, and efficient  
26 manner away from those areas of the County less suited for such growth, and toward  
27 those areas of the County best suited to provide the public services and facilities  
28 necessary for such growth and for the protection of the health, safety and welfare of the  
29 general public; and

30  
31                   (3)    Density may be reduced County-wide and density from  
32 Substandard lots or parcels can be reduced and/or reallocated to property better suited  
33 for such development and density; and

34  
35                   (4)    The County can provide a record of transfers of density units and  
36 impose appropriate restrictions on the properties involved in such transfers; and

37  
38                   (5)    The County can promote creative and compact development in  
39 appropriate areas of the County.

40  
41           (b)    The adoption of this article shall not affect the existing FLUM or Zoning  
42 designation of any property. It shall provide a mechanism for increasing or creating  
43 density on a property.

1                   **Sec. 3-5-433. DEFINITIONS.**  
2

3                   Unless specifically defined below, all words, terms or phrases used in this article  
4 shall be ascribed the meaning which they have in common usage and which give this  
5 article the most reasonable application. The following words, terms and phrases, when  
6 used in this article, have the meanings ascribed to them in this section, except where  
7 the context clearly indicates a different meaning:  
8

9                   *Agriculture:* The business of cultivating the soil, producing crops and raising  
10 horses, production of horticultural, aqua cultural, and silvicultural products; and raising  
11 livestock to provide food or fiber for society.  
12

13                   *Barrier Island:* a broadened barrier beach entirely surrounded by water,  
14 habitable in places, and providing a measure of protection for the mainland, as during  
15 hurricanes and tidal waves.  
16

17                   *Board:* The Board of County Commissioners of Charlotte County, the elected  
18 governing body of unincorporated Charlotte County, Florida.  
19

20                   *Bona fide Agricultural Use:* Use of a property for agriculture, which property has  
21 been classified as agricultural by the Charlotte County Property Appraiser pursuant to  
22 Section 193.461, Florida Statutes.  
23

24                   *Certificate:* A certificate of transferable Density Credits calculated and issued  
25 pursuant to this article.  
26

27                   *Comprehensive Plan:* The document, and its amendments, adopted by the  
28 Board, which meets the requirements of Section 163.3177 and Section 163.3178,  
29 Florida Statutes.  
30

31                   *County Administrator:* The chief administrative officer of Charlotte County,  
32 Florida, or his/her designee.  
33

34                   *County Code:* The Code of Laws and Ordinances, Charlotte County, Florida, as  
35 the same may be amended.  
36

37                   *Covenant:* A perpetual conservation easement and/or other perpetual restrictive  
38 covenant that encumbers the property that constitutes an SZ, granted by the owner (s)  
39 thereof to the County or to some other entity acceptable to the County Administrator.  
40

41                   *Density:* The number of Density Units permissible within a given property.  
42

43                   *Density Credit:* A Density Unit that has been severed from a property through  
44 the processes identified in this article and recognized by a Certificate of Transferable  
45 Density Credits.  
46

1           *Density Unit:* A Development Right which equals one increment of housing  
2 designed and intended for residential use by one (1) family, whether a single family  
3 residence, mobile home, or as part of a duplex, apartment, or condominium project .  
4

5           *Development:* The construction, reconstruction, conversion, structural alteration,  
6 relocation, or enlargement of any structure; any mining, excavation, landfill or land  
7 disturbance including, but not limited to, clearing, cutting, burning, excavating, filling, or  
8 grading of land or any other activity that alters land topography or vegetation. This  
9 definition shall not include the removal of invasive, nonindigenous plant species either  
10 listed as Prohibited Trees in Subsection 3-2-186(r) of the County Code or as determined  
11 by the County Administrator, activities undertaken pursuant to a land management plan  
12 approved by the USDA Natural Resources Conservation Service or similar agencies, or  
13 activities associated with bona fide agricultural practices.  
14

15           *Development Permit:* Any building permit, zoning permit, plat approval, or  
16 rezoning, certification, variance, or other action having the effect of permitting  
17 development.  
18

19           *Development Right:* A right that entitles an owner of real property to develop  
20 said property as may be recognized by the common law, statutory law, the United  
21 States or Florida constitution, the County Code, the Comprehensive Plan or other  
22 applicable federal or state regulations.  
23

24           *Encumbrances:* Restrictions, liens or other matters which affect the SZ.  
25

26           *Environmentally sensitive resource:* Any Vegetation Community, plant  
27 assemblages as defined using level 3 of the FLUCCS, or wetland, or wildlife, or plant  
28 species listed by the State of Florida or the United States as endangered or threatened  
29 or listed as globally imperiled by the Florida Natural Areas Inventory, or any successor  
30 entity performing similar functions or duties.  
31

32           *FLUCCS:* The Florida Land Use Cover and Forms Classification System.  
33

34           *FLUM:* The Future Land Use Map contained in the Comprehensive Plan, as the  
35 same may be amended.  
36

37           *Historic or archeological resource:* Any prehistoric, historic, or archeological district,  
38 site, building, structure, or object included in the National Register of Public Places, Florida  
39 Master Site File or Local Register or which may be deemed to be a prehistoric, historic, or  
40 archeological district, site, building, structure, or object by an archeologist registered with  
41 the Society of Professional Archaeologists; such term includes mounds, artifacts, records,  
42 and remains which are related to such a district, site, building, structure, object, or culture.  
43

44           *Land Acquisition Trust Fund or LATF:* The fund established by the Board pursuant  
45 to Sec. 3-5-457 below.  
46

1           *Management-Ready:* The condition of the proposed SZ, as determined by the  
2 County Administrator, where any initial management activities required to get the  
3 proposed SZ into a condition so that only routine maintenance is required to maintain it  
4 in a functional state have been completed. These initial activities may include, but are  
5 not limited to, removing all debris, removing exotic vegetation and securing or removing  
6 a structure.

7  
8           *Ownership and Encumbrance Report or O&E:* A title report on the proposed  
9 Sending Zone issued by an attorney or a title insurance company acceptable to the  
10 County Attorney.

11  
12           *Plan Amendment:* Any change to the Comprehensive Plan including any change  
13 to any map of the Future Land Use Map series of the Comprehensive Plan.

14  
15           *Preliminary Plat:* A preliminary map or delineated representation of the  
16 subdivision of lands, being a complete exact representation of the subdivision and other  
17 information in compliance with the requirement of all applicable sections of Chapter 3-7,  
18 Subdivision Regulations, and of any other local ordinances, and may include the terms  
19 "replat, or revised plat," as defined in F.S. section 177.031(14), as amended.

20  
21           *Receiving Zone or RZ:* The area of property into which Density Credits may be  
22 transferred and/or Density Units may be increased.

23  
24           *Rezoning:* An amendment to the Zoning Atlas pursuant to the procedures and  
25 requirements of the County Code for such amendments.

26  
27           *Sending Zone or SZ:* The area of property from which Density Credits may be  
28 severed and transferred.

29  
30           *Substandard lot or parcel:* Property which does not meet the minimum  
31 dimension or area requirements established pursuant to the Zoning Atlas, County  
32 Zoning Regulations, FLUM, County Land Development Regulations, County Subdivision  
33 Regulations, or the Comprehensive Plan.

34  
35           *TDU:* A transfer of Density Units from an SZ to an RZ, or an increase in Density  
36 Units to an RZ, as governed by this article.

37  
38           *Unacceptable Encumbrances:* Encumbrances that, in the judgment of the County  
39 Attorney, would impair or otherwise adversely affect the recorded Covenant, whether in  
40 whole or in part, in the event of their enforcement or foreclosure.

41  
42           *Urban Service Area Overlay District or USA:* Locations within a jurisdiction that  
43 are planned to receive publicly funded infrastructure and services within a planning  
44 timeframe, as depicted on Map #2 of the Future Land Use Map series of the  
45 Comprehensive Plan, as may be amended.

1  
2         *Zoning District:* An area assigned a specific classification of uses and structures  
3 pursuant to Sec. 3-9 of the County Code.  
4

5         *Zoning Atlas:* An atlas containing half-section maps depicting the boundaries of  
6 the various Zoning Districts, as the same may be amended.  
7

8         **Sec. 3-5-434. APPLICATION OF ARTICLE.**  
9

10         (a) This article shall apply within the unincorporated areas of Charlotte  
11 County.  
12

13         (b) This article shall not apply within the City of Punta Gorda boundaries as it  
14 existed as of July 15, 2004. This article shall apply to areas annexed within the City of  
15 Punta Gorda or any new municipal area created after July 15, 2004 within Charlotte  
16 County.  
17

18         (c) Any owner of property governed by Subsections 3-5-434(a) and (b) above  
19 may petition the Board for a TDU in accordance with the provisions of this article.  
20

21         (d) Except as provided in Subsection 3-5-455(c), any petition for a Plan  
22 Amendment and/or Rezoning which proposes to increase the permitted density on a  
23 proposed RZ beyond that amount permitted by the existing FLUM designation and/or  
24 the existing Zoning Atlas, whichever is the most restrictive, shall require a TDU petition  
25 which proposes to transfer the number of Density Units that will be increased by the  
26 Plan Amendment and/or Rezoning.  
27

28         (e) A TDU petition shall be submitted with a Plan Amendment which, through  
29 its adoption, automatically increases density on a property without need for further  
30 amendments or Rezoning. For a Large Scale Plan Amendment, the petition may be  
31 submitted subsequent to the transmittal of the petition to the Department of Community  
32 Affairs. The Resolution approving the TDU shall be adopted concurrent with the  
33 adoption of the Plan Amendment. The transfer of density is not required to be  
34 completed until prior to submittal to the County for Preliminary Plat approval, or, in the  
35 event a Preliminary Plat will not be requested by the applicant, prior to request for other  
36 Development Permits for any portion of the property. If the project will be submitted in  
37 phases, the applicant may submit individual TDU petitions to transfer density equivalent  
38 to that necessary for development of that phase. If the Plan Amendment is  
39 accompanied by a Rezoning to a Planned Development Zoning District in accordance  
40 with Sec. 3-9-49 of the County Code, both to be adopted concurrently, the applicant  
41 may proceed with the TDU petition as outlined in Subsection (f) below.  
42

43         (f) A petition which proposes to increase density in a proposed RZ by more  
44 than two (2) units must request a Rezoning to a Planned Development Zoning District in  
45 accordance with Sec. 3-9-49 of the County Code. The TDU petition may be submitted  
46 subsequent to the adoption of the Planned Development Rezoning but must be

1 approved by the Board, and the density transferred to the SZ, prior to submittal by the  
2 applicant for Preliminary Plat Approval. A project which proposes to phase  
3 development in over time may submit individual TDU petitions to transfer density  
4 equivalent to that necessary for development of that phase. When a Rezoning petition  
5 requests an increase of density for one (1) or two (2) units total, the TDU petition must  
6 be submitted and heard concurrent with the adoption of the Rezoning petition, and the  
7 density transferred at the time of adoption of the petition.

8  
9 **Sec. 3-5-435. DETERMINATION OF DENSITY FOR AN SZ**

10  
11 Within the Urban Service Area, the Density for a lot or parcel is calculated by  
12 determining the minimum lot size for the Zoning District as influenced by the  
13 Comprehensive Plan, as may be amended, divided into the developable square footage  
14 of the property, be it one parcel, one lot, or a combination of lots containing the same  
15 development standards. Outside the Urban Service Area, the Density for each legally  
16 created and recorded lot or parcel shall be, at a minimum, one (1) Density Unit per  
17 legally created and recorded lot or parcel.

18  
19 **Sec. 3-5-436. PROPOSED SZ WITHOUT A DESIGNATED RZ.**

20  
21 (a) Any owner of real property in Charlotte County may petition the Board to  
22 have his property approved as an SZ, even if there is no RZ involved. In such a case,  
23 the petitioner need not concurrently petition the County for a Plan Amendment,  
24 Rezoning, or TDU.

25  
26 (b) The property owner(s) shall petition the Board in accordance with the  
27 provisions of this article, but shall not be required to provide information pertaining to a  
28 proposed RZ. The petition shall include an affidavit from the owner(s) of the proposed  
29 SZ consenting to the County's initiation of and taking of action on the appropriate  
30 modification of the FLUM designation, and/or Zoning District, and/or vacation of plat of  
31 the proposed SZ to reflect the reduced density permitted on the proposed SZ once it is  
32 approved.

33  
34 (c) The petition shall include a request to have the Density Units for the  
35 property calculated and severed from the property by a Certificate pursuant to Sec. 3-5-  
36 456.

37  
38 (d) The Board may approve the petition if it finds that the intent and purpose  
39 of this article will be complied with, as those purposes pertain to the appropriateness of  
40 the property as an SZ, and that the property meets the criteria of an SZ set within this  
41 article.

42  
43 (e) No subsequent transfer to an RZ shall take place without an approval of a  
44 TDU pursuant to the requirements of this article.

1           **Sec. 3-5-437. EFFECTIVE DATE OF PROPOSED SZ WITHOUT A**  
2 **DESIGNATED RZ.**

3  
4           An SZ created pursuant to Sec. 3-5-436 shall not be considered valid and no  
5 Certificate shall be issued until:

6  
7           (a)    The proposed SZ has been approved by the Board, and

8  
9           (b)    The documents required by Sec. 3-5-443 have been recorded by the  
10 County in the Public Records of Charlotte County with the Clerk of the Circuit Court of  
11 Charlotte County, and

12  
13           (c)    Within 10 days after the recording of the documents required by Sec. 3-5-  
14 443, the County has received and approved an updated O&E which does not contain  
15 any Unacceptable Encumbrances or which shows that the recorded Covenant is prior in  
16 dignity to any Unacceptable Encumbrance. If the O&E indicates otherwise, the SZ  
17 approval shall be null and void. The County Attorney may waive this requirement in the  
18 event that the initial O&E did not reflect Unacceptable Encumbrance(s) and the County  
19 Attorney deems the likelihood of the development or imposition of Unacceptable  
20 Encumbrance(s) prior to the recording of the Covenant to be minute.

21  
22           **Sec. 3-5-438. PRE-PETITION MEETING.**

23  
24           (a)    A petitioner for a TDU shall meet with the County Administrator prior to  
25 submitting a petition for a TDU. The meeting may include representatives from other  
26 County departments or government agencies who may attend the meeting and provide  
27 input, at the County Administrator's discretion.

28  
29           (b)    The purpose of the pre-petition meeting shall be to discuss the  
30 requirements for a TDU as they apply to the petitioner's proposal, any applicable  
31 provisions of this article, and other concerns related to the proposed TDU. This meeting  
32 may occur simultaneously with a Development Review Committee, or succeeding body,  
33 pre-application meeting when such is required by the County Code.

34  
35           **Sec. 3-5-439. TDU PETITION REVIEW.**

36  
37           The TDU petition review process shall commence as outlined in Subsection 3-5-  
38 434(e) and (f).

39  
40           **Sec. 3-5-440. CONTENTS OF TDU PETITION.**

41  
42           (a)    In addition to any information and documents required pursuant to the  
43 accompanying petition for a Plan Amendment and/or Rezoning, a petition for a TDU  
44 shall include the following items:

1 (1) Notarized affidavits from all owners of the proposed SZ and the  
2 proposed RZ authorizing the TDU petition. The affidavit from the owners of the  
3 proposed SZ shall also provide consent to the modification of the FLUM and/or Zoning  
4 District of the proposed SZ to conform with the revised and reduced density applicable  
5 to the proposed SZ upon the approval of the TDU, and/or consent to vacate the plat if  
6 one is in existence and the action is deemed necessary to accomplish the reduction in  
7 density. In the event the owners of the proposed SZ and the proposed RZ are the same  
8 party, a single affidavit acknowledging the unity of ownership and authorizing the TDU  
9 will satisfy this requirement. A copy of the most current deed or title to the SZ property  
10 must be included with the affidavit in order for the County to be able to verify that the  
11 person(s) signing the affidavit is the owner of the property. The County Administrator  
12 may also require evidence that the person(s) executing the affidavit(s) has the  
13 appropriate authority to do so.

14  
15 (2) Legal descriptions (with acreages) of the proposed SZ and  
16 proposed RZ.

17  
18 (3) Signed and sealed surveys of the proposed SZ and the proposed  
19 RZ that illustrate boundaries and all existing easements. The survey of the proposed  
20 SZ is not required if the proposed SZ is a platted lot and the proposed SZ comprises the  
21 entire lot. A copy of the most recent plat of the lot(s) with the proposed SZ outlined is  
22 sufficient.

23  
24 (4) Maps illustrating the location of the proposed SZ and the proposed  
25 RZ.

26  
27 (5) All documents necessary for the preparation and execution of the  
28 Covenant pursuant Sec. 3-5-443, including an O&E, a management plan as required in  
29 Subsection 3-5-443(c), and a narrative outlining any special considerations or requests  
30 the petitioner wishes the County to consider including in the Covenant.

31  
32 (6) A narrative which describes how the proposed SZ and the  
33 proposed RZ meet the criteria of this article.

34  
35 (7) Maps of the proposed SZ and the proposed RZ illustrating the  
36 existing land cover according to Level 3 of the FLUCCS. This requirement may be  
37 eliminated for one or both of the proposed zones by the County at the Pre-Petition  
38 Meeting for the TDU. The circumstances under which this requirement may be  
39 eliminated include: a property that is severely disturbed or developed and which clearly  
40 does not contain an environmentally sensitive, historic and archeological resource, or a  
41 bona fide agricultural use; property whose only unmistakable value as an SZ is that it is  
42 a Substandard lot or is located within the Tropical Storm Surge or Category 1 Hurricane  
43 Storm Surge zones; property of which the County already has detailed knowledge of as  
44 relates to environmentally sensitive, historic and archeological resources, or bona fide  
45 agricultural uses; and other circumstances that will be determined on a case by case  
46 basis.

1 (8) Surveys of all listed species within the proposed SZ and the  
2 proposed RZ, and a map depicting the locations of these species. This requirement  
3 may be eliminated for one or both of the proposed zones by the County at the Pre-  
4 Petition Meeting for the TDU. The circumstances under which this requirement may be  
5 eliminated include: a property that is severely disturbed or developed and which clearly  
6 does not contain an environmentally sensitive, historic and archeological resource, or a  
7 bona fide agricultural use; property whose only unmistakable value as an SZ is that it is  
8 a Substandard lot or is located within the Tropical Storm Surge or Category 1 Hurricane  
9 Storm Surge zones; property of which the County already has detailed knowledge of as  
10 relates to environmentally sensitive, historic and archeological resources, or bona fide  
11 agricultural uses; and other circumstances that will be determined on a case by case  
12 basis.

13  
14 (9) An application fee, to be established by resolution of the Board.

15  
16 (b) If the petitioner in the application for the accompanying Rezoning and/or  
17 Plan Amendment has provided the information required in Subsections (a)(1)-(9) above,  
18 the petitioner may not be required to submit the same information with the TDU petition.

19  
20 (c) If the proposed TDU does not involve a proposed SZ, the petitioner shall  
21 not be required to include the information required in Subsections (a)(1)-(9) above as to  
22 a proposed SZ.

23  
24 (d) If the proposed TDU involves an SZ which has already been approved by  
25 the County in accordance with Sec. 3-5-436, the petitioner shall not be required to  
26 include the information required in Subsections (a)(1)-(9) above as to the proposed SZ.  
27 However, the petitioner shall be required to submit with the petition a copy of the  
28 Certificate pertaining to the SZ.

29  
30 **Sec. 3-5-441. OWNERSHIP AND ENCUMBRANCE REPORT.**

31  
32 The O&E required by Subsection 3-5-440(a)(4) shall show that the signatories  
33 who will execute the Covenant constitute the owners of all interests in the proposed SZ.  
34 The O&E shall further indicate that there are no Unacceptable Encumbrances against  
35 the proposed SZ. If Unacceptable Encumbrances exist, they shall be fulfilled, removed,  
36 satisfied, released, subordinated or limited to the satisfaction of the County Attorney  
37 such that the enforcement of the Encumbrances will not impair or otherwise adversely  
38 affect the Covenant, whether in whole or in part, or that the Covenant will be prior in  
39 dignity to the Encumbrances.

40  
41 **Sec. 3-5-442. COUNTY MANAGEMENT OF SZ.**

42  
43 (a) A petitioner may request that the County assume responsibility for  
44 management of a proposed SZ upon the approval of the proposed SZ and the fulfillment  
45 of the requirements of Sec. 3-5-437 or 3-5-447, whichever is applicable, and upon the

1 fulfillment of the requirements of this section. The request shall be in writing and shall  
2 accompany the petition.

3  
4 (b) The County may accept management responsibility of the proposed SZ if  
5 the County Administrator determines either:

6  
7 (1) The proposed SZ contains environmentally sensitive resources of  
8 which the County has a current or future need for mitigation for capital projects; or

9  
10 (2) If the proposed SZ were under County management, it would  
11 address a deficit in the County's recreational, educational, cultural, or other programs  
12 which the County is required to provide pursuant to the Comprehensive Plan, the  
13 County Parks Master Plan, the State Comprehensive Outdoor Recreation Plan or a  
14 similar mandate; or

15  
16 (3) Having the proposed SZ under County management would better  
17 fulfill other goals and objectives of this article and the Charlotte County Comprehensive  
18 Plan pertaining to environmentally sensitive, historic or archeologically valuable  
19 resources than would be achieved by leaving the proposed SZ under private  
20 management.

21  
22 (c) If the County agrees to assume responsibility for management:

23  
24 (1) This fact and any details of the assumption of responsibility shall be  
25 included in the Covenant.

26  
27 (2) The petitioner shall submit a detailed list for County approval  
28 identifying activities and deadlines for completion of those activities that shall place the  
29 property in Management-Ready condition.

30  
31 (3) The petitioner will submit a performance bond granted to the  
32 County in an amount and in a form acceptable to the County Administrator, to ensure  
33 that the property is in Management-Ready condition upon the time the County takes  
34 over responsibility for management of the proposed SZ. This bond shall be submitted  
35 prior to the public hearing for the TDU.

36  
37 (d) The County shall not assume management responsibilities pursuant to  
38 this Subsection (b) above until the proposed SZ is in Management-Ready condition.

39  
40 **Sec. 3-5-443. COVENANT.**

41  
42 (a) The Covenant shall be prepared and executed in accordance with the  
43 requirements of this article. The Covenant shall be signed by the petitioner and held in  
44 escrow pending the approval of the TDU.

1 (b) The form of each Covenant shall be prescribed by the County Attorney  
2 and the Covenant shall contain such provisions that are reasonably required by the  
3 County Attorney proscribing the use of the proposed SZ following the approval of the  
4 TDU including the following:

5  
6 (1) If the property contains environmentally sensitive resources,  
7 historic or archeological resources, or bona fide agricultural uses, the Covenant shall  
8 limit or preclude uses of the proposed SZ such that the environmentally sensitive,  
9 historic or archeological resources, or agricultural use of the proposed SZ, whichever  
10 may be applicable, will be maintained in perpetuity following the completion of the TDU.

11  
12 (2) Limit or preclude activities which are determined though the  
13 processes of this article to be detrimental to the appropriate maintenance of the  
14 proposed SZ.

15  
16 (3) Indicate the property or portions thereof that is restricted from future  
17 development and/or subject to limitations on future development. If the SZ consists of  
18 only a portion of the property, the Covenant shall not contain provisions over the use of  
19 the remainder of the property unless such provisions are deemed necessary to ensure  
20 the viability of the SZ. The Covenant may provide for spreading the remaining density  
21 onto the portion of the property used as an SZ. If that portion used as an SZ contains  
22 environmentally sensitive, or historic or archeological resources, such resources shall  
23 be protected.

24  
25 (4) Bind all owners of the proposed SZ and their respective heirs,  
26 successors and assigns.

27  
28 (c) The Covenant shall be accompanied by a management plan if required  
29 herein.

30  
31 (1) A management plan shall be required if the applicant proposes to  
32 qualify the property as an SZ because it contains environmentally sensitive, historic,  
33 and/or archeological resources, and/or bona fide agricultural uses. The management  
34 plan shall describe how the proposed SZ will be maintained in perpetuity, how the  
35 resource shall be protected, and shall contain any other information reasonably  
36 requested or required by the County Administrator regarding the use, maintenance and  
37 the protection of the resources of the proposed SZ following the approval of the TDU.

38  
39 (2) Substandard lots and property located within the Tropical Storm  
40 Surge and Category 1 Hurricane Storm Surge zones shall not require a management  
41 plan.

42  
43 (d) Upon approval of the TDU, the Covenant, the accompanying management  
44 plan, if applicable, and any other documents indicating acceptance of the Covenant,  
45 shall be recorded by the County Administrator, at the petitioner's cost, in the Public  
46 Records of Charlotte County with the Clerk of the Circuit Court of Charlotte County.

1  
2 (e) Nothing herein shall preclude the retention of density on the SZ if such  
3 use is deemed to be consistent with the provisions of this article and the Covenant.  
4

5 **Sec. 3-5-444. LAND ACQUISITION TRUST FUND FEE.**  
6

7 (a) If a petitioner does not choose to include an SZ with a proposed TDU, the  
8 petitioner shall pay a contribution fee to be deposited in the County Land Acquisition  
9 Trust Fund. The amount of the fee shall be equal to the number of Density Units  
10 approved for the proposed RZ multiplied by the unit price equivalent for a Density Unit  
11 to be established by resolution of the Board. The petitioner shall be issued a Certificate  
12 in accordance with Sec. 3-5-456.  
13

14 (b) The payment of the fee required by Subsection (a) above will be required  
15 prior to Preliminary Plat approval, or, in the event a Preliminary Plat will not be  
16 requested by the applicant, prior to request for other Development Permits for any  
17 portion of the property. The amount of the fee required upon payment shall be the unit  
18 price equivalent for a Density Unit at the time of payment, which may not be the same  
19 price as would have been paid by the petitioner at the time of approval of the TDU by  
20 the Board. The timing of the payments shall be included as part of the Resolution  
21 adopting the TDU.  
22

23 (c) A petitioner who is proposing to transfer density onto property located in a  
24 Tropical Storm Surge or Category 1 Hurricane Storm Surge zone can not utilize the  
25 Land Acquisition Trust Fund option. In such a situation, the petitioner shall be required  
26 to acquire density from an SZ in keeping with the stipulations of Subsection 3-5-455(a).  
27

28 (d) A petitioner who is proposing to increase density on property within the  
29 West County Planning District, which constitutes all property west of the Myakka River,  
30 can not utilize the Land Acquisition Trust Fund option. In such a situation, the petitioner  
31 shall be required to acquire density from an SZ in keeping with the stipulations of Sec.  
32 3-5-452.  
33

34 **Sec. 3-5-445. NOTICE AND PUBLIC HEARING.**  
35

36 A Plan Amendment and/or a Rezoning which shall require a TDU petition shall  
37 have notice of such included in the notices for the Plan Amendment and/or Rezoning  
38 required under the applicable provisions of the County Code. Discussion and decision  
39 by the Board regarding the TDU requirements shall be conducted concurrently with the  
40 discussion and decision regarding the petition for Plan Amendment and/or Rezoning.  
41

42 **Sec. 3-5-446. STANDARDS FOR APPROVAL.**  
43

44 (a) The Board may not grant a TDU unless it finds all of the following:

45 (1) The TDU complies with the intent and purpose of this article;  
46

1  
2 (2) The proposed increase in density in the proposed RZ is consistent  
3 with the Comprehensive Plan as it exists or is proposed to be amended; and  
4

5 (3) The proposed increase in density in the proposed RZ complies with  
6 the County Code.  
7

8 (4) If an SZ is involved in the TDU, the intent and purpose of this article  
9 will be complied with, as those purposes pertain to the appropriateness of the property  
10 as an SZ, and that the property meets the criteria of an SZ set within this article. Also,  
11 the entity responsible for managing the proposed SZ will perpetually maintain the  
12 viability of the proposed SZ, as required in accordance with Subsection 3-5-443(c), or  
13 other management action(s) as required by the Covenant.  
14

15 (5) The petitioner has signed and notarized the Covenant.  
16

17 (6) If the County shall assume management responsibilities over the  
18 proposed SZ in accordance with Sec. 3-5-442, the petitioner shall have complied with  
19 the requirements of Subsection 3-5-442(c).  
20

21 (b) In granting the TDU, the Board may impose such other conditions and  
22 restrictions upon either the proposed SZ or the proposed RZ as may be necessary to  
23 allow the positive finding to be made on any of the foregoing factors or to minimize the  
24 impacts of the TDU.  
25

26 **Sec. 3-5-447. EFFECTIVE DATE OF TDU.**  
27

28 A TDU shall not become effective and neither Preliminary Plat nor other  
29 Development Permits shall be issued for development within the proposed RZ, until:

30 (a) The TDU has been approved by the Board.  
31

32 (b) The Land Acquisition Trust Fund fee required by Sec. 3-5-444, if  
33 applicable, has been paid to the County, or  
34

35 (c) The documents required by Subsection 3-5-443(d) have been recorded by  
36 the County in the Public Records of Charlotte County with the Clerk of the Circuit Court  
37 of Charlotte County, and  
38

39 (d) Within 10 days after the recording of the documents required by  
40 Subsection 3-5-443(d), the County has received and has approved an updated O&E  
41 which does not contain any Unacceptable Encumbrances or which shows that the  
42 recorded Covenant is prior in dignity to any Unacceptable Encumbrance. If the O&E  
43 indicates otherwise, the TDU approval shall be null and void. The County Attorney may  
44 waive this requirement in the event that the initial O&E did not reflect Unacceptable  
45 Encumbrance(s) and the County Attorney deems the likelihood of the development or  
46

1 imposition of Unacceptable Encumbrance(s) prior to the recording of the Covenant to be  
2 minute, or  
3

4 (e) The Certificate, if applicable, has been surrendered to the County for  
5 appropriate modification or extinguishment.  
6

7 **Sec. 3-5-448. RECORD KEEPING.**  
8

9 Upon the TDU becoming effective pursuant to Sec. 3-5-447, the County  
10 Administrator shall cause the FLUM and Zoning Atlas to be annotated to reflect the  
11 TDU.  
12

13 **Sec. 3-5-449. LIMITATIONS**  
14

15 (a) Once a TDU is approved and effective and Density Credits have been  
16 transferred out of an SZ, Density Units shall not be restored to any SZ unless the area  
17 in which the SZ is located becomes designated as an Infill Area, as defined in the  
18 Comprehensive Plan, of the USA. In such situations, the property may become an RZ if  
19 it meets all other requirements for an RZ under this article and the property has not  
20 been used for mitigation purposes for other developments.  
21

22 (b) Density Units for any TDU shall only be transferred in whole units. A  
23 fractional unit shall not entitle the petitioner to an additional Density Unit.  
24

25 (c) A TDU may not be derived from Density Units which have been already  
26 sold, transferred, or limited by easements, deed restrictions, equitable servitudes,  
27 restrictive covenants or similar measures.  
28

29 **Sec. 3-5-450. ADMINISTRATIVE RELIEF.**  
30

31 (a) The petitioner may request of the County Administrator that procedural  
32 requirements contained in this article be waived as to the petition. This section shall not  
33 apply to any substantive requirements of this article.  
34

35 (b) The request shall be in writing and shall contain, at a minimum, the  
36 following information:  
37

- 38 (1) The County Code section from which relief is sought;
- 39 (2) The nature of the relief; and
- 40 (3) The reasons why the relief should be granted.  
41  
42

43  
44 (c) Upon receipt of the written request for relief, the County Administrator  
45 shall conduct an investigation to determine if the request is in compliance with the intent  
46 and purpose of this article and/or is adverse to the public interest.

1  
2       **Sec. 3-5-451. APPEAL.**  
3

4       (a) Upon determination that a petition does not meet the substantive  
5 requirements of this article, the petitioner may appeal the provisions of this article to the  
6 Board.  
7

8       (b) The request shall be in writing and shall contain, at a minimum, the  
9 following information:  
10

11               (1) The County Code section from which relief is sought;  
12

13               (2) The nature of the relief; and  
14

15               (3) The reasons why the relief should be granted.  
16

17       (c) Upon receipt of the written appeal, the County Administrator shall place  
18 the item, which constitutes the written appeal and an evaluation report of the appeal, on  
19 the nearest available agenda date of the Board that is within 30 days of the receipt of  
20 the appeal.  
21

22       (d) The Board may provide relief to the substantive requirements of this article  
23 based on the following findings:  
24

25               (1) The proposed TDU petition furthers the intent and purpose of this  
26 article;  
27

28               (2) The proposed TDU petition furthers the Goals, Objectives, and  
29 Policies of the Comprehensive Plan;  
30

31               (3) The proposed TDU petition directs future growth in a logical,  
32 efficient, and economical manner away from those areas of the County less suited to  
33 such growth, and toward those areas of the County better suited to provide the public  
34 services and facilities necessary for such growth.  
35

36               (4) The proposed TDU petition will further the protection of  
37 environmentally sensitive, historic and archeological resources, or bona fide agricultural  
38 uses;  
39

40               (5) The proposed TDU petition will shift density from one area to  
41 another area, where such shift is found to be in the best interest of the County; and  
42

43               (6) The proposed TDU will further the health, safety and welfare of the  
44 general public.  
45  
46

1 **Sec. 3-5-452. WEST COUNTY PLANNING DISTRICT**

2  
3 There shall be no transfer of Density Credits into the West County Planning  
4 District, which constitutes all property west of the Myakka River, from other areas of the  
5 County. Density on property within the West County Planning District may only be  
6 increased by a transfer of density from other property located within the West County  
7 Planning District. This transfer of Density Credits between properties within the West  
8 County Planning District shall comply with the provisions of this article. In order to  
9 ensure that density is not inadvertently increased in West County, a petitioner can not  
10 purchase density from the County's Land Acquisition Trust Fund.  
11

12 **Sec. 3-5-453. REQUIREMENTS FOR SENDING ZONE.**

13  
14 (a) In order for property to qualify as an SZ, the proposed SZ must contain at  
15 least one (1) Density Unit and it must comply with *one* of the following criteria:  
16

17 (1) The proposed SZ must contain one or more environmentally  
18 sensitive resources;  
19

20 (2) The proposed SZ must contain one or more historic or  
21 archeological resources;  
22

23 (3) The proposed SZ must be located within the Tropical Storm Surge  
24 or Category 1 Hurricane Storm Surge Zones as identified on the map, as may be  
25 amended, adopted as part of the Comprehensive Plan entitled "Hurricane Vulnerability  
26 Zones Based on Surge of Land Falling Storms";  
27

28 (4) The proposed SZ must be a Substandard lot or parcel;  
29

30 (5) The proposed SZ must be located outside the USA and must be  
31 used for a Bona fide Agricultural use and it must be the intention of the property  
32 owner/petitioner to continue agricultural use of the subject property. This may be  
33 accomplished in conjunction with farmland conservation efforts of agencies such as, but  
34 not limited to, the Natural Resource Conservation Service, the water management  
35 districts, or the American Farmlands Trust;  
36

37 (6) The proposed SZ must be located within the Suburban area of the  
38 Urban Service Area Overlay District and must be platted and not currently served by  
39 water or sewer or within any utility's 5 year Capital Improvements Program for extension  
40 of water and sewer; or  
41

42 (7) The proposed SZ must be vacant and have an approved residential  
43 development plan that creates surplus density on the property.  
44

45 (b) Density on those portions of a proposed SZ that are considered  
46 environmentally sensitive, or which contain a historic or archeological resource, shall

1 not be retained. Density on all other SZ property may be retained if such retention is  
2 deemed consistent with the provisions of this article and the Covenant.

3  
4 (c) Nothing in this article shall be construed to preclude the use of an SZ for  
5 mitigation or to limit relocation of a protected plant or animal species to an SZ, as such  
6 use or relocation may be allowed by federal and state regulations, provided the terms of  
7 the Covenant are satisfied.

8  
9  
10 **Sec. 3-5-454. REQUIREMENTS FOR RECEIVING ZONE.**

11  
12 Except as provided in Subsections 3-5-455(a) and (b), in order for property to  
13 qualify as an RZ, the proposed RZ must comply with *all* of the following criteria:

14  
15 (a) The proposed RZ must be located within the USA or within a New  
16 Community or Rural Community (as those terms are defined and described in the  
17 Comprehensive Plan and Chapter 163, Florida Statutes).

18  
19 (b) The proposed RZ must be either currently designated on the FLUM or  
20 proposed to be designated in the accompanying Plan Amendment petition as Low  
21 Density Residential, Medium Density Residential, High Density Residential, Mixed Use,  
22 Rural Estate Residential, New Community, or Rural Community; In the event that a  
23 petitioner is requesting an extension of the Urban Service Area without an  
24 accompanying amendment to the FLUM designation and the FLUM designation of the  
25 property is Agriculture, the property may retain the Agricultural FLUM designation until  
26 such time as a Plan Amendment is approved to change the designation.

27  
28 (c) The proposed RZ must not contain environmentally sensitive, historic or  
29 archeological resources, unless such areas can be designated as a preserve through a  
30 Planned Development. Mitigation of environmentally sensitive resources may be  
31 permitted by appropriate state and/or federal permitting agencies.

32  
33 (d) The proposed RZ must not be located within the Tropical Storm Surge or  
34 Category 1 Hurricane Storm Surge Zone as identified on the map, as may be amended,  
35 adopted as part of the Comprehensive Plan entitled "Hurricane Vulnerability Zones  
36 Based on Surge of Land Falling Storms".

37  
38 **Sec. 3-5-455. EXCEPTIONS.**

39  
40 (a) Property which does not fall within the criteria of an RZ in Sec. 3-5-454  
41 because it is located within a Tropical Storm Surge or Category 1 Hurricane Storm  
42 Surge Zone may be eligible as an RZ if it is proposed to receive Density Credits from an  
43 SZ also located in a Tropical Storm Surge or Category 1 Hurricane Storm Surge Zone.  
44 In this event, however, the proposed RZ must not contain environmentally sensitive,  
45 historic or archeological resources (unless such areas can be protected through a  
46 Planned Development or mitigation is permitted through appropriate state and/or federal

1 permitting) or be located on a barrier island and, notwithstanding this Subsection (a), no  
2 Density Credits may be transferred within these zones from a less restrictive flood zone  
3 to a more restrictive flood zone or from a Category 1 Hurricane Storm Surge zone to a  
4 Tropical Storm Surge zone.

5  
6 (b) Notwithstanding Subsection (a) above, any property located within the  
7 Charlotte Harbor Community Redevelopment Area (CHCRA) that is not zoned CR-3.5  
8 shall qualify as an RZ. Such properties shall be permitted to receive density from any  
9 property located within the CHCRA or from any property located in the Tropical Storm  
10 Surge and Category 1 Storm Surge zones throughout the county with no restrictions  
11 based on storm surge or flood designation.

12  
13 (c) A project that proposes to increase Density Units on a property through a  
14 Plan Amendment and/or Rezoning where at least fifty (50) percent of the total number  
15 of Density Units built will be available as affordable housing for low or very low income  
16 persons, as such is defined in Section 420.602, Florida Statutes, will not be required to  
17 petition the Board for a TDU. However, the proposed increase of density may only be  
18 placed on a property which has been determined by the County Administrator to meet  
19 the qualifications of an RZ in accordance with Sec. 3-5-454. The County Administrator  
20 is authorized to certify that an application qualifies as an affordable housing  
21 development under this exemption.

22  
23 **Sec. 3-5-456. CERTIFICATE OF TRANSFERABLE DENSITY CREDITS.**

24  
25 (a) Upon the effective date of a TDU approved pursuant to this article, the  
26 County Administrator shall issue a Certificate (or Certificates) to the property owner(s)  
27 of the eligible RZ in accordance with the provisions of this article.

28  
29 (b) Upon the date an SZ without a designated RZ, approved pursuant to this  
30 article becomes valid, the County Administrator shall issue a Certificate (or Certificates)  
31 in accordance with the provisions of this article to the property owner(s) of the eligible  
32 SZ.

33  
34 (c) The issuance of the Certificate shall establish the quantity of Density Units  
35 for the property at the time the Certificate is issued and shall be considered a final  
36 determination. Once a Certificate has been issued for the SZ, the property owner shall  
37 maintain the property in accordance with the requirements of the Covenant.

38  
39 (d) If the SZ consists of only a portion of the entire property, the Certificate  
40 shall reflect only that portion of the property.

41  
42 (e) If the SZ property owner is not removing all of the density units from the  
43 SZ, the Certificate shall reflect only that amount that is to be transferred.

1 (f) If the TDU does not involve an SZ, the Certificate shall reflect only the  
2 Density Units actually paid for by the petitioner to the County in accordance with Sec. 3-  
3 5-444.

4  
5 (g) In the event an SZ property owner has not found a willing RZ to which it  
6 can transfer its Density Credits, Density Credits from the SZ may be transferred to the  
7 County, in the County's sole discretion.

8  
9 (h) Density Credits transferred to an eligible RZ pursuant to this article, which  
10 are not used for the intended RZ development, may be re-transferred to another eligible  
11 RZ, as set forth herein. This transfer shall be considered to be from the original SZ and  
12 shall comply with the requirements of this article relating to an approval of an RZ. The  
13 TDU petitioner shall simultaneously petition to have revised the zoning district and/or  
14 FLUM, whichever is applicable, of the proposed RZ from which these credits are  
15 transferred to reflect the decrease in density.

16  
17 (i) Density Credits from an SZ approved by the Board pursuant to this article  
18 without a designated RZ may subsequently be transferred to an eligible RZ. This  
19 transfer shall comply with the requirements of this article relating to the approval of a  
20 TDU.

21  
22 (j) Subsequent to the issuance of a Certificate to the owner of an RZ upon  
23 approval of a TDU, and upon the future transfer or use of such Density Credits, the  
24 owner of the RZ shall surrender the Certificate to the County for appropriate  
25 modification or extinguishment.

26  
27 (k) Subsequent to the issuance of a Certificate to the owner of an SZ upon  
28 approval of an SZ without a designated RZ, and upon the future transfer of such Density  
29 Credits, the owner of the SZ shall surrender the Certificate to the County for  
30 modification of the Certificate in the name of the RZ. Upon the future transfer or use of  
31 such Density Credits by the RZ, the owner of the RZ shall surrender the Certificate to  
32 the County for appropriate modification or extinguishment.

33  
34 **Sec. 3-5-457. LAND ACQUISITION TRUST FUND.**

35  
36 (a) The Board shall establish the LATF and any procedures governing the  
37 LATF by resolution in accordance with this section. The purpose of the LATF is to  
38 create a mechanism by which eligible RZs may increase density on the property without  
39 having a designated SZ from which to transfer the Density Units. Funds contributed to  
40 the LATF pursuant to Sec. 3-5-444 and any other source shall be used to acquire and  
41 manage properties that qualify as SZs pursuant to Sec. 3-5-453.

42  
43  
44 **SECTION 2. SEVERABILITY.** In the event this ordinance conflicts with any other  
45 provision of the Charlotte County Code or other applicable law, the more restrictive shall  
46 apply. If any subsection, sentence, clause, phrase, or portion of this ordinance is for

1 any reason held invalid or unconstitutional by any court of competent jurisdiction, such  
2 portion shall be deemed a separate, distinct, and independent provision, and such  
3 holding shall not affect the validity of the remainder of the ordinance.  
4

5

6

7 **SECTION 3. EFFECTIVE DATE.** This ordinance shall take effect upon filing in the  
Office of the Secretary of State, State of Florida.

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PASSED AND DULY ADOPTED this 13<sup>TH</sup> day of DECEMBER, 2004.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA  
By Sara J. Devos  
Sara J. Devos, Chairman

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

By Anne L. Pfahler  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:  
Brendan Bradley, Jr.  
Janette S. Knowlton, County Attorney  
JW, III

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LR2003-250 & 2003-349

**Attachment 3:  
Article XX. Transfer of  
Density Units,  
Ordinance Number  
2007-083**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

December 3, 2007

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Clerk's Office  
#14

ORDINANCE  
NUMBER 2007 - 083

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, PROVIDING THAT THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BE AMENDED BY AMENDING ARTICLE XX, CHAPTER 3-5, TRANSFER OF DENSITY UNITS; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on December 13, 2004, the Board of County Commissioners of Charlotte County, Florida ("Board") adopted Ordinance Number 2004-067 which provided for a new Article XX, Chapter 3-5 ("Transfer of Density Units Code" or "TDU Code"); and

WHEREAS, the TDU Code is intended to create a transfer of density units process which will direct future growth in a logical, economical, and efficient manner away from those areas of the County less suited for such growth, and toward those areas of the County better suited to provide the public services and facilities necessary for such growth, and for the protection of environmentally sensitive, historic and archeological resources and bona fide agricultural uses, and the health, safety and welfare of the general public; and

WHEREAS, the TDU Code further intends to create a transfer of density units process which will assist and encourage private and public interests in removing old, outdated platted lots and subdivisions throughout the County as is contemplated by the 1997-2010 Charlotte County Comprehensive Plan ("Comprehensive Plan"); and

20  
MMS

1           WHEREAS, the Board desires to provide a record of the transfer of density units  
2 and impose appropriate restrictions on the properties involved in such transfers; and

3           WHEREAS, the Board finds it desirable to amend Article XX, Chapter 3-5, to  
4 more effectively and efficiently provide for the transfers of density units and further the  
5 Goals, Objectives and Policies of the Comprehensive Plan.

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

8                   **SECTION 1.** Article XX, Chapter 3-5, of the Code of Laws and  
9 Ordinances of Charlotte County, Florida, containing Sec. 3-5-431 through Sec. 3-5-457  
10 of such Code, shall be deleted in its entirety and replaced with the following:

11                                   **ARTICLE XX. TRANSFER OF DENSITY UNITS**

12                   **Sec. 3-5-425. SHORT TITLE.**

13  
14           This article shall be known and may be cited as the Charlotte County "Transfer of  
15 Density Units Code."  
16  
17

18                   **Sec. 3-5-426. DECLARATION OF INTENT AND PURPOSE.**

19           (a) It is the intent of this article to provide a mechanism, consistent with  
20 protection of the health, safety and welfare of the public, by which the following may be  
21 accomplished:  
22  
23

24                   (1) Residential development rights associated with real property with  
25 Environmentally sensitive resources, Historic or archeological resources, or which  
26 contains a Bona fide Agricultural Use, or real property otherwise deemed less suitable  
27 for development, may be properly transferred to property better suited for higher density  
28 residential development upon satisfaction of the requirements of this article;  
29

30                   (2) Future growth will be directed in a logical, economical, and efficient  
31 manner away from those areas of the County less suited for such growth, and toward  
32 those areas of the County best suited to provide the public services and facilities  
33 necessary for such growth;  
34  
35

1 (3) The County can provide a record of transfers of density units and  
2 impose appropriate restrictions on the properties involved in such transfers.

3  
4 (b) The adoption of this article shall not affect the existing FLUM or Zoning  
5 designation of any property. It shall provide a mechanism for increasing or creating  
6 density on a property. This article does not allow a petitioner to increase density  
7 beyond that allowed by the Charlotte County Code of Laws and Ordinances and/or the  
8 Comprehensive Plan.

9  
10 **Sec. 3-5-427. DEFINITIONS.**

11 Unless specifically defined below, all words, terms or phrases used in this article  
12 shall be ascribed the meaning which they have in common usage and which give this  
13 article the most reasonable application. The following words, terms and phrases, when  
14 used in this article, have the meanings ascribed to them in this section, except where  
15 the context clearly indicates a different meaning:  
16

17  
18 *Agreement to Purchase Density Credits:* an agreement between a purchaser  
19 and seller that binds the purchaser to buy and the seller to sell a specified number of  
20 density units from the seller contingent on the adoption by the Board of County  
21 Commissioners of the purchaser's Use Amendment.

22  
23 *Agriculture:* The business of cultivating the soil, producing crops and raising  
24 horses, production of horticultural, aqua cultural, and silvicultural products; and raising  
25 livestock to provide food or fiber for society.

26  
27 *Barrier Island:* a broadened barrier beach entirely surrounded by water,  
28 habitable in places, and providing a measure of protection for the mainland, as during  
29 hurricanes and tidal waves.

30  
31 *Base Density:* Density calculated utilizing the Zoning District of the parcel and  
32 the method of calculation described according to Article 1, Section 3-9-2, Rules of  
33 Construction; definitions, Charlotte County Code. If there is an inconsistency between  
34 the Future Land Use Map designation and the Zoning District, the least intensive Zoning  
35 Districts that implements the Future Land Use Map designation shall be utilized.

36  
37 *Board:* The Board of County Commissioners of Charlotte County, the elected  
38 governing body of unincorporated Charlotte County, Florida.

39  
40 *Bona fide Agricultural Use:* Use of a property for agriculture, which property has  
41 been classified as agricultural by the Charlotte County Property Appraiser pursuant to  
42 Section 193.461, Florida Statutes.

43  
44 *Certificate of Transferable Density Credits (Certificate):* The certificate issued by  
45 the County which indicates the amount of density available to be used or sold by the  
46 certificate holder, as well as any specifications for use of the density.

1  
2       *Certification of Transferable Density Units (Certification):* The process whereby  
3 density is severed from real property and a certificate is issued by the County signifying  
4 that the certificate holder has ownership of the indicated number of density units.  
5

6       *Coastal High Hazard Area:* The Coastal High Hazard Area includes all areas  
7 located within a landfalling Tropical Storm or Category 1 Hurricane Storm Surge zone  
8 as illustrated on Map 3.26 of the Natural Resources and Coastal Planning Element of  
9 the Comprehensive Plan.

10       *Community Development Director:* The chief administrative officer of the  
11 Community Development Department or any successor entity performing similar  
12 functions or duties.  
13

14       *Comprehensive Plan:* The document, and its amendments, adopted by the  
15 Board, which meets the requirements of Section 163.3177 and Section 163.3178,  
16 Florida Statutes.  
17

18       *County Code:* The Code of Laws and Ordinances, Charlotte County, Florida, as  
19 the same may be amended.  
20

21       *Covenant:* A perpetual conservation easement and/or other perpetual restrictive  
22 covenant that encumbers the property that constitutes an SZ, granted by the owner (s)  
23 thereof to the County or to some other entity acceptable to the Community Development  
24 Director.  
25

26       *Density:* The number of Density Units permissible within a given property.  
27

28       *Density Credit:* A Density Unit that has been severed from a property through  
29 the processes identified in this article and recognized by a Certificate of Transferable  
30 Density Credits.  
31

32       *Density Unit:* A Development Right which equals one increment of housing  
33 designed and intended for residential use by one (1) family, whether a single family  
34 residence, mobile home, or as part of a duplex, apartment, or condominium project.  
35

36       *Development:* The construction, reconstruction, conversion, structural alteration,  
37 relocation, or enlargement of any structure; any mining, excavation, landfill or land  
38 disturbance including, but not limited to, clearing, cutting, burning, excavating, filling, or  
39 grading of land or any other activity that alters land topography or vegetation. This  
40 definition shall not include the removal of invasive, nonindigenous plant species listed  
41 as Prohibited Trees in Subsection 3-2-186(r) of the County Code, as may be amended,  
42 or any activities undertaken pursuant to a land management plan approved by the  
43 USDA Natural Resources Conservation Service or similar agencies, or activities  
44 associated with Bona fide Agricultural Uses.  
45  
46

1           *Development Right:* A right that entitles an owner of real property to develop  
2 said property as may be recognized by the common law, statutory law, the United  
3 States or Florida constitution, the County Code, the Comprehensive Plan or other  
4 applicable federal or state regulations.

5           *Encumbrances:* Restrictions, liens, easements, equitable servitudes, special  
6 exceptions, existing Development, land development regulations, or other matters which  
7 affect the SZ.  
8

9           *Environmentally sensitive resource:* An environmentally sensitive resource can  
10 be any wetland, any natural community ranked G1, G2, S1, S2, or S3 in the most recent  
11 edition of the Guide to Natural Communities of Florida, or any land area wherein a  
12 wildlife or plant species listed by the State of Florida or the United States as  
13 endangered or threatened is living; this also includes that area of the County considered  
14 a groundwater recharge area as identified in Map 4.17 of the Infrastructure Element of  
15 the 1997-2010 Comprehensive Plan.  
16

17           *FLUCCS:* The Florida Land Use Cover and Forms Classification System.

18           *FLUM:* The Future Land Use Map contained in the Comprehensive Plan, as the  
19 same may be amended.  
20

21           *Historic or archeological resource:* Any prehistoric, historic, or archeological district,  
22 site, building, structure, or object included in the National Register of Public Places, Florida  
23 Master Site File or Local Register or which may be deemed to be a prehistoric, historic, or  
24 archeological district, site, building, structure, or object by an archeologist registered with  
25 the Society of Professional Archaeologists; such term includes mounds, artifacts, records,  
26 and remains which are related to such a district, site, building, structure, object, or culture.  
27

28           *Land Acquisition Trust Fund or LATF:* The fund established by the Board  
29 pursuant to Sec. 3-5-435 below.  
30

31           *Plan Amendment:* Any change to the Comprehensive Plan including any change  
32 to any map of the Future Land Use Map series of the Comprehensive Plan.  
33

34           *Preliminary Plat:* A preliminary map or delineated representation of the  
35 subdivision of lands, being a complete exact representation of the subdivision and other  
36 information in compliance with the requirement of all applicable sections of Chapter 3-7,  
37 Subdivision Regulations, and of any other local ordinances, and may include the terms  
38 "replat, or revised plat," as defined in F.S. section 177.031(14), as amended.  
39

40           *Receiving Zone or RZ:* The area of property into which Density Credits may be  
41 transferred.  
42

43           *Rezoning:* An amendment to the Zoning Atlas pursuant to the procedures and  
44 requirements of the County Code for such amendments.  
45  
46

1  
2       *Sending Zone or SZ:* The area of property from which Density Credits may be  
3 severed and transferred.

4  
5       *Substandard lot or parcel:* Property which does not meet the minimum  
6 dimension or area requirements established pursuant to the Zoning Atlas, County  
7 Zoning Regulations, County Land Development Regulations, County Subdivision  
8 Regulations, or the Comprehensive Plan.

9  
10       *TDU:* A transfer of Density Units to an RZ, as governed by this article.

11  
12       *Title Document:* An Ownership and Encumbrance Report (O&E) or other  
13 document of title issued by an attorney or a title insurance company acceptable to the  
14 County Attorney.

15  
16       *Unacceptable Encumbrances:* Encumbrances that, in the judgment of the County  
17 Attorney, would impair or otherwise adversely affect the recorded Covenant, whether in  
18 whole or in part, in the event of their enforcement or foreclosure.

19  
20       *Use Amendment:* Plan Amendments, except those initiated by Charlotte County,  
21 Rezoning, changes to the County Code, Developments of Regional Impact approvals  
22 or amendments, plat vacations, street vacations, variances, special exceptions or any  
23 other official action by the County having the effect of permitting the development of  
24 land, which results in an increase or transfer of density units.

25  
26       *Urban Service Area Overlay District or USA:* Locations within a jurisdiction that  
27 are planned to receive publicly funded infrastructure and services within a planning  
28 timeframe, as depicted on Map #2 of the Future Land Use Map series of the  
29 Comprehensive Plan, as may be amended.

30  
31       *Zoning District:* An area assigned a specific classification of uses and structures  
32 pursuant to Sec. 3-9 of the County Code.

33  
34       *Zoning Atlas:* An atlas containing half-section maps depicting the boundaries of  
35 the various Zoning Districts, as the same may be amended.

36  
37       **Sec. 3-5-428. APPLICATION OF ARTICLE.**

38  
39       (a) This article shall apply within the unincorporated areas of Charlotte  
40 County.

41  
42       (b) This article shall not apply within the City of Punta Gorda boundaries as it  
43 existed as of July 15, 2004. This article shall apply to areas annexed within the City of  
44 Punta Gorda or any new municipal area created after July 15, 2004 within Charlotte  
45 County.

1 (c) Any owner of property governed by Subsections 3-5-428(a) and (b) above  
2 may petition the Board for a Certification in accordance with the provisions of this  
3 article.

4  
5 (d) Any owner of property governed by Subsections 3-5-428(a) and (b) above  
6 who proposes a Use Amendment which acts to increase the Base Density on a  
7 parcel(s) of land shall petition the Board for a TDU in accordance with the provisions of  
8 this article, except as provided in Subsection 3-5-429(a)(4).

9  
10 **Sec. 3-5-429. PROCESS AND PROCEDURES.**

11  
12 (a) Transfer of Density

13  
14 (1) A TDU petition, if approved, will serve to transfer the number of  
15 Density Units that will be increased by a Use Amendment to that parcel of land upon  
16 which the increase occurs. The TDU process is the Board's acknowledgement that the  
17 density has been shifted from an SZ to an RZ.

18  
19 (2) Use Amendment not involving a Planned Development Rezoning

20  
21 (i) A petitioner who submits a Use Amendment which does not  
22 involve a Planned Development Rezoning shall simultaneously submit either:

23  
24 A. A TDU petition utilizing Certificates of Transferable  
25 Density Credit; or

26  
27 B. A TDU petition requesting the Land Acquisition Trust  
28 Fund option; or

29  
30 C. A Certification petition to sever density from an SZ  
31 and a TDU petition requesting transfer of that density to the proposed RZ; or

32  
33 D. An Agreement to Purchase Density Credits and TDU  
34 petition requesting transfer of the credits to the proposed RZ. The transfer of ownership  
35 related to the density referred to in the Agreement must occur within 10 working days of  
36 the approval of the Use Amendment.

37  
38 (ii) The TDU petition, and Certification petition as applicable,  
39 shall be held in abeyance until the approval of the Use Amendment and will be  
40 submitted to the Board of County Commissioners for approval at the next convenient  
41 Board hearing after adoption of the Use Amendment.

42  
43 (iii) Any owner of property petitioning the Board for a street or  
44 plat vacation which acts to increase the property's Base Density may, instead of  
45 submitting a TDU petition, choose to submit a restrictive covenant with the street or plat  
46 vacation that limits the Density of the property to that existing at the time of application.

1  
2 (3) Use Amendment involving a Planned Development Rezoning. A  
3 petitioner who submits a Use Amendment which involves a Planned Development  
4 Rezoning may submit the TDU petition subsequent to the adoption of the Planned  
5 Development Rezoning. The TDU must be approved by the Board, and the density  
6 transferred to the RZ, prior to submittal by the applicant for Preliminary Plat approval,  
7 or, if platting will not be requested, prior to submittal for any permits to develop. A  
8 project which proposes to phase development in over time may submit individual TDU  
9 petitions to transfer density equivalent to that necessary for development of that phase.

10  
11 (b) Certification of a Sending Zone

12  
13 (1) Any owner of real property to which this article applies may request  
14 a determination of the Community Development Director, or his/her designee, on  
15 whether their property meets the criteria of an SZ. If such determination is positive, the  
16 owner may petition the Board to have their property approved as an SZ. The process of  
17 approval shall be known as a Certification of Transferable Density Units (Certification).  
18 The property owner shall petition the Board for a Certification in accordance with the  
19 provisions of this article. If such determination is negative, the property owner may  
20 petition the Board in accordance with Section 3-5-433, Variances.

21  
22 (i) Pre-petition Meeting

23  
24 A. A petitioner for a Certification shall meet with the  
25 Community Development Director, or his/her designee, prior to submitting a petition.

26  
27 B. The purpose of the pre-petition meeting shall be to  
28 discuss the requirements of the TDU ordinance and determine whether a proposed SZ  
29 is acceptable.

30  
31 (2) Determination of density for an SZ

32  
33 (i) Within the Urban Service Area, the Density will be the Base  
34 Density.

35  
36 (ii) Outside the Urban Service Area, the Density for platted  
37 lands that existed as of February 1, 1992 which are divided into individual lots of size  
38 less than that allowed by existing Zoning shall be one (1) Density Unit per each lot or  
39 parcel. In all other instances, the Density shall be Base Density.

40  
41 (iii) Density Units shall only be certified and transferred in whole  
42 units. A fractional unit shall not entitle the petitioner to an additional Density Unit.

43  
44 (iv) A Certification of Transferable Density Units may not be  
45 derived from Density which has been already sold, transferred, or limited by easements,

1 deed restrictions, equitable servitudes, restrictive covenants, special exceptions,  
2 existing Development, land development regulations, or similar measures.

3  
4 (3) No subsequent transfer to an RZ shall take place without approval  
5 of a TDU pursuant to the requirements of this article.

6  
7 (4) Once a Certification is approved and effective, Density Units shall  
8 not be restored to an SZ unless the area in which the SZ is located becomes  
9 designated as an Infill Area of the Urban Service Area, as defined in the  
10 Comprehensive Plan. In such situations, the property may become an RZ if it meets all  
11 other requirements for an RZ under this article and the property has not been used for  
12 mitigation purposes for other developments.

13  
14 (5) Contents of Petition. A petition for Certification of Transferable  
15 Density Units shall include the following items:

16  
17 (i) Notarized affidavits from all owners of the proposed SZ  
18 authorizing the petition. The affidavit from the owners of the proposed SZ shall also  
19 provide consent to the modification of the FLUM and/or Zoning District of the proposed  
20 SZ to conform with the revised and reduced density applicable to the proposed SZ upon  
21 the approval of the Certification, at the County's discretion; consent to a future plat  
22 vacation may also be necessary.

23  
24 (ii) A copy of the most current deed or title to the SZ property.

25  
26 (iii) Legal descriptions (with acreages) of the proposed SZ.

27  
28 (iv) Signed and sealed surveys of the proposed SZ that illustrate  
29 boundaries and all existing easements. The survey of the proposed SZ is not required if  
30 the proposed SZ consists of platted lots and the lots are included in their entirety. In  
31 such a case, a copy of the most recent plat with the proposed SZ outlined will suffice;  
32 the petitioner must also indicate whether any easements or land encumbrances exist on  
33 the property. If a plat exists, the property owner(s) may be required to submit a plat  
34 vacation along with the Certification petition. The need for the plat vacation  
35 submittal will be determined at the pre-application meeting. If it is determined that it isn't  
36 appropriate to pursue a plat vacation along with the Certification, the petitioner remains  
37 obligated to supply a boundary survey and utility easements if it becomes appropriate to  
38 pursue the vacation at a future time

39  
40 (v) Maps illustrating the location of the proposed SZ.

41  
42 (vi) Title Document: This document shall be dated no later than  
43 two months prior to the petition submittal date and shall show that the signatories who  
44 will execute the Covenant constitute the owners of all interests in the proposed SZ. The  
45 document shall further indicate that there are no Unacceptable Encumbrances against  
46 the proposed SZ. If Unacceptable Encumbrances exist, they shall be fulfilled, removed,

1 satisfied, released, subordinated or limited to the satisfaction of the County Attorney  
2 such that the enforcement of the encumbrances will not impair or otherwise adversely  
3 affect the Covenant, whether in whole or in part, or that the Covenant will be prior in  
4 dignity to the encumbrances.

5  
6 (vii) A draft Covenant pursuant Sec. 3-5-432, including a  
7 management plan, as required, in Subsection 3-5-432(c).

8  
9 (viii) A narrative indicating the Base Density of the SZ and  
10 describing how the calculation was derived, including an indication of how any  
11 Encumbrances as identified per Subsection 3-5-429(b)(3)(iv) affect this Base Density; a  
12 statement of the number Density Units requested to be transferred from the property  
13 and the number of Density Units requested to be retained.

14  
15 (ix) If the property is located in the Coastal High Hazard Area, a  
16 boundary map of the property with the storm surge zones illustrated upon the map  
17 along with an indication of the acreage of each associated storm surge. If there are VE  
18 and AE flood zones, these shall also be illustrated on the map. Any Encumbrances  
19 must be subtracted from the whole. The Community Development Director, or his/her  
20 designee, may agree to delineate these areas for the petitioner; this must be agreed  
21 upon at the Pre-Petition Meeting.

22  
23 (x) Maps and surveys of the proposed SZ illustrating the  
24 existing land cover according to Level 3 of the FLUCCS, locations of heritage trees, and  
25 listed flora and fauna species. This requirement may be eliminated by the Community  
26 Development Director, or his/her designee, at the Pre-Petition Meeting under the  
27 following circumstances: property on which no density shall be retained; property that  
28 clearly does not contain any Environmentally sensitive, Historic or archeological  
29 resources; property which contains a Bona fide Agricultural Use; property of which the  
30 County already has detailed knowledge as relates to Environmentally sensitive, Historic  
31 and archeological resources; and other circumstances that will be determined on a case  
32 by case basis.

33  
34 (xi) An application fee, to be established by resolution of the  
35 Board.

36  
37 (c) Use Amendments. In addition to the application requirements of Use  
38 Amendments, a petitioner for a Use Amendment for any proposed RZ which is located  
39 in the Coastal High Hazard Area shall provide a map related to storm surge and flood  
40 zones for the RZ; the petitioner is required to detail the amount of Density which will be  
41 increased in each associated storm surge, and also the flood zones if VE and AE are  
42 both present.

43  
44 (1) Notification. A Use Amendment shall have notice of the transfer of  
45 density included in the advertisements and agenda notices for the Use Amendment.  
46 Discussion and decision by the Board regarding the TDU requirements shall be

1 conducted concurrently with the discussion and decision regarding the Use  
2 Amendment.

3  
4 (d) A petition for a TDU that proposes to transfer density that has not yet been  
5 certified shall include the information required for a Certification. Further, the  
6 application shall include information related to the RZ, such as property owner  
7 information and the Use Amendment number that established or is establishing the  
8 requirement for the TDU.

9  
10 (e) A petition for a TDU that utilizes a Certificate or the Land Acquisition Trust  
11 Fund (LATF) option shall include information related to the RZ, such as property owner  
12 information and the Use Amendment number that established or is establishing the  
13 requirement for the TDU.

14  
15 (1) If utilizing a Certificate, the original Certificate shall be submitted  
16 with the application for appropriate modification or extinguishment and held in escrow  
17 by the County Attorney.

18  
19 (2) If the LATF option is being utilized, a Certificate shall be issued that  
20 reflects the Density Units actually paid for by the petitioner to the County in accordance  
21 with the process described in Section 3-5-435 and Resolutions 2004-248 and 2004-249.

22  
23 (f) Hearing requirements. A petition for Certification or TDU will be placed on  
24 Consent Agenda for approval by the Board of County Commissioners. The Use  
25 Amendment will follow the hearing requirement for that amendment process.

26  
27 (g) Standards for Approval

28  
29 (1) The Board may not grant a Certification unless it finds that:

30  
31 (i) The Certification meets the intent, purpose and provisions of  
32 this article, and that the property meets the criteria of an SZ set within Subsection 3-5-  
33 430(a).

34  
35 (ii) The petitioner has signed and notarized the Covenant.

36  
37 (iii) The petitioner has submitted a Plat Vacation, if necessary.

38  
39 (2) The Board may not grant a Use Amendment that is governed by  
40 this article unless it finds:

41  
42 (i) That the proposed increase in density complies with the  
43 intent, purpose, and provisions of this article.

44  
45 (h) Effective Date of the Certification or TDU

46

1 (1) A Certification shall not become effective until the Covenant and  
2 management plan, as applicable, has been recorded by the petitioner in the Public  
3 Records of Charlotte County with the Clerk of the Circuit Court of Charlotte County.

4  
5 (i) Upon the effective date of a Certification approved pursuant  
6 to this article, the Community Development Director, or his/her designee, shall issue a  
7 Certificate to the property owner(s) of the SZ. The issuance of the Certificate shall  
8 establish the quantity of Density Units for the property at the time the Certificate is  
9 issued and shall be considered a final determination. Once a Certificate has been  
10 issued for the SZ, the property owner shall maintain the property in accordance with the  
11 requirements of the Covenant.

12  
13 A. Density Credits approved by the Board pursuant to  
14 this article may be transferred to an eligible RZ.

15  
16 B. Density Credits transferred to an eligible RZ pursuant  
17 to this article, which are not used for the intended RZ development, may be re-  
18 transferred to another eligible RZ. The RZ owner shall simultaneously petition to revise  
19 the zoning district and/or FLUM, whichever is applicable, of the original RZ from which  
20 these credits were transferred to reflect the decrease in density.

21  
22 C. Upon the sale of Density Credits to another owner,  
23 the seller of the Density Credits shall surrender the Certificate to the County for  
24 appropriate modification or extinguishment.

25  
26 D. In the event an SZ property owner has not found a  
27 willing RZ to which it can transfer its Density Credits, Density Credits from the SZ may  
28 be transferred to the County.

29  
30 (2) A TDU shall not become effective and no permits to develop shall  
31 be issued for the RZ, until:

32  
33 (i) The TDU has been approved by the Board.

34  
35 (ii) The Land Acquisition Trust Fund fee required by Sec. 3-5-  
36 435, if applicable, has been paid to the County, or

37  
38 (iii) The Certification of the SZ has been approved and all  
39 documents necessary have been recorded in the Clerk of the Circuit Courts, and

40  
41 (iv) The Certificate, if applicable, has been surrendered to the  
42 County for appropriate modification or extinguishment.

43  
44 **Sec. 3-5-430. REQUIREMENTS.**

45  
46 (a) Sending Zone.

1  
2 (1) In order for property to qualify as an SZ, the proposed SZ must  
3 contain at least one (1) Density Unit and it must comply with *one* of the following criteria:

4  
5 (i) The proposed SZ contains an Environmentally sensitive  
6 resource; or

7  
8 (ii) The proposed SZ contains a Historic or archeological  
9 resource; or

10  
11 (iii) The proposed SZ is located within the Coastal High Hazard  
12 Area; or

13  
14 (iv) The proposed SZ is a Substandard lot or parcel; or

15  
16 (v) The proposed SZ is located outside the USA and contains a  
17 Bona fide Agricultural use. It must be the intention of the property owner/petitioner to  
18 continue agricultural use of the subject property, which shall be written into the  
19 Covenant per Subsection 3-5-432(b)(2). This may be accomplished in conjunction with  
20 farmland conservation efforts of agencies such as, but not limited to, the Natural  
21 Resource Conservation Service, the water management districts, or the American  
22 Farmlands Trust; or

23  
24 (vi) The proposed SZ is located within the Suburban area of the  
25 USA and the property owner has obtained a building permit to develop a residential use  
26 at a density below the Base Density, or a school, house of worship, park, cemetery or  
27 mausoleum, and the property is not currently served by water or sewer or within any  
28 utility's 5 year Capital Improvements Program for extension of water and sewer. Or, if  
29 the property owner is choosing to sever all density, a building permit is not required.  
30 This density may only be transferred to an RZ in the Infill Area of the USA; or

31  
32 (vii) The proposed SZ is located in the Infill area of the USA and  
33 the property owner has obtained a building permit to develop a residential use at a  
34 density below the Base Density, or a school, house of worship, park, cemetery or  
35 mausoleum. This density may only be transferred to an RZ in the Infill Area of the  
36 Urban Service Area.

37  
38 (2) Density on those portions of a proposed SZ that contain an  
39 Environmentally sensitive resource or which contain an Historic or archeological  
40 resource must be totally removed. Density can be retained on other areas of the SZ if  
41 such retention is deemed consistent with the provisions of this article and the Covenant.

42  
43 (3) An SZ may be used for mitigation or for relocation of protected  
44 plant or animal species, as such use or relocation may be allowed by federal and state  
45 regulations, provided the terms of the Covenant are satisfied.  
46

1 (b) Receiving Zone

2  
3 (1) In order for property to qualify as an RZ, the proposed RZ must  
4 comply with *all* of the following criteria:

5  
6 (i) It must be located within the USA or, if outside the Urban  
7 Service Area, be developed as a New Community or Rural Community (as those terms  
8 are defined and described in the Comprehensive Plan and Chapter 163, Florida  
9 Statutes).

10  
11 (ii) It must be either currently designated on the FLUM or  
12 proposed to be designated as Low Density Residential, Medium Density Residential,  
13 High Density Residential, Mixed Use, Rural Estate Residential, Neighborhood Business  
14 Residential, Commercial Tourist, New Community, or Rural Community; In the event  
15 that a petitioner submits a plan amendment to extend the Urban Service Area but does  
16 not request an accompanying amendment to change the FLUM designation of the lands  
17 to be placed inside the USA, the existing FLUM designation will be accepted as an RZ.

18  
19 (iii) It must not contain Historic or archeological resources unless  
20 such areas can be designated as a preserve through a conservation easement.

21  
22 (iv) It must not be located within the Coastal High Hazard Area.

23  
24 A. Property that is located within the Coastal High  
25 Hazard Area may be eligible to become an RZ. In order to make use of this exception,  
26 the petitioner must transfer Coastal High Hazard Area Density Credits to the property.  
27 Density Credits from Category 1 Hurricane Storm Surge zone cannot be transferred into  
28 a Tropical Storm Surge zone of an RZ nor can Density Credits from an AE flood zone  
29 be transferred into a VE flood zone of an RZ or be used for density in a building which  
30 touches a VE flood zone. Notwithstanding this exception, no transfers of density from a  
31 less to a more restrictive flood zone may take place in the West County Planning District  
32 or on property west of Burnt Store Road. Also notwithstanding this exception, in no  
33 case shall an increase of density be allowed on property located on a Barrier Island.

34  
35 B. As a further exception, any property located  
36 within the Charlotte Harbor Community Redevelopment Area (CHCRA), other than land  
37 zoned CR-3.5, shall qualify as an RZ. Such properties are permitted to receive density  
38 from any property located within the CHCRA or from any property located in any  
39 Coastal High Hazard Area throughout the county with no limitations based on storm  
40 surge or flood zone transfers. Nothing in this article shall prevent the CHCRA from  
41 codifying a specific process for properties within the CHCRA.

42  
43 (c) Density on property within the West County Planning District, which  
44 constitutes all property west of the Myakka River, may only be increased by a transfer of  
45 density from other property located within the West County Planning District. There  
46 shall be no transfer of Density Credits into the West County Planning District from other

1 areas of the County. This transfer of Density Credits between properties within the  
2 West County Planning District shall comply with the provisions of this article. In order to  
3 ensure that density is not inadvertently increased in West County, a petitioner can not  
4 purchase density from the County's Land Acquisition Trust Fund.

5  
6 **Sec. 3-5-431. COUNTY OWNERSHIP OF SZ.**

7  
8 (a) A petitioner may request that the County purchase or assume ownership,  
9 through donation, of a proposed SZ. The request must be expressed during the pre-  
10 application meeting. The request will be reviewed, as deemed applicable, by the Real  
11 Estate Services Department, the Parks, Recreation and Cultural Services Department,  
12 the Community Development Department, and other committees or departments which  
13 are necessary to the review. The review will consider the costs and benefits associated  
14 with the acquisition.

15  
16 (b) If the County agrees to assume ownership the petitioner is not required to  
17 supply a Covenant or surveys.

18  
19 **Sec. 3-5-432. COVENANT.**

20  
21 (a) The Covenant shall be prepared by the petitioner and executed in  
22 accordance with the requirements of this article. Once the draft is approved, the  
23 Covenant shall be signed by the petitioner and held in escrow pending the approval of  
24 the Certification.

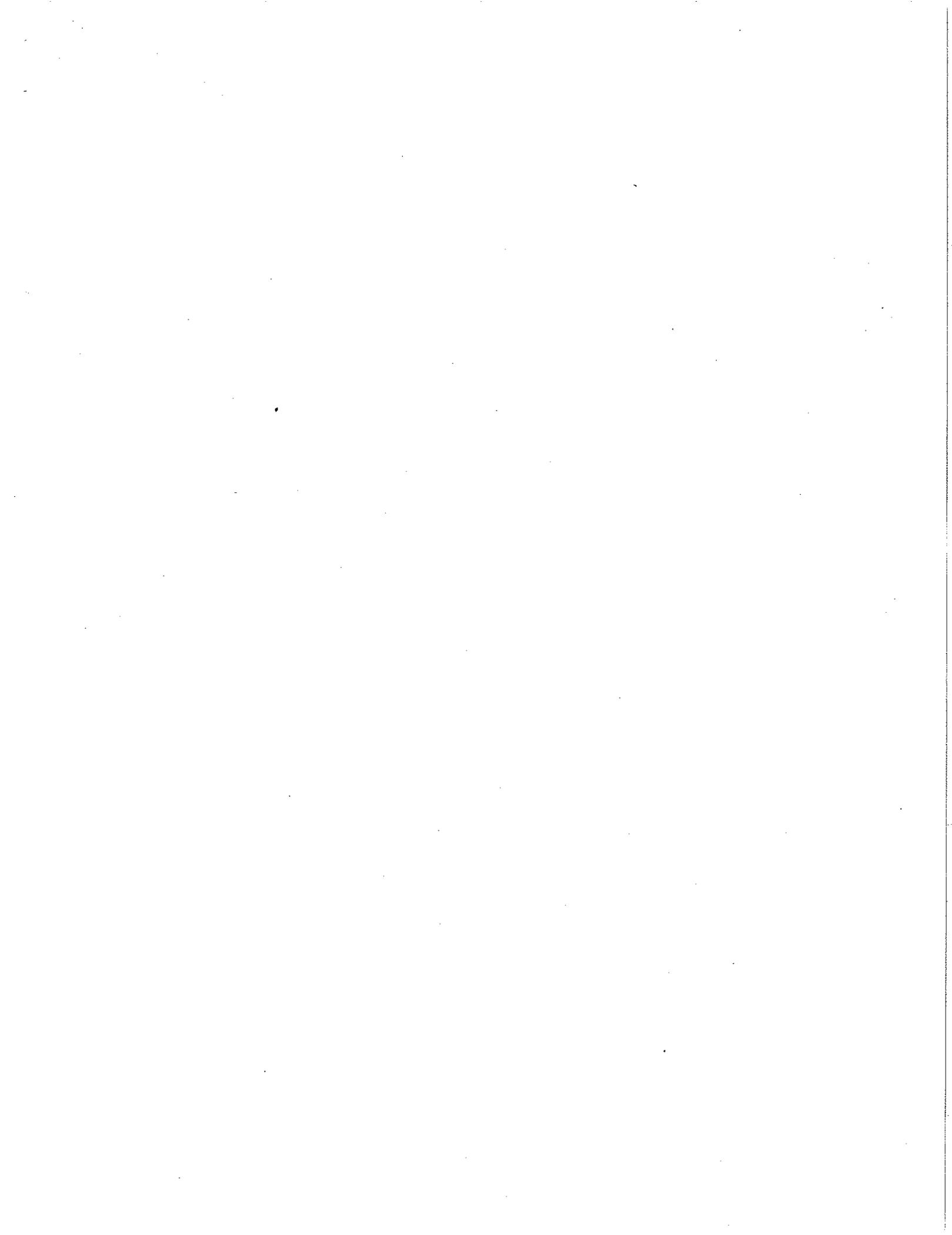
25  
26 (b) The form of each Covenant shall be reviewed by the County Attorney. The  
27 Covenant shall contain such provisions that are reasonably required by the County  
28 Attorney proscribing the use of the proposed SZ following the approval of the  
29 Certification, including the following:

30  
31 (1) If the property contains Environmentally sensitive resources or  
32 Historic or archeological resources, the Covenant shall limit or preclude uses of the  
33 proposed SZ such that the resources, whichever may be applicable, will be maintained  
34 in perpetuity following the completion of the Certification.

35  
36 (2) If the property is submitted as a Bona fide agricultural Use, the  
37 Covenant shall restrict the uses of the property to Bona fide agricultural uses and the  
38 use of any retained density to family members of the property owner or employees, and  
39 their families, engaged in the agricultural operation.

40  
41 (3) Limit or preclude activities which are determined through the  
42 processes of this article to be detrimental to the appropriate maintenance of the  
43 proposed SZ.

44  
45 (4) Indicate the property or portions thereof that is restricted from future  
46 development and/or subject to limitations on future development. If the SZ consists of



1 only a portion of the property, the Covenant shall not contain provisions over the use of  
2 the remainder of the property unless such provisions are deemed necessary to ensure  
3 the viability of the SZ. The Covenant may provide for spreading the remaining density  
4 onto the portion of the property used as an SZ. Environmentally sensitive resources or  
5 Historic or archeological resources shall be protected.

6  
7 (5) Bind all owners of the proposed SZ and their respective heirs,  
8 successors and assigns.

9  
10 (c) The Covenant shall be accompanied by a management plan if required  
11 herein.

12  
13 (1) A management plan shall be required if the applicant proposes to  
14 qualify the property as an SZ because it contains an Environmentally sensitive  
15 resource, or Historic or archeological resource, or a Bona fide Agricultural use. The  
16 management plan shall describe how the proposed SZ will be maintained in perpetuity,  
17 how the resource shall be protected, and shall contain any other information reasonably  
18 requested or required by the Community Development Director regarding the use,  
19 maintenance and the protection of the resources of the proposed SZ following the  
20 approval of the Certification.

21  
22 (2) Substandard lots and property located within the Coastal High  
23 Hazard Area shall not require a management plan.

24  
25 **Sec. 3-5-433. VARIANCES.**

26  
27 (a) Upon determination that the petition does not meet the substantive  
28 requirements of this article, the petitioner may appeal to the Board to seek limited relief  
29 from those requirements. The relief would be from the strict application of the  
30 requirements which have either prohibited the Certification or Transfer of Density and  
31 created an unnecessary hardship, as distinguished from a mere inconvenience, for the  
32 owner of the affected real property. Additionally, the petitioner must establish the  
33 following prerequisites to the satisfaction of the Board, if applicable:

34  
35 (1) The conditions giving rise to the prohibition or hardship were not  
36 created by any person presently having an interest in the affected properties; and

37  
38 (2) The variance requested is the minimum modification of the  
39 regulation at issue to effectuate the relief necessary; and

40  
41 (3) The granting of the variance would not be injurious to or  
42 incompatible with the surrounding neighborhood or otherwise detrimental to the public  
43 welfare; and  
44

1 (4) Owing to the specific circumstances which gave rise to the  
2 prohibition or hardship, the spirit and intent of this article would be preserved by  
3 granting the variance; and  
4

5 (5) The requested variance is consistent with the Charlotte County  
6 Comprehensive Plan.  
7

8 (b) The request for variance shall be in writing and shall contain, at a  
9 minimum, the following information:  
10

11 (1) The section(s) from which relief is sought;

12 (2) The nature of the relief; and

13 (3) A response to Subsection 3-5-433(a)(1) through (5).  
14  
15  
16

17 (c) The Board may add such conditions and restrictions as deemed  
18 necessary in connection with the granting of any variance under this section to allow for  
19 a positive finding to be made on any of the foregoing factors or minimize any  
20 detrimental effects as a result of the granting of said variance.  
21

22 (d) All variance requests under this section will require a quasi-judicial public  
23 hearing before the Board.  
24

25 (e) The Board shall not grant any Certifications or Use Amendments  
26 governed by this article which would require the granting of a variance, pursuant to this  
27 section, at the same hearing upon which the granting of the variance is made.  
28

29 (f) A denial of any variance request under this section which, given strict  
30 adherence to the provisions of this article, would not permit the petitioner to proceed  
31 with a Certification, Transfer of Density, or a Use Amendment under this article shall  
32 constitute a final decision.  
33

### 34 **Sec. 3-5-434. WAIVER PROHIBITION**

35 There shall be no waiver from the requirement of complying with this article  
36 except through the adoption of a comprehensive plan text amendment and  
37 accompanying map amendment.  
38

### 39 **Sec. 3-5-435. LAND ACQUISITION TRUST FUND.**

40 The Board has established the LATF and any procedures governing the LATF by  
41 resolution. The purpose of the LATF is to create a mechanism by which a petitioner for  
42 a proposed RZ may purchase density from the County. Funds contributed to the LATF  
43 shall be used to acquire and manage properties that qualify as SZs.  
44  
45  
46

1 (a) If a petitioner does not choose to include a proposed SZ or an approved  
2 Certificate with a proposed TDU, the petitioner shall pay a contribution fee to be  
3 deposited in the County's Land Acquisition Trust Fund.  
4

5 (b) Once a petitioner submits a TDU application indicating their desire to use  
6 the LATF option, the Community Development Department in conjunction with the Real  
7 Estate Services Department will provide the petitioner with the current unit price  
8 equivalent for a unit of density within seven days. The unit price will be current to  
9 market conditions, directly related to the county's current acquisition costs of acquiring  
10 lands under the LATF, and reflective of land values within the general area of the  
11 proposed RZ.  
12

13 (c) The unit price shall be formally established by the resolution at the time of  
14 approval of the TDU petition. In the event that the petitioner chooses to not contribute  
15 to the LATF at the time of adoption of the TDU, or chooses to submit the development  
16 in phases, a process for payment shall be established in the resolution with the  
17 understanding that the amount of the fee required upon payment shall be the unit price  
18 equivalent for a Density Unit at the time of payment, which may not be the same price  
19 as would have been paid by the petitioner at the time of approval of the TDU by the  
20 Board.  
21

22 (d) The payment of the contribution fee is required prior to Preliminary Plat  
23 approval, or, in the event a Preliminary Plat will not be requested by the applicant, prior  
24 to request for any permits to develop. The petitioner shall not be issued any permits for  
25 development on the RZ, or the applicable phase of the RZ, until such time as the  
26 payment of the fee has been received by the County.  
27

28 (e) The amount of the fee shall be equal to the number of Density Units  
29 approved for the RZ multiplied by the unit price for a Density Unit, included as part of  
30 the Resolution adopting the TDU.  
31

32 (f) A petitioner who is proposing to transfer density onto property located in a  
33 Tropical Storm Surge or Category 1 Hurricane Storm Surge zone can not utilize the  
34 Land Acquisition Trust Fund option.  
35

36 (g) A petitioner who is proposing to increase density on property within the  
37 West County Planning District, which constitutes all property west of the Myakka River,  
38 can not utilize the Land Acquisition Trust Fund option.  
39

40 **SECTION 2. CONFLICT WITH OTHER ORDINANCES.** The provisions of  
41 this article shall supersede any provisions of existing ordinances or resolutions in  
42 conflict herewith to the extent of said conflict.

1           **SECTION 3. SEVERABILITY.** In the event this ordinance conflicts with  
2 any other provision of the Charlotte County Code or other applicable law, the more  
3 restrictive shall apply. If any subsection, sentence, clause, phrase, or portion of this  
4 ordinance is for any reason held invalid or unconstitutional by any court of competent  
5 jurisdiction, such portion shall be deemed a separate, distinct, and independent  
6 provision, and such holding shall not affect the validity of the remainder of the  
7 ordinance.

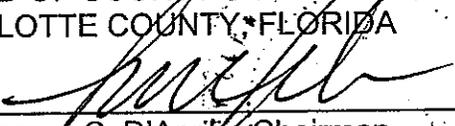
8           **SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect upon  
9 filing in the Office of the Secretary of State, State of Florida.

10  
11  
12  
13  
14  
15  
16  
17

[SIGNATURE PAGE FOLLOWS]

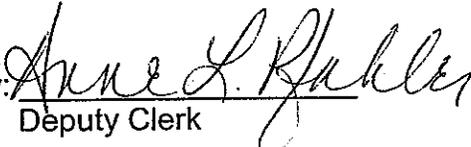
1 PASSED AND DULY ADOPTED this 27<sup>th</sup> day of NOVEMBER, 2007.

2  
3 BOARD OF COUNTY COMMISSIONERS OF  
4 CHARLOTTE COUNTY, FLORIDA

5  
6 By:   
7 Thomas C. D'Aprile, Chairman

8  
9 ATTEST:

10 Barbara T. Scott, Clerk of  
11 Circuit Court and Ex-Officio  
12 Clerk to the Board of County  
13 Commissioners

14  
15 By:   
16 Deputy Clerk

17  
18 APPROVED AS TO FORM  
19 AND LEGAL SUFFICIENCY:

20  
21 By:   
22 Janette S. Knowlton, County Attorney

23  
24 RB  
25 LR2007-376

# **Attachment 4: Charlotte County Board of County Commissioners Strategic Plan**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108



# **Charlotte Board of County Commissioners**

## **Strategic Plan**

2015/16 – 2016/17 Budget Process

## Introduction

Charlotte County has a two-year budget and planning cycle. Every two years that process begins with the Charlotte Board of County Commissioners (BCC) updating their strategic focus areas and developing their strategic plan for the next two to five years. In January and February of 2015, the BCC met to discuss and establish long-range outcomes as well as specific initiatives for the next two to five years. In setting this direction the Board considered several sets of input.

**Citizen input:** During November and December a citizen survey was conducted by ICMA and the National Research Center. The National Citizen Survey is a standardized survey that makes use of statistically valid methodology, questions and sample sizes. This survey is similar to ones done in 2007, 2010 and 2012 giving the county the ability to compare not only with those results but also with 500+ governments across the nation.

**Employee input:** In October of 2014 we asked our employees to evaluate the organization through an on-line survey. This survey provided us with an assessment of our strengths and weaknesses as well as a comparison our results from 2010 and 2012.

**Internal expertise:** To take advantage of the wide range of knowledge and expertise within the organization we brought together subject matter experts from across County departments to conduct an analysis of our Strengths, Weaknesses, Opportunities and Threats (SWOT) by BCC Focus Area. In addition we asked them to forecast what they saw as the key issues for the next 2, 5 and 10 years. This year we expanded the participation in the SWOT analysis to include other agencies to provide a broader perspective.

**Charlotte Assembly:** In the summer of 2013, 125 community residents spent two days in facilitated conversations to provide input on a variety of county-wide issues. The end result was a policy statement that included specific projects and issues.

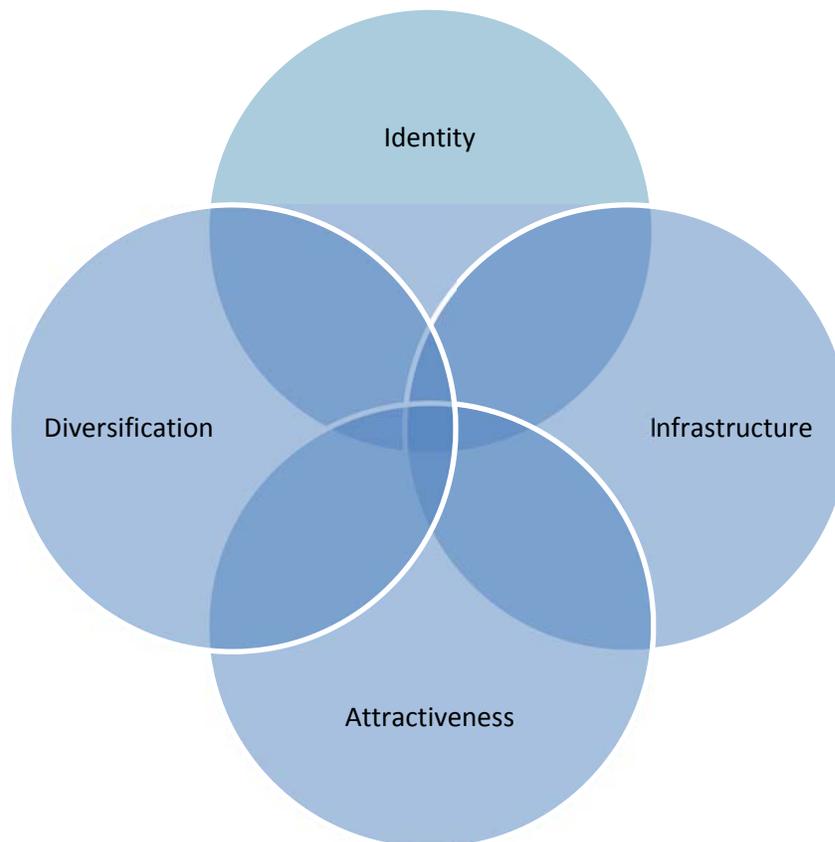
With this information in mind, the Board then went through four distinct steps.

1. Review and amend their **Strategic Focus Areas**. This year the Board added Infrastructure as a distinct focus area. The county has a vast and complex network of roads, bridges, canals, pipes and facilities, and as conversations progressed it became evident that to ensure the proper attention was afforded this network, it merited its own focus area. The revised strategic focus areas are:
  - Quality of Life
  - Infrastructure
  - Economic Development
  - Water Resources
  - Growth Management
  - Public Safety
  - Human Services
  - Efficient & Effective Government
  - Fiscal / Financial Planning

2. The Board then articulated desired **Long-range Outcomes** for each of the Strategic Focus Areas. This was a new step this year. In the past the Board developed a list of specific initiatives for the next few years but what was missing were longer range outcomes that would provide continuity to the organization.
3. At a facilitated workshop the Board prioritized which outcomes were most critical in moving Charlotte County forward. The chart below illustrates the four **Priority Outcomes** which then served as filters for selecting specific initiatives for the near term.
4. For each focus area the Board then selected specific **Initiatives** to provide direction to the organization for the next two to five years. These initiatives will be incorporated into the 2015/16 & 2016/17 Budget Process to develop action steps and resource allocation.

### Priority Outcomes from 1/26/15 Workshop

Economic and Demographic Diversification  
Consensus on Community Identity  
Improved Community Attractiveness  
Competitive Infrastructure



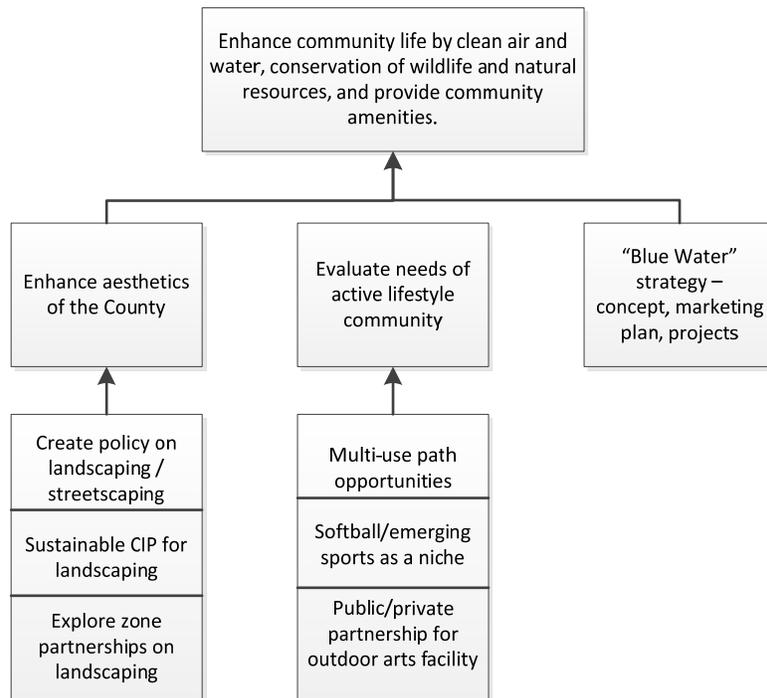
**Quality of Life:** Enhance community life by clean air and water, conservation of wildlife and natural resources, and provide community amenities.

**Long-range Outcomes:**

- Increase access to and awareness of local natural resources
- Develop a community brand or brands
- Delineate the core community identity and implement strategies to foster it.
- Improve the appearance of the community
- Support efforts to improve education
- Prioritize “blue water”

**2015/16 & 2016/17 Initiatives**

- Develop “Blue Water” strategy - concept, marketing plan, projects
- Enhance aesthetics of the County (gateways, US 41, SR 776)
  - Create policy on landscaping / streetscaping
  - Sustainable CIP for landscaping
  - Explore zone partnerships on landscaping
- Evaluate needs of active lifestyle community
  - Multi-use path opportunities
  - Softball/emerging sports as a niche for active life style
  - Explore outdoor arts facility through a public/private partnership



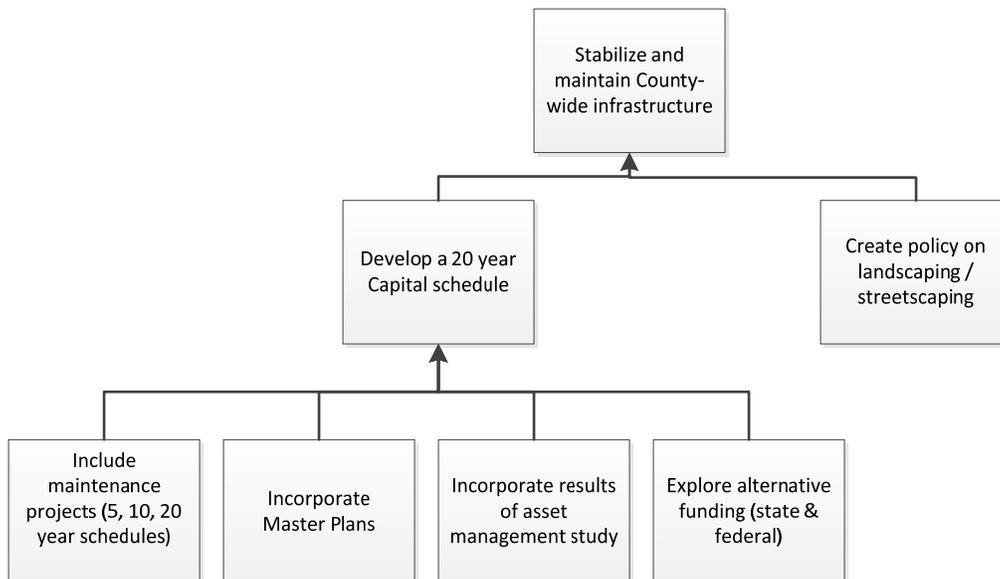
## Infrastructure: Stabilize and maintain County-wide infrastructure

### Long-range Outcomes:

- Implement current projects
- Maintain maintenance programs & delineate costs
- Plan for Unfunded projects – Justice Center, roads
  - Analyze value of various funding mechanisms– Impact Fees; MSBUs
  - Determine the amount of infrastructure needed vs. funding sources (vacant land)
  - Compare the costs of replacing old infrastructure vs. infrastructure needed for growth

### 2015/16 & 2016/17 Initiatives

- Develop a 20 year Capital schedule and identify funding
  - Expand to include maintenance projects (5, 10, 20 year schedules)
  - Incorporate results of asset management study and master plans (parks, library, facilities, Sheriff)
  - Seek all means of alternative funding (including state and federal)
- Create policy on landscaping / streetscaping



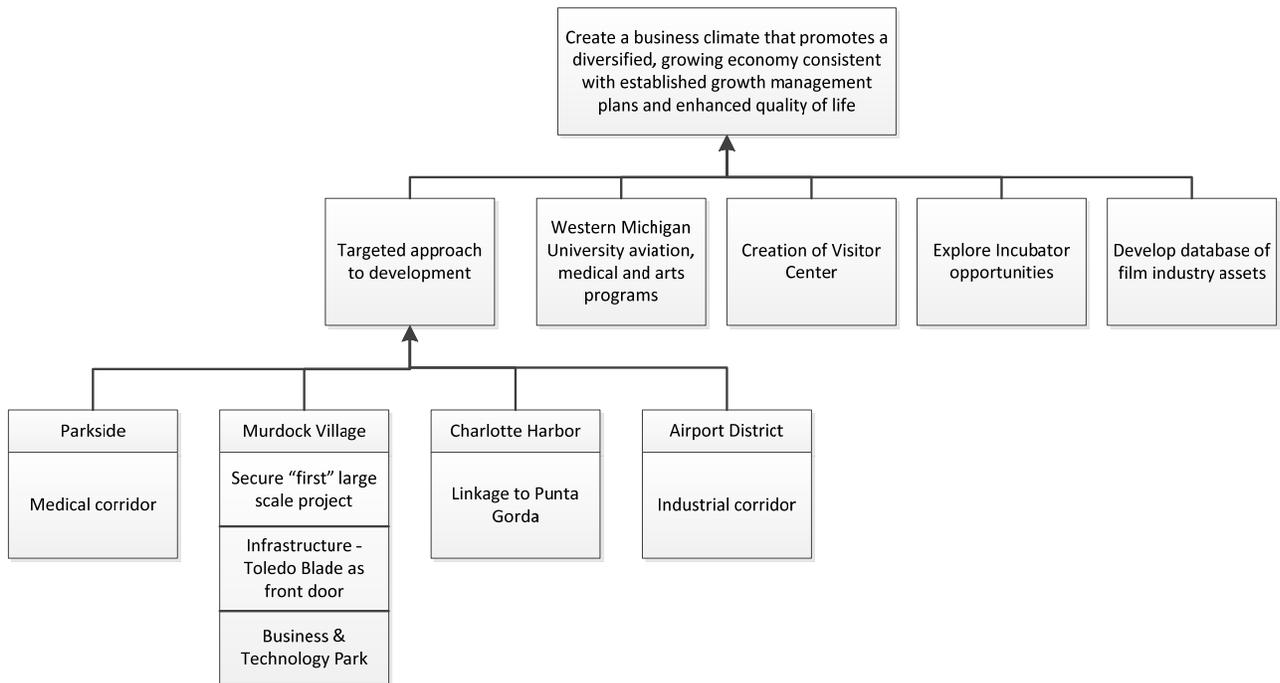
**Economic Development:** Create a business climate that promotes a diversified, growing economy consistent with established growth management plans and enhanced quality of life.

**Long-range Outcomes:**

- Articulate community identity from an economic strategy perspective
- Strengthen education options for a skilled workforce needed for that identity
- Create infrastructure needed to foster development of that identity
- Improve data and analytic capacity
- Improve position in film industry

**2015/16 & 2016/17 Initiatives**

- Targeted approach to CRAs
  - Murdock Village
    - Secure “first” large scale project and develop alternative configurations
    - Infrastructure - Toledo Blade as front door
    - Business & Technology Park
  - Parkside – medical corridor
  - Charlotte Harbor – linkage to Punta Gorda
- Airport District as industrial corridor
- Western Michigan University aviation, medical and arts programs
- Creation of Visitor Center
- Explore Incubator opportunities
- Develop database of film industry assets



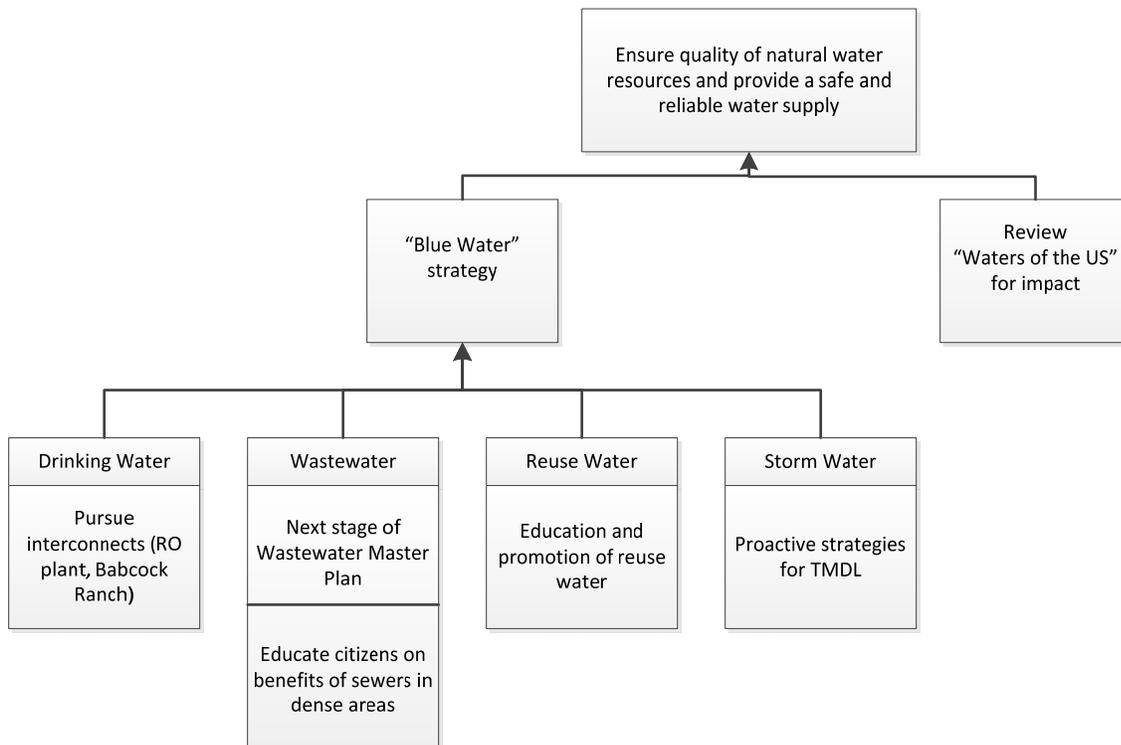
**Water Resources:** Ensure quality of natural water resources and provide a safe and reliable water supply.

**Long-range Outcomes:**

- Develop a Central Sewer System
- Improve water quality in the Harbor - Make it possible to swim at PC Beach
- Strengthen public appreciation of the local natural environment and its importance to our local economy
- Ensure long term water supply with regional partners
- Enhance the credibility of CCU

**2015/16 & 2016/17 Initiatives**

- Develop “Blue Water” strategy
  - Drinking water – Pursue interconnects (RO plant and Babcock Ranch)
  - Wastewater
    - Develop next stage of Wastewater Master Plan
    - Educate citizens on benefits of having sewers in population dense areas
  - Reuse - Education and promotion of reuse water
  - Storm water - Proactive strategies for TMDL
- Review “Waters of the US” for impact



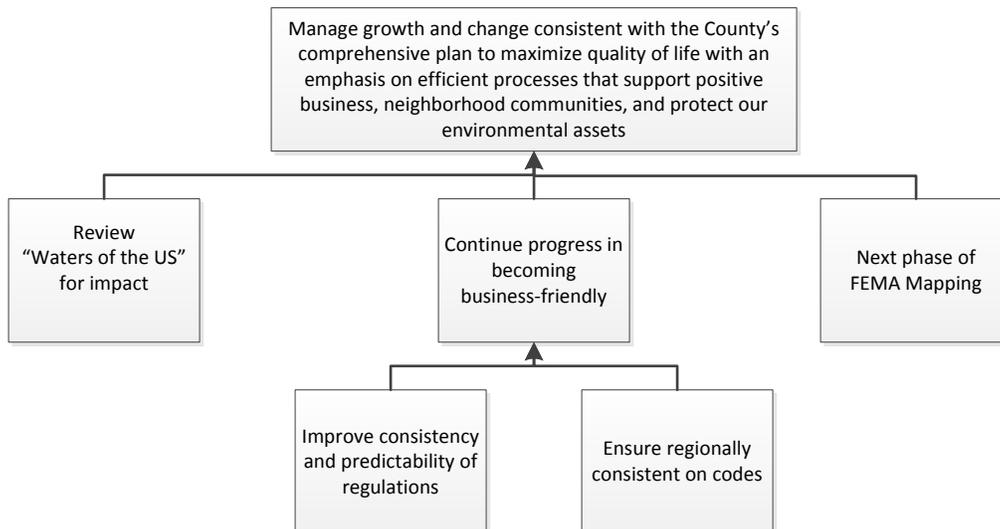
**Growth Management:** Manage growth and change consistent with the County’s comprehensive plan to maximize quality of life with an emphasis on efficient processes that support positive business, neighborhood communities, and protect our environmental assets.

**Long-range Outcomes:**

- Improved community appearance
- Improved traffic flow management
- More efficient review processes
- More consistent application and interpretation of rules
- Modified land layout that would make the community more attractive to residents and businesses

**2015/16 & 2016/17 Initiatives**

- Continued progress in becoming “business-friendly”
  - Improve consistency and predictability of regulations
  - Ensure regionally consistent on codes
- Review “Waters of the US” for impact
- Next stage of FEMA mapping



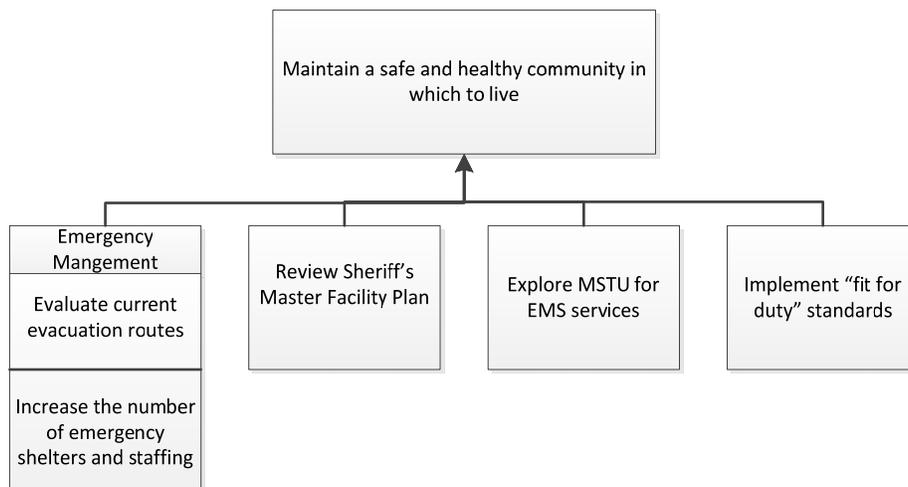
**Public Safety:** Maintain a safe and healthy community in which to live.

**Long-range Outcomes:**

- Maintain low crime rate
- Improve community safety features such as lighting, sidewalks, bike paths
- Improve the capacity to meet growth demands with respect to response times, equipment, space
- Execute strategies to manage risks such as code violations, driver safety, homelessness
- Maintain good working relationships with other safety providers such as hospitals
- Strengthen community education efforts
- Healthier workforce

**2015/16 & 2016/17 Initiatives**

- Conduct an evaluation of current evacuation routes throughout the County
- Increase the number of available emergency shelters and staffing
- Sheriff’s Master Facility Plan
- Explore MSTU for EMS services
- Implement “fit for duty” standards



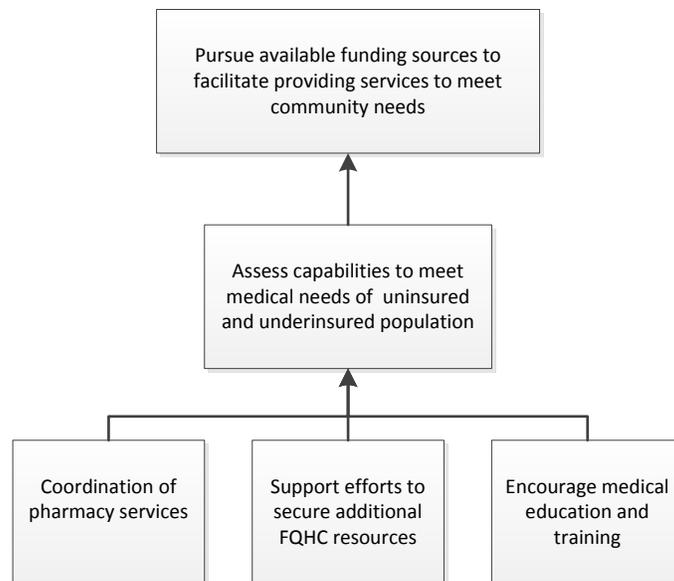
**Human Services:** Pursue available funding sources to facilitate providing services to meet community needs.

**Long-range Outcomes:**

- Develop a comprehensive strategic plan with community partners; integrating various plans, needs assessments; duplication of services and improving access.
- Enhance coordination with outside agencies
- Expand funding options – grants
- Strengthen community education about services
- Identify who uses our services and trend data about possible future use - Retirees, workers
- Better coordination with Sarasota and other surrounding counties regarding homelessness and transportation

**2015/16 & 2016/17 Initiatives**

- Assess capabilities to meet medical needs of uninsured and underinsured population
- Coordination of pharmacy services between Family Health Centers and Virginia B Andes
- Support efforts to secure additional FQHC resources
- Encourage medical education and training



**Efficient and Effective Government:** Facilitate the organization’s capacity to govern and manage effectively in the rapidly changing and challenging environment.

**Long-range Outcomes:**

- Increase the technological & human relations skills of staff
- Make the electronic services of the county more user friendly
- Strengthen a culture of innovation, performance and accountability
- Strengthen the capacity for analytics and data driven decision making
- Improve the customer experience
- Healthier workforce
- Improving our communications with the public
- Proactive approach to disbursing information (ex. press conference)

**2015/16 & 2016/17 Initiatives**

- Learn from other county’s best practices
- Explore cooperative efforts with North Port
- Actively engage in Peace River Water Authority policy direction
- Provide SWFWMD participation
- Improve communication and correct misinformation
  - Develop one page data sheets for Public Hearing issues
  - Utilization of social media
- Promote benefit of employee health center
- Payment structure to retain employees



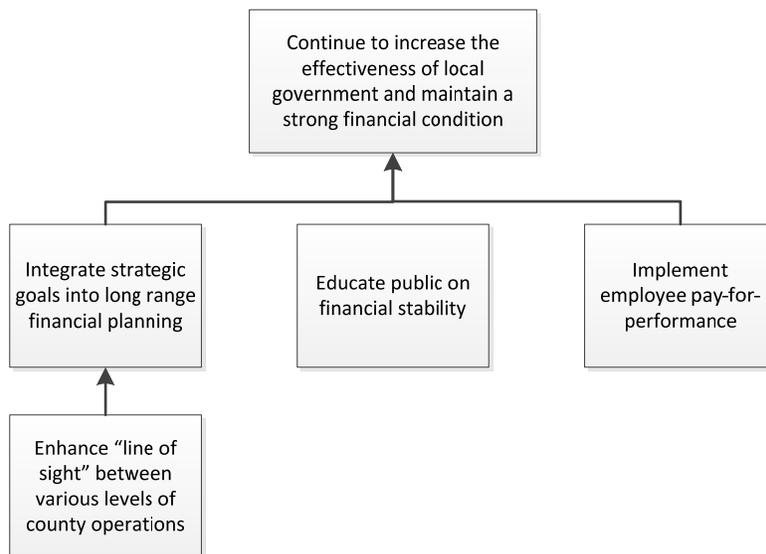
**Fiscal/Financial Planning:** Continue to increase the effectiveness of local government and maintain a strong financial condition.

**Long-range Outcomes:**

- Improve performance and fiscal data
- Educate staff on tools to improve fiscal management
- Develop state level strategy for funding

**2015/16 & 2016/17 Initiatives**

- Implement employee pay-for-performance
- Enhance “line of sight” between various levels of county operations
- Integrate strategic goals into long range financial planning
- Educate public on financial stability
  - Periodic financial updates
  - Provide education on specific issues prior to and at public hearings



**Attachment 5:  
Sec. 3-9-30. Agriculture  
(AG), Ordinance Number  
2014-049**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

CHG  
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ORDINANCE  
NUMBER 2014 - 049

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING CHAPTER 3-9 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BY DELETING SECTION 3-9-29.5, AGRICULTURE CONSERVATION (AC), SECTION 3-9-30, AGRICULTURE (AG AND AE), AND SECTION 3-9-30.5, AGRICULTURE ESTATES 10 (AE-10), IN THEIR ENTIRETY, AND RECREATING SECTION 3-9-30, AGRICULTURE (AG) ZONING; PROVIDING FOR INTENT; PROVIDING FOR PERMITTED USES AND STRUCTURES; PROVIDING FOR ACCESSORY USES AND STRUCTURES; PROVIDING FOR CONDITIONAL USES AND STRUCTURES; PROVIDING FOR PROHIBITED USES AND STRUCTURES; PROVIDING FOR SPECIAL EXCEPTIONS; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the County's Land Development Regulations (LDRs) were originally adopted in 1981 and took effect on December 8, 1981; and

WHEREAS, over time, Staff was directed to revise the existing LDRs and has been working over the last several years to accomplish the desired revisions; and

WHEREAS, the purpose of these revisions is to update development regulations by removing some outdated regulations and requirements and adding new standards, to make the LDRs more user-friendly, and to be consistent with the County's Comprehensive Plan; and

WHEREAS, in order to thoroughly review and update the existing LDRs, Staff has divided the project into three phases; and

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT  
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1           WHEREAS, Phase I focuses on revisions to the conventional zoning districts and  
2 some sections of Article I. In General and Article III. Special Regulations of Chapter 3-9.  
3 Zoning; and

4           WHEREAS Phase II will focus on all overlay codes and the remaining sections of  
5 Article I. In General and Article III. Special Regulations of Chapter 3-9. Zoning; and

6           WHEREAS, Phase III will focus on regulations found primarily in Chapter 3-5.  
7 Planning and Development, which may include topics such as wetlands, landscaping  
8 and buffers, and site and commercial design standards; and

9           WHEREAS, Staff is recommending that Chapter 3-9 of the Code of Laws and  
10 Ordinances be amended by deleting Section 3-9-29.5, Agriculture Conservation (AC),  
11 Section 3-9-30, Agriculture (AG and AE), and Section 3-9-30.5, Agriculture Estates (AE-  
12 10), in their entirety, and recreating Section 3-9-30, Agriculture (AG); and

13           WHEREAS, revisions have previously been heard by the Charlotte County  
14 Planning and Zoning Board ("P&Z Board") and, based on the memorandum dated  
15 August 29, 2014, and the evidence presented to the P&Z Board, has been  
16 recommended for approval on September 8, 2014; and

17           WHEREAS, the Board considered the revisions in public hearings held on  
18 October 28, 2014 and November 25, 2014; and

19           WHEREAS, the Board has determined that the changes are consistent with the  
20 County's Comprehensive Plan and are in the best interests of the County and its  
21 citizens.

22           NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners  
23 of Charlotte County, Florida:

1           Section 1. Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County,  
2 Florida, is hereby amended by deleting Section 3-9-29.5, Agriculture Conservation (AC),  
3 Section 3-9-30, Agriculture (AG and AE), and Section 3-9-30.5, Agriculture Estates  
4 (AE-10), in their entirety, and creating new Section 3-9-30, Agriculture (AG), as provided  
5 in Exhibit "A " which is attached hereto and provided herein.

6  
7           Section 2. Conflict with Other Ordinances. The provisions of this Ordinance shall  
8 supersede any provision of exiting ordinances in conflict herewith to the extent of said  
9 conflict.

10  
11           Section 3. Severability. If any subsection, sentence, clause, phrase, or portion  
12 of this Ordinance is for any reason held invalid or unconstitutional by any court of  
13 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
14 independent provision and such holding shall not affect the validity of the remainder of  
15 this Ordinance.

16  
17           Section 4. Effective Date. This Ordinance shall take effect upon its filing with the  
18 Office of the Secretary of State, State of Florida.

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[SIGNATURE PAGE FOLLOWS]

1 PASSED AND DULLY ADOPTED this 25<sup>th</sup> day of November, 2014.

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6 BOARD OF COUNTY COMMISSIONERS OF  
7 CHARLOTTE COUNTY, FLORIDA  
8 By: William G. Truex  
9 William G. Truex, Chairman  
10  
11  
12

13 ATTEST:

14 Barbara T. Scott, Clerk of  
15 Circuit Court and Ex-Officio  
16 Clerk to the Board of County  
17 Commissioners

18 By: Michelle DiBerardino  
19 Deputy Clerk  
20  
21  
22

23 APPROVED AS TO FORM  
24 AND LEGAL SUFFICIENCY:

25 By: Janette S. Knowlton  
26 Janette S. Knowlton, County Attorney  
27 LR2014-2992  
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2 **Sec. 3-9-30. Agriculture (AG)**

3 (a) *Intent.* The purpose and intent of this district is to allow agriculture, very-low-density residential,  
4 rural recreation, and other rural uses. Agriculture and agricultural activities are frequently associated with  
5 noise, odors, dust, aerial chemical spraying, and other activities generally incompatible with urban-style  
6 living. However, agriculture forms a vital segment of the economy of the state, and provides diversity of  
7 economic opportunity and life styles for the county. Therefore, it is the purpose of this district to provide  
8 areas for the establishment and/or continuation of agricultural operations with residential uses being  
9 permitted only at very low densities and to accommodate those individuals who understand and desire to  
10 live in an agricultural environment.

11 (b) *Permitted Uses and Structures (P):*

- 12 (1) 4H, FFA and similar uses and activities.
- 13 (2) Assisted living facility or day care center, adult, six or less. (See Sec. 3-9-62. Adult Congregate  
14 Living Facilities)
- 15 (3) Biofuel production, less than 5,000 gal per day.
- 16 (4) Cemetery, mausoleum.
- 17 (5) Community garden.
- 18 (6) Dairy, grain, fruit, field crop and vegetable production, cultivation, packing, and storage.
- 19 (7) Domestic animal breeding, boarding, and training.
- 20 (8) Emergency services.
- 21 (9) Fish and wildlife management area, nature preserve.
- 22 (10) Fish hatchery.
- 23 (11) Gamelands, public or private.
- 24 (12) Harvesting, cultivation, processing, and sale of crops grown on premises, including silviculture,  
25 aquaculture, and commercial citriculture.
- 26 (13) Horse stable, barn, workshop, and other structures and uses incidental to agricultural uses.
- 27 (14) Livestock breeding, boarding, training, and grazing.
- 28 (15) Manufactured home (DCA), minimum requirement is 150 miles per hour exposure C.
- 29 (16) Minor Home Occupation. (see Sec. 3-9-74. Home Occupations)
- 30 (17) Model home. (see Sec. 3-9-78. Model Homes)
- 31 (18) Outdoor educational facility.
- 32 (19) Park, public or not-for-profit.
- 33 (20) Plant nursery.
- 34 (21) Raising of poultry.
- 35 (22) Single-family detached, which may have a guest suite that is structurally attached, with or  
36 without cooking facilities.



Land Development Regulations  
Chapter 3-9. Zoning  
Article II. District Regulations

Sec.3-9-30. AG

- 1 (23) Telecommunications facility, 50 feet or less in height. (see Sec. 3-9-68. Communication  
2 Towers)
- 3 (24) Telecommunications facility, greater than 50 feet in height. (see Sec.3-9-68. Communication  
4 Towers)
- 5 (c) *Permitted Accessory Uses and Structures*: Uses and structures which are customarily accessory and  
6 clearly incidental to permitted and conditional uses and structures are permitted in this district,  
7 including, but not limited to:
- 8 (1) Agricultural accessory uses and structures may be permitted prior to the principal uses and  
9 structures.
- 10 (2) Carports, garages, and storage structures associated with agricultural uses may be permitted  
11 prior to the principal uses and structures.
- 12 (3) Fences or walls which may be permitted prior to the principal uses and structures.
- 13 (4) Guest suite, detached, consisting of living and sanitary facilities only. Cooking facilities shall  
14 not be permitted in a detached guest suite. It must meet all applicable development standards  
15 set forth in the zoning district.
- 16 (5) Keeping of pets, excluding animal breeding, boarding, and training.
- 17 (6) Swimming pools, tennis courts, or other similar noncommercial recreational uses and  
18 structures.
- 19 (d) *Conditional Uses and Structures (C)*: (For rules and regulations for any use designated as a  
20 Conditional Use or Structure, see Sec.3-9-69. Conditional Uses and Structures)
- 21 (1) Advanced Bed and breakfast, 1 or 2 bedrooms.
- 22 (2) Conservation subdivision.
- 23 (3) Farm labor housing.
- 24 (4) Guest home.
- 25 (5) Manufactured home (HUD), minimum requirement is Wind Zone 3.
- 26 (6) Minor yard trash processing facility. (see Sec. 3-9-70. Debris and Waste Facilities)
- 27 (e) *Prohibited Uses and Structures*: Any use or structure not expressly or by reasonable implication  
28 permitted herein or permitted by special exception shall be unlawful in this district.
- 29 (1) Park models and Recreational Vehicles for living purposes.
- 30 (f) *Special Exceptions (S)*: (For procedure see Sec. 3-9-6.2. Special Exceptions)
- 31 (1) Agricultural industrial activities, leather tanning, wool processing, meat curing.
- 32 (2) Airport.
- 33 (3) All conditional uses and structures that cannot meet all conditions set forth in this Code.
- 34 (4) Amphitheater.
- 35 (5) Animal hospital with indoor or outdoor facilities.
- 36 (6) Animal and poultry slaughter, stockyards, rendering.
- 37 (7) Animal sanctuary, zoo.
- 38 (8) Assisted living facility or day care center, adult, seven or more. (See Sec. 3-9-62. Adult  
39 Congregate Living Facilities)

Land Development Regulations  
Chapter 3-9. Zoning  
Article II. District Regulations

Sec.3-9-30. AG

- 1 (9) Bed and breakfast, 3 or more bedrooms.
- 2 (10) Biofuel production, 5,000 to 15,000 gal per day.
- 3 (11) Biofuel production, greater than 15,000 gal per day.
- 4 (12) Campground.
- 5 (13) Clubhouse, community center.
- 6 (14) Cluster housing. (see Sec. 3-9-67. Cluster Housing)
- 7 (15) Composting facility. (see Sec. 3-9-70. Debris and Waste Facilities)
- 8 (16) Concentrated animal feeding operation.
- 9 (17) Correctional facility.
- 10 (18) Dairy, grain, fruit, field crop, and vegetable processing.
- 11 (19) Elementary, middle or high school.
- 12 (20) Essential services. (See Sec. 3-9-71. Essential Services)
- 13 (21) Exotic animal breeding, boarding, and training.
- 14 (22) Farm equipment sales and service.
- 15 (23) Fertilizer manufacturing.
- 16 (24) Gas station.
- 17 (25) Government uses and facilities.
- 18 (26) Heliport, helistop.
- 19 (27) Livestock auction.
- 20 (28) Lumberyard.
- 21 (29) Major Home Occupation. (see Sec. 3-9-74. Home Occupations)
- 22 (30) Motor sports track, venue.
- 23 (31) Outdoor market space or exhibition space.
- 24 (32) Pistol, rifle, skeet, trap shooting and archery ranges.
- 25 (33) Place of Worship. (see Sec. 3-9-82. Places of Worship)
- 26 (34) Power plant.
- 27 (35) Private clubs.
- 28 (36) Private landing field.
- 29 (37) Recreation, outdoor.
- 30 (38) Sawmill, machine shop.
- 31 (39) Single-family residences used as a foster care facilities.
- 32 (40) Transfer station. (see Sec. 3-9-70. Debris and Waste Facilities)
- 33 (41) University or college.
- 34 (42) Such other uses as determined by the Zoning Official or his/her designee to be:
  - 35 a. Appropriate by reasonable implication and intent of the district.

Land Development Regulations  
 Chapter 3-9. Zoning  
 Article II. District Regulations

Sec.3-9-30. AG

1           b. Similar to another use either explicitly permitted in that district or allowed by Special  
 2           Exception.

3           c. Not specifically prohibited in that district.

4           The Board of Zoning Appeals shall review a favorable determination of the Zoning Official under this  
 5           provision at the time the Special Exception application is presented to it. An unfavorable  
 6           determination of the Zoning Official or his/her designee shall be appealable pursuant to Sec. 3-9-6.  
 7           Board of Zoning Appeals.

8           (g) *Development Standards:*

9

	<b>AG</b>
<b>Lot (min.)</b>	
Area (acres)	10
Width (ft.)	250
<b>Setbacks (min. ft.)</b>	
Front	40
Side	20
Rear	20
Abutting water	20
<b>Bulk (max.)</b>	
Lot Coverage of All Buildings	10%
Lot Coverage of Structures Related to Process of Hydroculture or Similar Uses Excluding Warehouses	80%
Height (ft.)	38
Density (units/acres)	1 per 10 acres

10

11           Where properties lie anywhere on a barrier island or within 1,200 feet of the water of Charlotte  
 12           Harbor, the Gulf of Mexico, Lemon Bay, Gasparilla Sound, Placida Harbor, Red Fish Cove, the  
 13           Myakka River, the Peace River, or Coral Creek, structures must also be constructed in accordance  
 14           with Sec. 3-9-88. Waterfront Property.

15           (h) *Off-street parking.* Off-street parking shall be in accordance with Sec. 3-9-79.

16           (i) *Signs.* Signs shall be in accordance with Sec. 3-9-85.



**FLORIDA DEPARTMENT *of* STATE**

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

December 1, 2014

Ms. Barbara T. Scott  
Clerk of the Circuit Court  
Charlotte County  
18500 Murdock Circle, Room 416  
Port Charlotte, Florida 33948

Attention: Ms. Michelle L. DiBerardino, Deputy Clerk Commission Minutes

Dear Ms. Scott:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2014-049, which was filed in this office on December 1, 2014.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

# SUN NEWSPAPERS

Charlotte • DeSoto • Englewood • North Port • Venice

PUBLISHER'S AFFIDAVIT OF PUBLICATION  
STATE OF FLORIDA  
COUNTY OF CHARLOTTE:

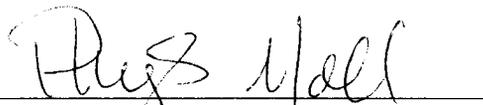
Before the undersigned authority personally appeared Casandra Cancelliere, who on oath says that she is legal clerk of the Charlotte Sun, Englewood Sun, and North Port Sun, a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Public Hearing, was published in said newspaper in the issues of:

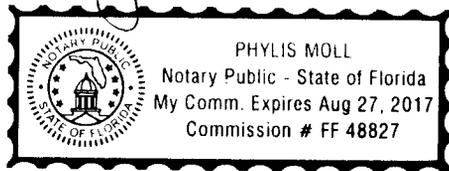
November 10, 2014

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

  
(Signature of Affiant)

Sworn and subscribed before me this 10<sup>th</sup> day of November, 2014.

  
(Signature of Notary Public)



Personally known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

Page 1  
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[Page Two of Two]

**Home Occupations**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-79, Home Occupations in its entirety, and creating a new section 3-9-74, Home Occupations; providing for purpose and intent; provide for general conditions for home occupations; provide for minor home occupations; provide for major home occupations; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Industrial General (IG) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-46, Industrial Office Park (IOP) and Section 3-9-47, Industrial Light (IL) in their entirety, and creating new Section 3-9-43, Industrial General (IG) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Industrial Intensive (II) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-48, Industrial General (IG) in its entirety and creating new Section 3-9-44, Industrial Intensive (II) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Junklike Conditions Prohibited**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-61, Abandoned Vehicles, Section 3-9-62, Watercraft Abandoned, Derelict or a Hazard to Navigation, Section 3-9-81, Junkyards and automobile Wrecking Yards and Section 3-9-82.1, Junk and Junkyard Conditions Prohibited in their entirety, and creating new Section 3-9-76, Junklike Conditions Prohibited, providing for the dumping or storage of junk; providing for a single unlicensed motor vehicle parking requirement; providing for conditions to remove junk; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Legal Nonconformities**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-10, Nonconformities and renaming this Section to Legal Nonconformities; providing for revised development requirements for nonconforming lots of record; providing for current nonconforming use; providing for conforming uses; providing revised development requirements for nonconforming structures; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Manufactured Home Conventional (MHC) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-36, Mobile Home Subdivision (MHS) and Section 3-9-37, Mobile Home Conventional (MHC) in their entirety, and creating new Section 3-9-37, Manufactured Home Conventional (MHC) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Manufactured Home Park (MHP) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-35, Mobile Home Park (MHP) in its entirety and creating new Section 3-9-36, Manufactured Home Park (MHP) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Model Homes**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-87, Model Residential Units and renumbering to Section 3-9-78, and renaming to Model Homes; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Office, Medical and Institutional (OMI) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-39, Office, Medical and Institutional (OMI) in its entirety and recreating Section 3-9-39, Office, Medical and Institutional (OMI) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Parks and Recreation (PKR) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-29, Marine Park (MP) in its entirety and creating new Section 3-9-29, Parks and Recreation (PKR) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Places of Worship**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-80.1, Houses of Worship, renumbering and renaming as Section 3-9-82, Places of Worship; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Residential Estates (RE) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-31, Residential Estates (RE) in its entirety and creating new Section 3-9-32, Residential Estates (RE) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Residential Multi-Family Tourist (RMF-T) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-34, Residential Multi-Family Tourist (RMF-T) in its entirety and creating new Section 3-9-35, Residential Multi-Family Tourist (RMF-T) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Residential Multi-Family (RMF) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-33, Residential Multi-Family (RMF) in its entirety and creating new Section 3-9-34, Residential Multi-Family (RMF) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Residential Single Family (RSF) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-32, Residential Single Family (RSF) in its entirety and creating new Section 3-9-33, Residential Single Family (RSF) zoning, providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Recreational Vehicle Park (RVP) Zoning District**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-38, Recreational Vehicle Park (RVP) in its entirety and recreating Section 3-9-38, Recreational Vehicle Park (RVP) zoning; providing for intent; providing for permitted uses and structures; providing for accessory uses and structures; providing for conditional uses and structures; providing for prohibited uses and structures; providing for special exceptions; providing for development standards; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Accessory Outdoor Retail Sales, Display and Storage**

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by creating new Section 3-9-61, Accessory Outdoor Retail Sales, Display and Storage; providing for purpose and applicability; providing for requirements for accessory outdoor retail sales, display and storage; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Section 3-9-5**

An Ordinance amending Charlotte County Code Chapter 3-9, by deleting Section 3-9-68, Authority to Enter Upon Private Property, Section 3-9-72, Deed Restrictions, Section 3-9-75, Exceptions to Required Yards, Section 3-9-5.2, Expedited Permitting Process for Certified Affordable Housing Development, Section 3-9-76, Exclusions from Height Limitations, Section 3-9-78, Form of Ownership, Section 3-9-86, Moving of Structures and Section 3-9-93, Property Frontage in their entirety, and creating new Section 3-9-5.1, Authority to Enter Upon Private Property, Section 3-9-5.2, Deed Restrictions, Section 3-9-5.3, Exceptions to Required Yards, Section 3-9-5.4, Expedited Permitting Process for Certified Affordable Housing Development, Section 3-9-5.5, Exclusions from Height Limitations, Section 3-9-5.6, Form of Ownership, Section 3-9-5.7, Moving of Structures and Section 3-9-8, Property Frontage, and revising Section 3-9-5, Administration and Enforcement, Building Permits; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Section 3-9-27**

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-27, Application of District Regulations; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Site Plan Review**

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-5.1, Site Plan Review and renumbering to Section 3-9-7, Site Plan Review; providing for applicability and procedure; providing for initiation; providing for application requirements; providing for requirements of amendments and changes to land Development Regulations; providing for preliminary site plan review; providing for final site plan review; providing for conformity to plan; providing for modification of site plans; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Temporary Uses**

An Ordinance amending Charlotte County Code Chapter 3-9, by revising Section 3-9-95.1, Temporary Uses, and renumbering as Section 3-9-87; providing for revised application process and fees; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Land Development Regulations****Table of Contents**

An Ordinance amending Charlotte County Code Chapter 3-9, by reorganizing the table of contents; deleting some sections in their entirety; creating new sections; revising some sections; renumbering sections in alphabetic order in Article III, Special Regulations; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Use Table – Commercial Districts**

An Ordinance amending Charlotte County Code Chapter 3-9, by adding new Section 3-9-26.3, Use Table – Commercial Districts; providing for a list of permitted uses and structures under Office, Medical and Institutional (OMI), Commercial Neighborhood (CN), Commercial General (CG) and Commercial Tourist (CT) Zoning Districts; providing for a list of conditional uses and structures under OMI, CN, CG and CT Zoning Districts; providing for a list of Special Exception uses under OMI, CN, CG and CT Zoning Districts; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Use Table – Environmental and Agricultural Districts**

An Ordinance amending Charlotte County Code Chapter 3-9, by adding new Section 3-9-26.1, Use Table – Environmental and Agricultural Districts; providing for a list of permitted uses and structures under Environmentally Sensitive (ES), Parks and Recreations (PKR), Agriculture (AG) and Excavation and Mining (EM) Zoning Districts; providing for a list of conditional uses and structures under ES, AG and EM Zoning Districts; providing for a list of Special Exception uses under ES, AG and EM Zoning Districts; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Use Table – Industrial Districts**

An Ordinance amending Charlotte County Code Chapter 3-9, by adding new Section 3-9-26.4, Use Table – Industrial Districts; providing for a list of permitted uses and structures under Industrial General (IG) and Industrial Intensive (II) Zoning Districts; providing for a list of conditional uses and structures under IG and II Zoning Districts; providing for a list of Special Exception uses under IG and II Zoning Districts; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Use Table – Residential Districts**

An Ordinance amending Charlotte County Code Chapter 3-9, by adding new Section 3-9-26.2, Use Table – Residential Districts; providing for a list of permitted uses and structures under Residential Estate (RE), Residential Single-family (RSF), Residential Multi-family (RMF), Residential Multi-family Tourist (RMF-T), Manufactured Home Park (MHP), Manufactured Home Conventional (MHC), and Recreational Vehicle Park (RVP) Zoning Districts; providing for a list of conditional uses and structures under RE, (RSF), RMF, MHP, MHC, and RVP Zoning Districts; providing for a list of Special Exception uses under RE, (RSF), RMF, MHP, MHC, and RVP Zoning Districts; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Legislative

Countywide

**Z-14-08-12**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Residential Estates 1 (RE-1), for property located at 1374 Blanot Drive and 27347 San Carlos Drive, in the Harbor Heights area, containing 1.46+ acres; Commission District 1; Petition No. Z-14-08-12; Applicants: Kendall V. and Tracie A. Baird; providing an effective date.

Quasi-Judicial

Commission District 1

SHOULD ANY AGENCY OR PERSON DECIDE TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING A RECORD OF THE PROCEEDING AND FOR SUCH PURPOSE A VERBATIM RECORD OF THE PROCEEDING IS REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Charlotte County Board of County Commissioners does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the County's functions, including access to and participation in meetings, programs and activities. 1M Signel Enhancement Units for the Hearing Impaired are available at the Front Security Desk, Building A of the Murlock Administration Complex. Anyone needing other reasonable accommodation or auxiliary aids and services please contact our Office at 941-764-4191, TDD/TTY 941-743-1234, or by email to Terri.Hendriks@charlottefl.com.

Publish: November 10, 2014



8/2/07

# **Attachment 6: Future Land Use Map Series Map #3: 2030 Service Area Delineation**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

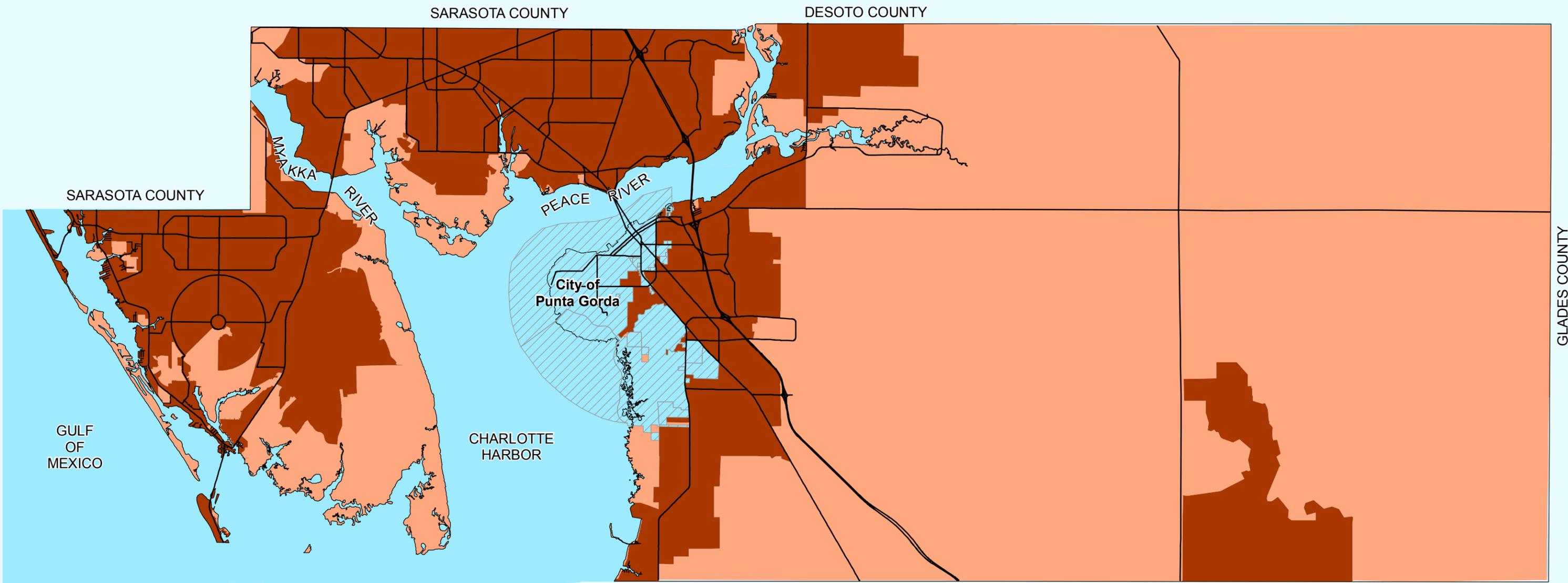
Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108



Land Information Section

# CHARLOTTE COUNTY Future Land Use Map Series Map #3: 2030 Service Area Delineation



Stateplane Projection  
Datum: NAD83  
Units: Meters  
  
Source: CCGIS, GROM  
  
Metadata available upon request

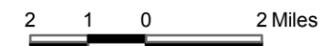
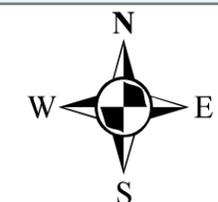
### LEGEND



Urban Service Area



Rural Service Area



This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise as to its use. This is not a survey, nor is it to be used for design.

# **Attachment 7: Manasota and Sandpiper Key Zoning District Overlay, Ordinance Number 2015-016**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

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ORDINANCE  
NUMBER 2015 - 016

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING SECTION 3-9-50, MANASOTA KEY ZONING DISTRICT OVERLAY, OF CHAPTER 3-9, ARTICLE II, ZONING, OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA; RENAMING TO MANASOTA AND SANDPIPER KEY ZONING DISTRICT OVERLAY; CLARIFYING THE INTENT AND REQUIREMENTS OF THE OVERLAY CODE; ADDING BACK IN PROVISIONS THAT WERE OMITTED IN 2013 REVISIONS; ADDING NEW PROVISIONS TO ADDRESS ISSUES THAT HAVE ARISEN DURING IMPLEMENTATION OF THE OVERLAY CODE; MAKING MINOR CORRECTIONS AND EDITORIAL CHANGES; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Manasota and Sandpiper Key Advisory Committee ("Advisory Committee") was created by Resolution Number 2004-212 on October 12, 2004, by the Board of County Commissioners of Charlotte County, Florida ("Board"); and

WHEREAS, the previous Section 3-9-53, Manasota Key Zoning District Overlay Code "Overlay Code" was enacted by the Board on February 15, 2005, pursuant to Ordinance Number 2005-101, and included in the Code of Laws and Ordinances of Charlotte County, Florida ("Code") as Section 3-9-53; and

WHEREAS, in 2013, the citizens of Manasota and Sandpiper Key, through the Manasota and Sandpiper Key Advisory Committee ("Advisory Committee"), submitted a revised Overlay Code which effectively changed most of the language in the previous Section 3-9-53, Manasota Key Zoning District Overlay, and the Board adopted the revised Overlay Code through Ordinance Number 2013-028 on September 24, 2013; and

44  
1-110

1           WHEREAS, in 2014, Section 3-9-53 was renumbered to 3-9-50 pursuant to  
2 Ordinance Number 2014-041; and

3           WHEREAS, during the implementation of the revised Overlay Code, some issues  
4 have arisen; and

5           WHEREAS, the citizens of Manasota and Sandpiper Key, through the Advisory  
6 Committee, submitted revisions to the existing Section 3-9-50, Manasota Key Zoning  
7 District Overlay; and

8           WHEREAS, staff is recommending that Chapter 3-9 of the Code of Laws and  
9 Ordinances of Charlotte County, Florida, be amended by revising Section 3-9-50 and  
10 renaming it to Manasota and Sandpiper Key Zoning District Overlay; and

11           WHEREAS, On January 12, 2015, the Charlotte County Planning and Zoning  
12 Board has recommended approval of the revisions recommended by the Advisory  
13 Committee; and

14           WHEREAS, the Board considered the revisions in public hearings on February  
15 24, 2015 and April 28, 2015; and

16           WHEREAS, the Board has determined that the changes are consistent with the  
17 County's Comprehensive Plan, will promote the Manasota and Sandpiper Key's  
18 aesthetic and visual environment and character, and is in the best interests of the  
19 County and its citizens.

20           NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners  
21 of Charlotte County, Florida:

22           Section 1. Chapter 3-9, Article II, of the Code of Laws and Ordinances of  
23 Charlotte County, Florida, is hereby amended by revising Section 3-9-50, Manasota Key  
24 Zoning District Overlay, and renaming as Section 3-9-50, Manasota and Sandpiper Key

1 Zoning District Overlay, by adding the underlined language and by ~~deleting the stricken~~  
2 ~~language~~ as follows:

3

4 **3-9-5350. – Manasota and Sandpiper Key Zoning District Overlay.**

5

6 **(a) *Definitions.*** When terms are defined both in this Section 3-9-53-50 and elsewhere in the  
7 Code of Laws and Ordinances of Charlotte County, Florida County (“Code”), definitions for such  
8 terms in this subsection shall control. The following terms shall have the meanings set forth in  
9 this subsection:

10 *Advisory ~~C~~ommittee* shall mean the Manasota and Sandpiper Key Advisory Committee  
11 established by the ~~board~~ Board of County Commissioners of Charlotte County, Florida (“Board”)  
12 on October 12, 2004 pursuant to Resolution Number 2004-212.

13 *Appurtenances* shall mean something added to another, more important thing on a building  
14 that is customarily incidental and subordinate to a principal building.

15 *Building setback calculation* shall mean the methodology used in the Manasota and  
16 Sandpiper Key Zoning District Overlay (“Overlay Code”) to determine the stepped setback  
17 required from the property line for a building based on building height and stepped setback  
18 calculation points.

19 *Design requirements* shall mean the architectural design requirements provided for by the  
20 Overlay Code that shall regulate the design of new construction and the repair, rehabilitation or  
21 remodeling of existing structures on Manasota and Sandpiper Keys.

22 *Driveway* shall mean a permeable surface designed for use by vehicles that connect a road  
23 to a structure.

24 *Driveway ~~C~~rossover* shall mean that portion of a driveway located on a setback.

25 *Height, Building or Structure* in this Code shall mean the distance from 0 feet NGVD to the  
26 top of the highest constructed element.

27 *Highest ~~C~~onstructed ~~E~~lement* shall mean the highest point of a building or the highest point of  
28 any rooftop livable space or appurtenances thereto.

29 *Manasota and Sandpiper Key Overlay Code* shall mean the Manasota and Sandpiper Key  
30 Zoning District Overlay Code established by Section 3-9-53-50 and as amended into the  
31 ~~County~~ Code.

32 *Manasota Key* shall mean the land located south of the Sarasota-Charlotte County line,  
33 west of Sandpiper Key, north of Stump Pass Beach State Park and east of the Gulf of Mexico.

1        *Manasota Commercial General* or MCG shall mean the commercial general zoning  
2 district established by the Overlay Code.

3        *Manasota Commercial Tourist* or MCT shall mean the commercial tourist zoning district  
4 established by the Overlay Code.

5        *Manasota Environmentally Ssensitive* or MES shall mean the environmentally sensitive  
6 zoning district established by the Overlay Code.

7        *Manasota Multifamily* or MMF shall mean the multifamily zoning districts established by  
8 the Overlay Code.

9        *Manasota Planned Development* or MPD shall mean the planned development zoning  
10 district established by the Overlay Code.

11        *Manasota Ssingle-family* or MSF shall mean the single-family zoning district established  
12 by the Overlay Code.

13        *Maximum Building Height* within the Manasota and Sandpiper Key Overlay District shall  
14 mean the building height as measured from 0 feet NGVD to the top of the highest constructed  
15 element.

16        *Maximum Building Height Calculation* means the height of a building measured from Zero  
17 NGVD to the top of the highest constructed element which is the highest point of a building or  
18 the highest point of any rooftop livable space or appurtenances thereto.

19        *Minimum Finished Floor Elevation* shall mean the lowest floor for which a building permit  
20 may be issued which on Manasota Key in the A-Zones is the minimum lowest floor elevation or  
21 Base Flood Elevation (BFE); and in the V-Zone (governed by Florida DEP seaward of the  
22 Coastal Construction Control Line (CCCL)) is the least horizontal shore parallel structural  
23 member plus the thickness of the structure which for this Overlay Code shall be a vertical  
24 measurement of ~~2 feet~~ 30 inches from the Lowest Horizontal Structural Member (LHSM).

25        *NGVD* shall mean the National Geodetic Vertical Datum on the effective date of this  
26 Overlay Code.

27        *Overlay Code* shall mean the Manasota and Sandpiper Key Zoning District Overlay Code  
28 established by this Section ~~3-9-5350~~.

29        *Peripheral Landscape Strip* shall mean the required green open area of at least ~~ten~~ (10)  
30 feet in width located immediately adjacent and parallel to all sides of the lot boundary that is free  
31 of encroachments. The 10-foot wide green open area is a vegetated landscape strip. Vegetated  
32 landscaping means grass, ground cover, mulch, shrubs, vines, hedges, and/or trees.

1 | Pervious Pavers shall mean pervious, porous, or permeable pavers with pavers systems  
2 | that meets or exceeds a product infiltration rate of three inches per hour and absorbed onsite.

3 | *Plan* shall mean the Manasota Community Plan as accepted by the Board on September  
4 | 21, 2004 and as it may be amended from time to time.

5 | *Rooftop livable space* shall mean all usable areas upon or above the roof of a building  
6 | including but not limited to decks, swimming pools, walls, fences and railings.

7 | *Sandpiper Key* shall mean the land area located south and west of the Intracoastal  
8 | Waterway, east of the Lemon Bay Channel and north of Manasota Key.

9 | *Setback* shall mean the minimum horizontal distance between the road, rear or side lot  
10 | lines and the front, rear or side lines of the building.

11 | *Sidewalk* shall mean a linear surface within and adjacent to or outside and alongside the  
12 | boundary of a public or private thoroughfare that is designed for use by pedestrians.

13 | *Structure* shall mean any construction or any production or piece of work artificially built up  
14 | or composed of parts joined together in some definite manner. "Structure" includes "building,"  
15 | as well as other things constructed or erected on the ground, attached to something having  
16 | location on the ground or requiring construction or erection on the ground.

17 | *Structure height* – See Height, structure above.

18 | *Walkway* shall mean a linear surface utilized by pedestrians for passage over dunes and  
19 | other beach areas.

20 |  
21 | **(b) Establishment; short title:** The Manasota and Sandpiper Key Zoning District Overlay Code  
22 | is hereby established. The short title of this Section shall be “Manasota and Sandpiper -Key  
23 | Overlay Code.”

24 |  
25 | **(c) Intent.** The intent of the Manasota and Sandpiper Key Overlay Code is to implement the  
26 | goals, objectives, and policies of the Manasota Key Community Plan to preserve and protect the  
27 | existing low-density development and to blend future development with it in an appropriate  
28 | manner.

29 |  
30 | **(d) Boundary.** The area affected by the Manasota and Sandpiper Key Overlay Code shall be  
31 | the area depicted as Manasota and Sandpiper Key on Smart Charlotte 2050 FLUM Series Map  
32 | #9: Barrier Island Overlay District.

1 | **(e) Applicability; conflict with other ordinances.** The Overlay Code shall apply to  
2 | development and redevelopment on the islands together with all other matters referenced in the  
3 | ~~overlay~~ Overlay Code. The terms “development” and “redevelopment” shall be construed  
4 | liberally and shall include any plat, special exception, variance, waiver, site plan approval,  
5 | building or sign permit, or any other official action of Charlotte County that has the effect of  
6 | permitting development and/or redevelopment or any application for any of the preceding  
7 | matters. The Overlay Code shall apply to the preceding matters notwithstanding the  
8 | application of another provision(s) of the ~~County~~ Code to said matters. Except where expressly  
9 | provided herein, the terms of the Overlay Code shall supersede and control in the event and  
10 | to the extent of a conflict between the Overlay Code and another provision of the ~~County~~  
11 | Code.

12 |  
13 | **Zoning Districts**

14 | The following zoning districts are the only zoning districts permitted within the Manasota and  
15 | Sandpiper Key Overlay District and shall only be permitted in the Manasota and Sandpiper Key  
16 | Overlay District.

- |   |
|---|
| 18   (1) Open Space & Rural Districts             |
| 19       Manasota Environmentally Sensitive (MES) |
| 20   (2) Residential Districts                    |
| 21       Manasota Single-Family 1 (MSF-1)         |
| 22       Manasota Single-Family 3.5 (MSF-3.5)     |
| 23       Manasota Single-Family 5 (MSF-5)         |
| 24       Manasota Multifamily 7.5 (MMF-7.5)       |
| 25       Manasota Multifamily 10 (MMF-10)         |
| 26       Manasota Multifamily 12 (MMF-12)         |
| 27   (3) Commercial Districts                     |
| 28       Manasota Commercial General (MCG)        |
| 29       Manasota Commercial Tourist (MCT)        |
| 30   (4) Special Districts                        |
| 31       Manasota Planned Development (MPD)       |

32 |  
33 | **(f) Intent of Manasota and Sandpiper Key Overlay Districts:**

34 | (1) The *intent* of the MES district is to preserve and protect certain land and water areas which  
35 | have overriding ecological, hydrological, or physiographic importance to the public at large. It is

1 intended to preserve and protect open spaces, park lands, wilderness areas, marshlands,  
2 watersheds and water recharge areas, scenic areas, beaches and native flora and fauna. It is  
3 intended to allow limited public/private recreational/educational uses and their incidental  
4 accessory uses and structures.

5 (2) The *intent* of the MSF district is to provide single-family residential dwellings and for other  
6 uses normally associated with single-family residential dwellings. Nothing herein is intended to  
7 prevent the grouping of lots or parcels for residential single-family uses.

8 (3) The *intent* of the MMF district is to provide low or medium-density residential districts with  
9 emphasis on multifamily use. There are variations among the MMF districts in requirements  
10 which include differing lot areas, width, yards and uses.

11 (4) The *intent* of MCG district is to provide areas in which the customary and traditional conduct  
12 of trade, retail sales and commerce may be carried on without disruption by the encroachment  
13 and intrusion of incompatible residential uses and protected from the adverse effects of  
14 undesirable industrial uses.

15 (5) The *intent* of the MCT district is to permit the designation of suitable locations for and to  
16 facilitate the proper development and use of land for the commercial provision of  
17 accommodations and services for tourists and other visitors and short-term or seasonal  
18 residents. The term "accommodations" is intended to include housing and various amenities,  
19 including recreational facilities and local retail trade in goods and service both general and  
20 specific to the locality/tourist attraction or principal activities. Areas designated MCT are  
21 expected to be located near or adjacent to a tourist attraction such as Gulf of Mexico beach  
22 frontage, major public or private parks, and other recreational or scenic resources.

23 (6) The *intent* of the MPD district is to retain standards that maintain current densities and  
24 zoning districts consistent with the goals of the Manasota Key Community Plan and provide  
25 standards for new planned developments.

26

27 **(g) District Development Standards**

28 **(1) Open Space & Rural District Standard.** The following numerical requirements apply  
29 subject to the provisions below.

	MES
<b>Lot (min aAcres)</b>	
Lot are inside Urban Service Area	10
Lot area outside Urban Service Area	40
Lot Width (ft.)	250

<b>Yard (min. ft.)</b>	
Front	25
Side	20
Rear	20
Abutting <u>W</u> water	20
Side & <u>R</u> rear <u>A</u> abutting Gulf of Mexico	50
<b>Bulk (max.)</b>	
Lot Coverage	10%
Height (ft.)	43 ft.
Density (units per acre)	0.025

- 1 a. Only one driveway crossover is permitted within the front yard setback.
- 2 b. Maximum building height shall not exceed ~~forty three (43)~~ feet for MSF Zones landward of
- 3 the Florida Department of Environmental Protection Coastal Construction Control Line
- 4 ("CCCL") as measured from Zero feet NGVD to the top of the highest constructed
- 5 element. Building height calculations are contained under the development standards of
- 6 this Overlay Code.
- 7 c. The property shall be maintained in natural vegetation rather than landscaped.
- 8 d. Temporary portable structures and mobile homes shall be prohibited in this district.

9 **(2) Residential District Standards**

10 **A. Single-family.** The following numerical requirements apply subject to the provisions below.

	<b>MSF-1</b>	<b>MSF-3.5</b>	<b>MSF-5</b>	<b>Non-Conforming</b>
lot (min)				
Lot <u>A</u> area (sq.ft.)	43,560	12,445	8,712	Less than 8,712
Lot Width (ft.)	125	80	70	Less than 70
Yard (min. ft.)				
<u>F</u> front	25	25	25	25
Side <u>Y</u> yard (interior)	Stepped/10 See Below	Stepped/10 ft. — See Below	Stepped/10 See Below	10
Side Yard (street)	20	15	15	15
Rear <u>Y</u> yard (interior)	Stepped/20 See Below	Stepped/20 ft. — See Below	Stepped/20 See Below	10
Rear Yard (street)	25	25	25	25
Abutting <u>W</u> water	20/50GM	20/50GM	20/50GM	20/50GM

	See Below	See Below	See Below	See Below
Peripheral Landscape Strip	10	10	10	10
Bulk (max.)				
Lot Coverage	35%	35%	35%	35%
Height (ft.)	48/43 See Below	48/43 See Below	48/43 See Below	48/43 See Below
Density (units/acre)	1	3.5	5	Same as District
<u>Setbacks for Accessory Building From:</u>				
<u>Rear (interior) Lot Line, feet</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>Side Yard</u>	<u>Same as principal building</u>			
<u>Abutting Road Right-of-way Line</u>	<u>Same as principal building</u>			
<u>Rear or Side Line Abutting Bay or Waterway</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>Rear or Side Line Abutting Gulf</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>

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- ~~a. Side interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions under the development standards of this Code, but shall be no less than 10 feet.~~
- ~~b. Rear interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions under the development standards of this Code, but shall be no less than 20 feet.~~
- a. All setbacks (front, side, and rear) are subject to the stepped setback provisions set forth under the Development Standards, Section (j) (8) of this Overlay Code. Stepped setbacks are a function of building height.

e.b. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 20 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.

~~d. Setback calculation provisions are contained under the development standards of this Code.~~

e.c. Maximum building height shall not exceed ~~forty-eight (48)~~ feet for all MSF Zones seaward of the Florida DEP Coastal Construction Control Line (CCCL) and ~~forty-three (43)~~ feet for MSF Zones landward of the CCCL as measured from Zero feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Overlay Code.

~~f.d.~~ All properties shall have front, side and rear ~~pPeripheral~~ Landscape ~~sStrips~~ of no less than 10 feet. ~~Peripheral~~ Landscape ~~sStrip~~ and parking standards are contained under the development standards of this Overlay Code. Parking and driveway requirements are specified under the architectural standards of this Overlay Code.

e. All non-conforming lots less than 70 feet in width or less than the District minimum lot area required shall have front, side, and rear ~~pPeripheral~~ Landscape ~~sStrips~~ of no less than 10 feet.

~~f.~~ All new development and any improvement to an existing development that totals over 1,000 square feet of pervious pavers shall be required to submit a drainage plan that shows how the pervious system meets or exceeds a product infiltration rate of three inches per hour and absorbed onsite; and minimal subgrade slope not to exceed 1% for parking, vehicular traffic areas and patios.

g. Accessory structures are also subject to other applicable provisions in this Overlay Code including: (h) Permitted Uses, (j) (11) Development Standards, and (k)(6) Architectural Design Standards.

**B. ~~B.~~ Multifamily.** The following numerical requirements apply subject to the provisions below.

	MMF-7.5	MMF-10	MMF-12	<u>ALL MMF Non-Conforming</u>
<b>Lot (min.)</b>				
Lot <u>A</u> area (sq.ft.)	7,500	7,500	7,500	Less than 7,500
Lot <u>W</u> idth (ft.)	80	80	80	Less than 80
<b>Yard (min. ft.)</b>				
Front	30	30	30	30
Side <u>Y</u> ard (interior)	<del>Stepped/10</del> See-Below	<del>Stepped/10</del> See-Below	<del>Stepped/10</del> See-Below	10

Side <u>Y</u> ard (street)	15	15	15	15
Rear <u>Y</u> ard (interior)	Stepped/20 See Below	Stepped/20 See Below	Stepped/20 See Below	10
Rear <u>Y</u> ard (street)	15	15	15	15
Abutting <u>W</u> ater	35/50GM See below	35/50GM See below	35/50GM See below	35/50GM See below
Peripheral Landscape Strip	10	10	10	10
<b>Bulk (max.)</b>				
Lot <u>C</u> overage	35%	35%	35%	35%
Height (ft.)	55/48 See Below	55/48 See Below	55/48 See Below	55/48 See Below
Density (unit per acre)	7.5	10	12	Same as district

- 1 a. ~~Side interior setbacks shall be stepped back as a function of building height as measured~~  
2 ~~by the setback calculation provisions of this Code, but shall be no less than 10 feet.~~
- 3 b. ~~Rear interior setbacks shall be stepped back as a function of building height as measured~~  
4 ~~by the setback calculation provisions of this Code, but shall be no less than 20 feet.~~
- 5 a. All setbacks (front, side, and rear) are subject to the stepped setback provisions set forth  
6 under the Development Standards, Section (j) (8) of this Code. Stepped setbacks are a  
7 function of building height.
- 8 e.b. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 35 feet,  
9 and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.
- 10 e.c. No stormwater management systems shall be located within the pPeripheral lLandscape  
11 sStrip. No side yYard setback areas shall contain conventional stormwater detention  
12 ponds.
- 13 e.d. Maximum building height shall not exceed fifty five (55) feet for all MMF Zones seaward of  
14 the Florida DEP Coastal Construction Control Line (CCCL) and forty eight (48) feet for  
15 MMF Zones landward of the CCCL as measured from Zero feet NGVD to the top of the  
16 highest constructed element. Building height calculations are contained under the  
17 development standards of this Overlay Code.
- 18 e.e. All properties shall have front, side, and rear pPeripheral lLandscape sStrips of no less  
19 than 10 feet. Peripheral lLandscape sStrip and parking standards are contained under the  
20 development standards of this Overlay Code. Parking and driveway requirements are  
21 specified under architectural standards of this Overlay Code.

1 e.f. All non-conforming lots less than 80 feet in width or less than the District minimum lot area  
 2 required shall have front, side and rear ~~p~~Peripheral ~~L~~Landscape ~~s~~Strips of no less than 10  
 3 feet.

4 f.g. For multi-family structures on non-conforming MMF lots 50 feet wide or less, the owner  
 5 may request an administrative waiver of up to 20% of the side setback (~~2-two~~ feet on each  
 6 side) to redress hardships associated with meeting driveways and parking requirements  
 7 for multifamily development. Waiver limits are contained in the ~~d~~Development ~~s~~Standards  
 8 of this Overlay Code.

9 i. ~~Side and rear yards that abut any water but the Gulf of Mexico shall be at least 35~~  
 10 ~~feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.~~

11 **C. Commercial District Standards**

	MCG	MCT	MCT	MCT	MCT
		Commercial use	Commercial-Nonconforming	Residential use	Mixed Use
<b>Lot (min.)</b>					
<u>A</u> rea (sq. ft.)	12,000	12,000	less than 12,000	7,500	12,000
Width (ft.)	100	100	less than 100	80	100
<b>Yard (min.ft.)</b>					
Front	18	25	<b>See Note 1</b>	30	25
Side <u>Y</u> ard (interior)	Stepped/25 See below	10	10	Stepped/10 See below	10
Side <u>Y</u> ard (street)	20	20	20	15	20
Rear <u>Y</u> ard (interior)	10	10	10	stepped/20 see below	10
Rear <u>Y</u> ard (street)	25	25	25	15	25
Abutting <u>W</u> ater	20/50 GM See below	20/50 GM See below	20/50 GM See Below	35/50 GM See below	35/50 GM -R 20/50- GM -C <b>See Note 3</b>
Peripheral Landscape Strip	10	10	10	10, <b>See Note 2</b>	10
Abutting <u>P</u> roperty <u>Z</u> oned MSF and MCT-residential	25	25	25	NA	25
<b>Bulk (max.)</b>					
Lot <u>C</u> overage	50%	35%	35%	35%	35%

Height (ft.)	48/43 See Below	48/43 See Below	48/43 See Below	55/48 See Below	55/48
Density (units/acre)	0	0	0	15	15

**Note 1.** MCT Commercial lots 85 feet or less in depth shall utilize the 18 foot Front Yard standard of the MCG zoning district. All others shall meet the 25 foot Front Yard standards of the MCT commercial zone.

**Note 2.** MCT Residential lots 50 feet wide or less may apply for a 20-% administrative side setback waiver in hardship cases.

**Note 3.** On MCT Mixed Use lots, first floor MCT Commercial use setback shall be 20 feet from the Bay and upper floor MCT Residential setback shall be 35 feet from the Bay.”

**a. Manasota Commercial General (MCG)**

i. All setbacks (front, side, and rear) are subject to the stepped setback provisions set forth under the Development Standards, Section (j) (8) of this Code. Stepped setbacks are a function of building height. ~~Side yard interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions of this Code, but shall be no less than 25 feet.~~

ii. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 20 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.

iii. -Setbacks abutting property zoned Residential shall be equal to 25 feet.

~~iv. Setback calculation provisions are contained under the development standards of this Code.~~

v.~~iv.~~ Maximum building height shall not exceed ~~forty eight (48)~~ feet for all MCG Zones seaward of the Florida DEP Coastal Construction Control Line (CCCL) and ~~forty three (43)~~ feet for MCG Zones landward of the CCCL as measured from Zero feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Overlay Code.

~~vi.v.~~ All properties shall have front, side, and rear ~~pPeripheral lLandscape sStrips~~ of no less than 10 feet. ~~Peripheral lLandscape sStrip~~ and parking standards are contained under the development standards of this Overlay Code.

~~vii.vi.~~ All non-conforming-MCG lots, including nonconforming less than 100 feet in width or less than the District minimum lot area required shall have front, side, and rear ~~pPeripheral lLandscape sStrips~~ of no less than 10 feet.

**b. Manasota Commercial Tourist (MCT)**

- 1 i. This district is a mixed-use district. Commercial and residential uses are permitted and  
2 the site may be entirely commercial, entirely residential, or mixed use, using the  
3 appropriate development standards.
- 4 ii. Setbacks
- 5 ~~a) Side interior setbacks for residential uses shall be stepped back as a function of~~  
6 ~~building height as measured by the setback calculation provisions of this Code, but~~  
7 ~~shall be no less than 10 feet.~~
- 8 a) All setbacks (front, side, and rear) are subject to the stepped setback provisions set  
9 forth under the Development Standards, Section (j) (8) of this Code. Stepped  
10 setbacks are a function of building height.
- 11 ~~b) Rear interior setbacks for residential uses shall be stepped back as a function of~~  
12 ~~building height as measured by the setback calculation provisions of this Code, but~~  
13 ~~shall be no less than 15 feet.~~
- 14 ~~e)b) Side and rear yards that abut any water but the Gulf of Mexico shall be at least~~  
15 ~~35 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.~~
- 16 iii. Setbacks for MCT-Commercial and MCT-Mixed Use abutting property zoned Residential  
17 shall be 25 feet.
- 18 iv. Setback calculation provisions are contained under the development standards of this  
19 Overlay Code.
- 20 v. Maximum building height shall not exceed ~~forty-eight (48)~~ feet of structure height for  
21 MCT-Commercial Districts seaward of the ~~Coastal Construction Control Line~~CCCL; ~~forty-~~  
22 ~~three (43)~~ feet of structure height for MCT-Commercial Districts landward of the CCCL.  
23 Maximum building height shall not exceed ~~fifty-five (55)~~ feet of structure height for MCT-  
24 Residential and MCT-Mixed Use Districts seaward of the ~~Coastal Construction Control~~  
25 ~~Line~~CCCL, and ~~forty-eight (48)~~ feet of structure height for MCT-Residential and MCT-  
26 Mixed Use Districts landward of the CCCL. Height shall be measured from Zero feet  
27 NGVD to the top of the highest constructed element. Building height calculations are  
28 contained under the development standards of this Overlay Code.
- 29 vi. All properties shall have front, side, and rear ~~p~~Peripheral ~~L~~andscape ~~s~~Strips of no less  
30 than 10 feet. Peripheral ~~L~~andscape ~~s~~Strip and parking standards are contained under  
31 the development standards of this Overlay Code. Parking requirements are specified  
32 under Architectural standards of this Overlay Code.

- 1   vii. All non-conforming MCT-Commercial lots less than 100 feet in width and/or less than the
- 2       District minimum lot area required shall have front, side, and rear pPeripheral
- 3       landscape strips of no less than 10 feet.
- 4   viii. All non-conforming MCT-Residential lots less than 80 feet in width or less than the
- 5       District minimum lot area required shall have front, side, and rear pPeripheral
- 6       landscape strips of no less than 10 feet.
- 7   ix. All non-conforming MCT-residential lots shall be required to conform to the non-
- 8       conforming standards as set forth in this Overlay Code as they apply to MMF-12
- 9       development standards.
- 10   x. For non-conforming MCT-residential lots 50 feet wide or less, the owner may request an
- 11       administrative waiver of up to 20% of the side setback (~~2~~two feet on each side) to
- 12       redress hardships associated with meeting driveways and parking requirements for
- 13       multifamily development. Waiver limits are contained in the dDevelopment sStandards of
- 14       this Overlay Code.

**Special Purpose District**

**Manasota Planned Development Zoning and Land Uses (MPD).** The following numerical requirements apply subject to the provisions below.

<b>Lot Requirements</b>	<b>MPD</b>
<b>Lot (min.)</b>	
Lot <u>A</u> rea (sq. ft.)	150,000
<b>Yard (min. ft.)</b>	
Front	40
Side, Rear or <u>B</u> etween <u>S</u> tructures	Stepped/25 See Below
Abutting Lemon Bay	Stepped/35 See Below
Abutting the Gulf of Mexico	50
<b>Bulk (max.)</b>	
Lot <u>C</u> overage	35%
Floor Area Ratio	0.6
Building Height (ft.)	48 ft./43 ft. for land previously zoned MSF, and 55/48 ft. for MMF and MCT-residential and MCT-Mixed Use. -See Below
Density	No greater than existing lot density permitted

- 1 | a. All setbacks (front, side, and rear) are subject to the stepped setback provisions set forth under  
2 | the Development Standards, Section (j) (8) of this Overlay Code. Stepped setbacks are a  
3 | function of building height.
- 4 | ~~a. Setback calculation provisions are contained under the development standards of this Code.~~
- 5 | b. Maximum building height shall not exceed ~~forty-eight (48)~~ feet for lands previously MSF Zones  
6 | seaward of the ~~Florida DEP Coastal Construction Control Line (CCCL)~~ and ~~forty-three (43)~~ feet  
7 | for MSF Zones landward of the CCCL. Maximum height shall not exceed ~~fifty-five (55)~~ feet for  
8 | lands previously MMF and MCT-Residential Zones seaward of the CCCL and ~~forty-eight (48)~~  
9 | feet for MMF and MCT-Residential landward of the CCCL. MCT-Mixed Use developments shall  
10 | not exceed the ~~fifty-five (55)~~ feet seaward of the CCCL and ~~forty-eight (48)~~ feet landward of the  
11 | CCCL and shall include one floor of commercial use. Maximum height shall be measured from  
12 | Zero feet NGVD to the top of the highest constructed element. Building height calculations are  
13 | contained under the development standards of this Overlay Code.
- 14 | c. Floor-area ratio shall be calculated excluding all submerged portions of the MPD site.
- 15 | d. Lands subject to a MPD rezoning shall meet the minimum lot frontage for the most restrictive  
16 | zoning district applicable to the property prior to the rezoning to a MPD.
- 17 | e. There shall be one ~~(1)~~ main point of access and one emergency entrance per contiguous land  
18 | rezoned to MPD.
- 19 | f. Lands subject to a MPD rezoning shall be contiguous whenever possible. If said lands are not  
20 | contiguous, a ~~twenty-five (25)~~ foot MPD setback shall be applicable whenever the proposed  
21 | MPD abuts property not zoned MPD. Said MPD setback shall contain the uses and structures  
22 | permissible in the peripheral landscaping strip, as defined in this Section. Front and rear yard  
23 | areas may contain pools or other accessory structures as set forth in ~~the~~ this Overlay Code.
- 24 | g. A minimum of ~~twenty (20)~~ percent of the entire MPD parcel shall be open space, which shall  
25 | include environmentally sensitive habitats and vegetated areas and shall not be encumbered by  
26 | an impervious surface. Easements and parking areas are not included in open space  
27 | calculations.
- 28 | h. When the minimum MPD setbacks above conflict with other required setbacks, including ~~coastal~~  
29 | ~~construction control line (CCCL)~~ regulations, and other applicable regulations, the enforceable  
30 | setback shall be that which results in a greater distance from property lines to structures.
- 31 | i. Density bonuses. Density bonuses shall not be applicable in the ~~Manasota and Sandpiper Key~~  
32 | Overlay Code.

- 1 | j. Failure to obtain final approval for a MPD within ~~3~~three years with no extension from concept  
2 | plan approval may cause the County to initiate a rezoning of the property, which shall revert to  
3 | the zoning district back to its original designation.
- 4 | k. Parking Requirements: i) All land coverings, including parking and circulation areas, must be  
5 | pervious. This requirement shall not apply to areas under the footprints of approved structures.  
6 | ii) parking standards are contained under the development standards of this Overlay Code. iii)  
7 | Parking areas shall be located on the same parcel as the proposed use. Parking shall not be a  
8 | principal use on any given parcel.
- 9 | l. Principle Uses and Structures: Uses and structures permissible under the MPD district shall be  
10 | equivalent to those that would otherwise be permissible on the property or properties prior to  
11 | rezoning to a MPD. In no case shall multi-family dwellings replace single-family dwellings.  
12 | However, multi-family zones may be rezoned to single-family.
- 13 | m. Accessory Uses and Structures: Uses and structures that are customarily accessory and clearly  
14 | incidental to the principal uses approved for the MPD are permissible in this district. Where a  
15 | MPD contains residential uses, noncommercial ~~piers, docks and wharves~~ are allowed. Such  
16 | marine structures shall be permitted according to ~~County~~the Code and a recommendation by  
17 | the ~~Manasota and Sandpiper Key~~ Advisory Committee.
- 18 | n. MPD developments are subject to all other development and design standards contained in the  
19 | Overlay Code.

21 | **(h) Permitted Uses and Use Table**

22 | (1) The permitted uses in the Manasota and Sandpiper Key Overlay Districts are identified in the use table.

USE TABLE						
USE CATEGORIES	SPECIFIC USES	MES	MSF	MMF	MCG	MCT
OPEN & RURAL USES						
	Fishing, Fisheries, hatcheries, preserves	SE				
RESIDENTIAL USES						
	Single family, detached, modular	P	P	P		
	Manufactured home (DCA)		P			
	Cluster Subdivision		SE			

	Duplex			P		
	Multifamily			P		P
	<u>Other: Guest House</u>		<u>SE</u>			
	<u>Other: Home Occupation</u>		<u>SE</u>	<u>SE</u>		
<b>PUBLIC &amp; CIVIC USES</b>						
	Emergency Services	SE	SE	SE	P	P
	Public Building				SE	SE
	Fish & WL mgt. area, nature preserve	P				
	game preserve, public & private	P				
	Outdoor Education facility	P				
	Park, recreation facility, park office, maintenance facility, playground, open space	SE				
	Essential Services		SE	SE	P	P
<b>COMMERCIAL USES</b>						
	Bed and Breakfast 1 or 2 bedroom			SE		P
	Bed and Breakfast 3 or more bedrooms					P
	Hotel, motel, inn				P	P
	Beach clubs without food or sundry sales		SE	SE	P	P
	Recreation, Indoor				P	
	Recreation, Outdoor				P	
	Recreation vehicle rental, non-motorized <u>only</u>				P	SE
	Restaurant				P	P
	Bar, cocktail lounge, nightclub, tavern				P	P
	<b>General retail sales &amp; service</b>	-	-	-	P	SE
	Real Estate Services & property management				P	P
	<b>Business services</b>	-	-	-	SE	-

	<b>Convenience Store</b>				<b>P</b>	<b>P</b>
	<b>Liquor, package store</b>				<b>SE</b>	<b>SE</b>
	<b>Pharmacy</b>					<b>P</b>
	<b>Specialty Shops (jewelry, gift, clothing, accessories, etc.)</b>				<b>P</b>	<b>P</b>

- 1 (2) It is the intent of this section to restrict the allowable uses with the Overlay Code Districts to avoid trip-  
2 generating traffic not related to residential and beach-related tourist uses on this small barrier strip.
- 3 (3) Unless specifically defined in the above table and this subsection, additional uses and structures are  
4 prohibited.
- 5 (4) Public parks and recreational facilities shall only be allowed in the MES District and only by special exception  
6 and only if restricted to meet the intent of the MES District.
- 7 (45) Paid parking shall be prohibited in ~~MSF and MMF~~ Districts on any parcel within the Overlay District, except on  
8 public recreation lands. Leasing or rental of upland properties on the islands for short-term parking or long-  
9 term storage of vehicles or trailers shall be prohibited in all Districts. Multi-story parking garage structures  
10 shall be prohibited in all Districts.
- 11 (56) Lodges or private clubs shall be prohibited in all Districts and beach clubs shall be allowed only without food  
12 or sundry sales.
- 13 (67) Hotel/Motel/Inn uses may have commissary, coffee bar, continental breakfast and other services for their  
14 guests.
- 15 (78) Sport marinas and Resort marinas shall be prohibited. However, leasing of dock space in the MCT district  
16 only on lots adjacent to coastal waters not on the Gulf of Mexico is permitted as a special exception with the  
17 following restrictions: no live-aboard dockage; no sale of fuel and lubricants; no provisions, bait & tackle; no  
18 service buildings with laundry facilities, showers, toilets; no rental of motorized watercraft; and no launching of  
19 boats from the site. A condition of the permit is adequate parking for leased dock spaces. Private  
20 noncommercial boat docks are permissible in MES, MSF, MMF, and MCT-Residential Districts for the  
21 exclusive use of the property owner or someone with a legal interest greater than a lease hold interest and  
22 are prohibited from being rented.
- 23 (89) The rental, sale, or repair of motorized vehicles, including but not limited to boats, jet skis, scooters, and  
24 segways, is prohibited. Non-motorized recreational rentals, including but not limited to kayaks, canoes, and  
25 bicycles, is allowed in the MCG District and, as a special exception in MCT District.
- 26 (10) Home Occupations are allowed by Special Exception in MSF and MMF zones. In addition to meeting the  
27 requirements of the Code, the applicant must provide documentation that the proposed home occupation  
28 does not involve employees or clients who visit the premises and will not generate parking space demands  
29 (e.g., telemarketing verses music teacher); or if lot is twice the minimum lot size, demonstrate that there is  
30 adequate parking for the number of clients expected to be serviced.

- 1 (11) One guest house or one servant's quarters for each single-family dwelling are allowed by special exception,  
2 provided the lot area shall be not less than twice the minimum lot area required for a single-family dwelling;  
3 and the guest house or servant's quarters is intended for use on a temporary basis. The guest house and  
4 principal dwelling shall not be rented separately.
- 5 (12) Restaurant Outdoor Seating is an allowable use for restaurants and bars, and, whether covered or  
6 uncovered, shall be required to be reviewed by the Advisory Committee for compliance with the setback,  
7 paving and other requirements of this Overlay Code. Outdoor and under-structure exterior bar areas are  
8 allowed, but shall be required to meet the setback, paving, height, and other requirements of this Overlay  
9 Code and be reviewed by the Advisory Committee.
- 10 (13) Specialty shops include small jewelry, gift, clothing, accessories, coffee, bakery, ice cream, and the like,  
11 beach tourist-related shops. Such other beach tourist-related shops, as determined by the Zoning Official with  
12 concurrence by the Advisory Committee, may be permitted by special exception.
- 13 (14) Accessory structures and Accessory Uses. Accessory structures shall be required to meet the standards set  
14 forth under (j) and (k) of this Overlay Code.
- 15 a) Uses and structures that are customarily accessory and clearly incidental to the MSF principal uses and  
16 structures are also permitted within the MSF districts and include: private garages and storage structures,  
17 greenhouses; swimming pools and hot tubs; and tennis courts, subject to standards under (j) and (k) of this  
18 Overlay Code.
- 19 b) Uses and structures that are customarily accessory and clearly incidental to the MMF principal uses and  
20 structures are also permitted within the MMF districts and include private garages and storage structures,  
21 swimming pools and hot tubs, and tennis courts, subject to standards under (j) and (k) of this Overlay  
22 Code.
- 23 c) Uses and structures that are customarily accessory and clearly incidental to the MCT principal uses and  
24 structures are also permitted within this district including a residential dwelling unit within the same  
25 structure as the principal use for occupancy by owner or employee of permitted uses, parking lots, and  
26 outdoor dining areas.
- 27 d) Uses and structures that are customarily accessory and clearly incidental to the MCG principal uses and  
28 structures are also permitted in this district, including a residential dwelling unit within the same structure  
29 as the principal use for occupancy by owner or employee of permitted uses, parking lots, and outdoor  
30 dining areas.
- 31 e) Uses and structures that are customarily accessory and clearly incidental to the MES principal uses and  
32 structures are permissible in this district including private noncommercial boat dock but not piers, docks  
33 and wharves.
- 34 f) Accessory structures are required to be setback within the yards including, but not limited to, detached  
35 garages and carports, storage structures, swimming pools and hot tubs, with or without screen enclosures;  
36 green houses, and tennis courts.

1 g) Only the following accessory uses are permitted within the required yards on Manasota and Sandpiper  
2 Key: 1) stairways may project up to four feet in a required front or rear yard, but not into the required side  
3 yards. Guttered roof overhangs may project up to two feet into a required front or rear yard on all lots; and  
4 may project up to two feet into the side yard and peripheral landscape strip on lots fifty feet wide or less.  
5 Where elevated, these uses must meet the stepped setback and maximum height requirements of this  
6 Overlay Code.

7 (15) Uses and structures permissible under the MPD district shall be equivalent to those that would otherwise be  
8 permissible on the property or properties prior to rezoning to a MPD. Unless specifically defined in the above  
9 use table, additional uses are prohibited.

10  
11 **(i) Development Review Procedure**

12 (1) The County zoning staff shall refer an applicant for any development that requires a site plan to the  
13 Advisory Committee for a pre-application consultation. Prior to submitting an application to the  
14 County for any type of development, including for a Special Exception, or for a Variance, or a  
15 Letter of No Objection, an applicant shall appear before the Manasota and Sandpiper Key Advisory  
16 Committee at a regularly-scheduled public meeting of the Advisory Committee to review, discuss,  
17 and receive recommendations from the Advisory Committee regarding the proposed  
18 development's consistency with the Manasota Key Community Plan and the portions of this Code  
19 specifically applicable to the Manasota and Sandpiper Key Overlay Code this Overlay Code. Such  
20 request for review shall be accompanied by documentation required by the Advisory Committee to  
21 perform its review. At the conclusion of the review, the Advisory Committee shall prepare written  
22 comments regarding the proposed development with recommendations or notations, as  
23 appropriate, which shall be considered by the County officials in their deliberations during the  
24 review process.

25 (2) All sketches, site plans, or other documentation submitted to the County as part of a development  
26 application shall be consistent with any information submitted to the Advisory Committee for review,  
27 except as such may be revised based upon recommendations made by the Advisory Committee.

28 (3) All new applications, whether previously reviewed or not, shall be reviewed by the Advisory  
29 Committee.

30  
31 **(j) Development Standards.** These development standards shall apply to all zoning districts within the  
32 Manasota Key Overlay Code.

33 **(1) Uniform Line of Construction.** In order to maintain the uniform line of construction of major  
34 structures within the Overlay District, no portion of a residential structure shall be located

1 seaward of this line, or of a line traced between the corners of the two nearest buildings along  
2 the Gulf of Mexico, except as permitted by DEP.

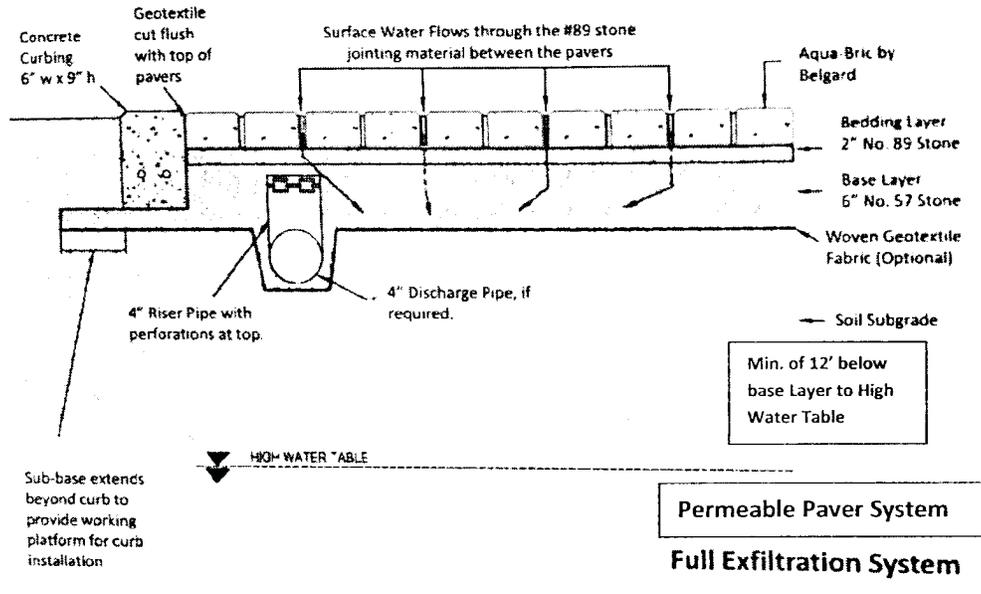
3 | **(2) *No-Fill Area.*** The entire ~~Manasota and Sandpiper Key~~ Overlay District is designated as a No-fill  
4 Area, within which only pilings and stemwalls may be used for all construction, except the  
5 minimum amount of fill necessary within the building footprint and for drainfields associated with  
6 on-site waste treatment and disposal systems.

7 | **(3) *Permeable Pervious Material.*** With the exception of fences and walls, all ground-level amenities  
8 such as walkways, patios, new private roads, residential driveways, and all parking spaces  
9 outside of the building footprint shall be constructed of ~~permeable pervious~~ materials to improve  
10 drainage and runoff. The use of pavers for parking lots, driveways, patios and pools shall be  
11 subject to Advisory Committee review and County permit and shall be installed to meet or  
12 exceed product filtration rate of three inches per hour; and minimal subgrade slope not to exceed  
13 1% for parking, vehicular traffic areas and patios. The only exceptions to the use of pervious  
14 pavers shall be a three-foot perimeter around a pool and Hhandicapped accessible routes when  
15 required by ADA.

16 ~~shall be exempt from this requirement.~~  
17

1

### Diagram 1: Permeable Paving System

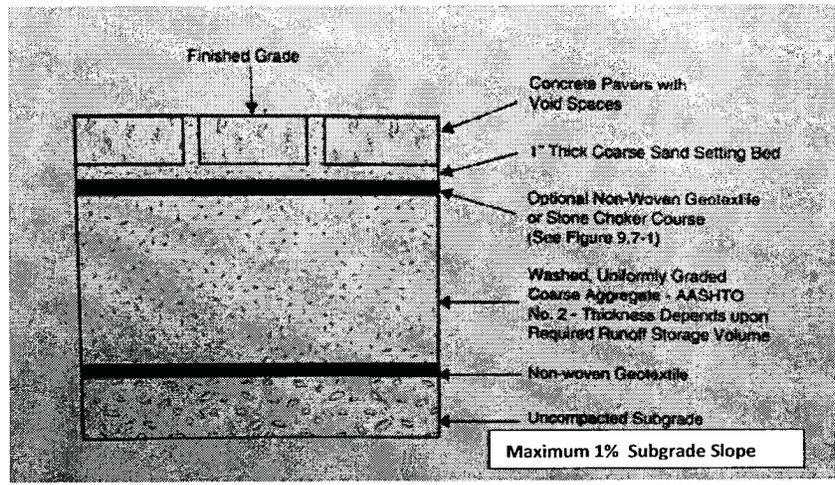


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### Diagram 2: Permeable Pavers with Storage Base

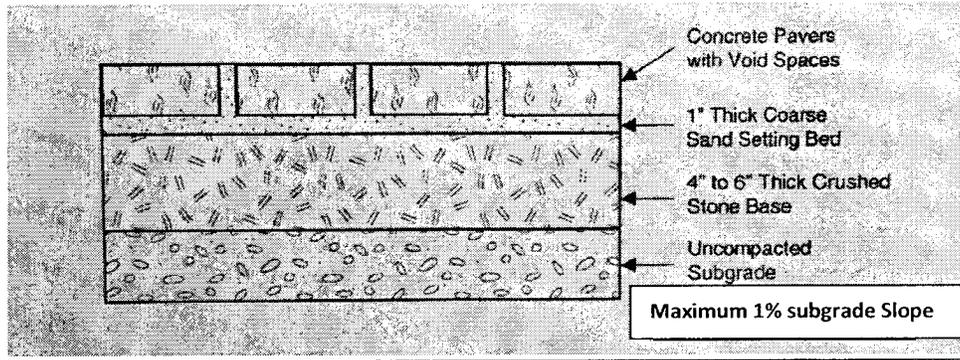


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1 **Diagram 3: Pervious Pavers without Storage Base**



2  
3 **(4) Bulk Limitations.** No building shall be over 200 feet wide or long in any zoning district.

4 **(5) Open Space/Reservation Area.** All development within the Overlay District subject to Site Plan  
5 Review shall include an open space/habitat reservation area equal to five percent of the total  
6 area of the development. No financial contribution in lieu of reservation shall be permitted.  
7 Peripheral Landscape Strips and setbacks may be counted as part of the open space habitat  
8 area unless the lot is greater than one-quarter acre.

9 **(6) Pilings for Structures.**

- 10 a. Pilings shall conform to construction techniques authorized under the Florida Building Code.
- 11 b. Pilings for structures throughout Manasota and Sandpiper Key shall be augered into the  
12 ground, or otherwise introduced through contemporary technologies that are shown to reduce  
13 the noise and vibration in sufficient amount to meet the intent of this section Section.
- 14 c. If driving pilings into or onto the ground is proposed,
- 15 i) The developer must conduct a detailed geotechnical analysis of the property with a  
16 certification from a geotechnical engineer that the proposed development activity will  
17 have no adverse impacts to adjacent properties; and
- 18 ii) Show proof of minimum insurance policy coverage of \$1.5 million per occurrence and \$5  
19 million aggregate.
- 20 iii) If pile driving is deemed appropriate, the contractor shall be required to notify by mail  
21 the owner of properties within 300 feet of the outer limits if the subject property and  
22 document existing conditions of structures, prior to the planned development.
- 23 iv) The contractor must offer all properties within 300 feet an opportunity to have their  
24 properties inspected by an engineer/inspector prior to pile driving at the builder's  
25 expense. The intent of this inspection is to create a record of conditions prior to work  
26 occurring.

- 1 v) The contractor must also offer all properties within 300 feet an opportunity to have, at  
2 builder's expense, one on-site seismic reading during the pile driving. A permit to drive  
3 piles (pile driving) will not be issued until the contractor of record provides to the County  
4 by affidavit a list of property owners within 300 feet of the project and addresses along  
5 with a receipt or other proof of mailing and completion of required inspections.
- 6 vi) The Contractor of record or the owner-builder shall be the party responsible to insure  
7 that the notification and offers have been made and that reasonable effort to comply with  
8 these requirements has occurred. Records of these offers shall be maintained by the  
9 contractor or owner-builder and be made available to the Building and Zoning Division.
- 10 vii) In addition, the Contractor shall be required to provide the county with an insurance  
11 certificate showing that the contractor carries comprehensive general liability in the  
12 amount of \$1.5 million for each occurrence, and aggregate and property damage in the  
13 amount of \$5 million for each occurrence and the \$5 million aggregate. For the purposes  
14 of this Section, "pile driven" constitutes a work effort for driving, impact driving or  
15 hammer driving of a pile or similar object into the ground used to support or reinforce  
16 any structure or building including but not limited to treated timber piling, prestressed  
17 concrete piling, steel piling, driven test piling, concrete sheet piling, steel sheet piling,  
18 batter piles, anchor piles, dolphin piles, fender piles and guide piles.
- 19 viii) The contractor of record must complete an application for pile driving on the form  
20 prescribed by the County. The application shall contain notice provisions, geotechnical  
21 data, and insurance requirements as enumerated above.
- 22 ix) Notwithstanding the contents of this subsection, this restriction shall not be applicable to  
23 pilings which are installed onto submerged lands as part of dockage or other marine  
24 structures.

25 **(7) Maximum Building Height, Maximum Stories and Maximum Building Height Calculation.**

26 For the purpose of the ~~Manasota Key~~ Overlay Code, the maximum height of a building shall be  
27 measured from Zero NGVD to the top of the highest constructed element.

- 28 a. Highest constructed element is the highest point of a building or the highest point of any rooftop  
29 livable space or appurtenances thereto.
- 30 b. Rooftop livable space is all usable areas upon or above the roof of a building including but not  
31 limited to decks, swimming pools, walls, fences and railings. Rooftop livable space shall be  
32 calculated as the actual height of the railing, fence, wall or other rooftop structure.

- 1 c. Appurtenance includes but is not limited to ornamental fixtures and fittings and rooftop  
 2 equipment such as chimneys, antennas, cupolas, elevators, or other mechanical or  
 3 communications equipment.
- 4 d. Only the following essential appurtenances shall be allowed above the rooftop or highest  
 5 constructed element on Manasota Key, to exceed the height cap for the property, in the MMF  
 6 and MCT-residential Zones associated with multi-family development: Stairs at no greater than  
 7 7-seven feet; elevator shafts at no greater than 4-four feet; AC units at no greater than 4.5 feet;  
 8 and mechanical pipes no greater than 2-two feet; and lightning rods no greater than 2-two feet.  
 9 These appurtenances shall not be allowed on any facade. All appurtenances shall be located  
 10 near the center of the roof, behind a line of sitesight. The “line of sitesight” shall be 15 degrees  
 11 from the street front façade and 30 degrees from all other facades. For all essential  
 12 appurtenances that exceed the building height cap, there shall be a horizontal green space  
 13 offset equal to the square footage of the height of the appurtenance that protrudes above the  
 14 highest constructed element times the widest or longest dimension of the appurtenance. For  
 15 example, if a stairway protrudes 7-seven feet above the highest constructed element and is ten  
 16 feet at its greatest width or length dimension, the green space offset required shall be 70 square  
 17 feet. The green space offset can be located anywhere on the property outside the pPeripheral  
 18 Landscape sStrip.
- 19 e. Maximum building height shall not exceed ~~forty-eight (48)~~ feet of structure height for MSF, MCG  
 20 and MCT-Commercial Districts seaward of the ~~Coastal Construction Control Line~~CCCL; ~~forty-~~  
 21 ~~three (43)~~ feet of structure height for MSF, MCG and MCT-Commercial Districts landward of the  
 22 ~~Coastal Construction Control Line~~CCCL; ~~fifty-five (55)~~ feet of structure height for MMF, MCT-  
 23 Residential and MCT-Mixed Use Districts seaward of the ~~Coastal Construction Control~~  
 24 ~~Line~~CCCLe, and ~~Forty-eight (48)~~ feet of structure height for MMF, MCT-Residential and MCT-  
 25 Mixed Use Districts landward of the ~~Coastal Construction Control Line~~CCCL.
- 26 f. The maximum number of stories shall be no greater than three (~~3~~) stories over parking in MMF,  
 27 MCT-Residential and MCT-Mixed Use Zones; and no greater than two (~~2~~) stories over parking  
 28 in MSF, MCG, and MCT-Commercial Zones.
- 29 g. In unique circumstances, due to ground level or elevation requirements, the 48 foot NGVD  
 30 height limit may be exceeded such that a 35 foot building envelope may be met from finished  
 31 floor to the top of the roof on multi-family development projects landward of the CCCL.
- 32 h. In unique circumstances, where any portion of a building is located in two flood zones, one  
 33 being seaward of the CCCL, the seaward maximum height shall apply to the entire building.

1 i. There shall be a required green space off-set of one linear foot for each foot of structure height  
2 in excess of ~~fifty-two~~ (52) feet in the MMF, MCT-Residential and MCT-Mixed Use Zones  
3 seaward of the CCCL to be added in the front yard, in addition to the 10 foot pPeripheral  
4 lLandscape sStrip. For every foot of additional building height over 52 feet, there shall be a  
5 horizontal foot of green space added to the entire width of the front yard immediately adjacent to  
6 the 10 foot pPeripheral lLandscape sStrip. For example, if a structure is built to the maximum  
7 height of 55 feet, seaward of the CCCL, three feet of green space shall be added to the 10 foot  
8 pPeripheral lLandscape sStrip, resulting in a 13 foot green space setback along the entire width  
9 of the front yard.

10 ~~i.i.~~ Height limits for accessory structures are specified under (k) of this Code.

11 (8) - **Building Setback Calculation.** The ~~Manasota and Sandpiper Key~~ Overlay District shall be  
12 exempt from the requirements of the Waterfront Property Code. In the Overlay District, stepped  
13 setbacks shall be required to preserve open vistas on Manasota and Sandpiper Keys by limiting  
14 the height and size of structures in the Overlay District. The stepped setback was designed to  
15 eliminate the need for variances tied to roof overhangs, balcony rails, and other side building  
16 features, as well as to allow flexibility for architectural designs. For single family construction,  
17 gambrel and peaked roofs are encouraged.

18 a. The following specific stepped setback requirements and calculations shall be applied:

19 i. Structures shall be set back from the property lines not less than the minimum required  
20 yards in this Overlay Code. No structure shall be located within 50 feet of the shoreline of  
21 the Gulf of Mexico. Structures shall be setback from other water bodies not less than the  
22 minimum required by this Overlay Code.

23 ii. Stepped setbacks, regardless of actual building elevation required by the Federal  
24 Emergency Management Agency (FEMA) or Florida Department of Environmental  
25 Protection (FDEP), shall be calculated as follows: In FEMA-governed zones starting at two  
26 feet above the minimum finished-lowest floor elevation or Base Floor Elevation (BFE) to the  
27 top of the highest constructive element. In FDEP V-Zones, starting at 30 inches above the  
28 least horizontal shore parallel structural member (LHSM) to the top of the highest  
29 constructed element.

30 ~~iii. Minimum Finished Floor Elevation (MFFE) shall mean the lowest floor for which a building~~  
31 ~~permit may be issued which on Manasota Key in the A-Zones is the minimum lowest floor~~  
32 ~~elevation; and in the V-Zone (governed by Florida DEP seaward of the coastal construction~~  
33 ~~control line) is the least horizontal shore parallel structural member plus the thickness of the~~

~~structure which for this code shall be a vertical measurement of 2 feet from the lowest horizontal structural member.~~

iv-iii. Setback distance shall be calculated by measuring the horizontal distance from the lot line to the minimum setback at a specified height from two feet above the minimum finished floor elevation (MFFE), as specified in the ~~t~~Table below:

Minimum Yard Setback (feet)	Setback Starting Point is <del>2-two</del> feet above <del>MFFE</del> BFE (Landward of CCCL) or 30 inches above LHSM (Seaward of CCCL)
(Horizontal Setback Distance)	(Vertical Height Stepped Setback Range)
Yard <del>S</del> setback <del>M</del> minimum	<del>2-Two</del> feet above <del>MFFE</del> BFE or 30 inches above LHSM to 21 feet <del>_</del> above <del>S</del> starting <del>P</del> point
Yard <del>S</del> setback <del>M</del> min. <del>P</del> plus 3 feet	21 <del>f</del> feet to 30 <del>f</del> feet above <del>S</del> starting <del>P</del> point
Yard <del>S</del> setback <del>M</del> min. <del>P</del> plus 6 feet	30 <del>f</del> feet above <del>S</del> starting <del>P</del> point to maximum height cap depending on the Zoning District and CCCL

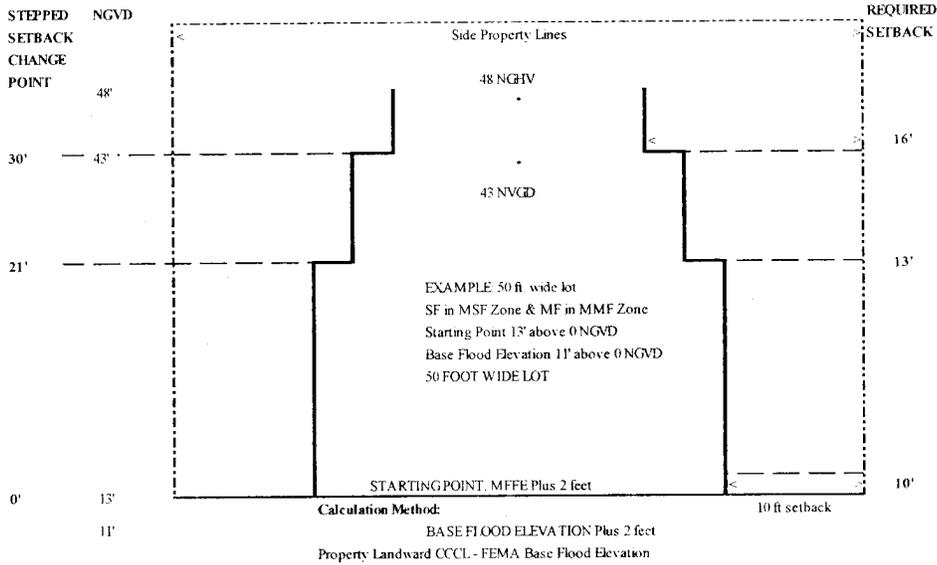
v-iv. No encroachments shall be allowed within the building setbacks as calculated herein, except "guttered roof overhangs" and sunshades may extend two (2) feet into the setbacks at each stepped setback. For multifamily development on lots 50 foot wide or less, the stepped setback may be reduced to from 16 feet to 15 feet on one side only, exclusively to accommodate an elevator shaft or stairwell.

vi-v. No building may be constructed seaward of the ~~coastal construction control line~~CCCL unless a permit has been issued by the State.

vi. All principle structures on the same development site, except single-story accessory structures, shall have a minimum structure-to-structure setback equal to the height of the taller structure. For this purpose, height of the structure being measured from finished floor elevation to the peak of the roof. No structure shall exceed the maximum building height limit in their zoning district.

vii. Stepped setback requirements apply to all setbacks (front, side and rear).

**Setback Calculation Methodology & Maximum Height Calculation Methodology**  
Landward of CCCL



**Maximum Height Method**

Max Ht.  
43' MSF Zone from 0 NVGD Landward of CCCL  
48' MMF Zone from 0 NGVD landward of CCCL  
Measured to the Highest Constructive Element

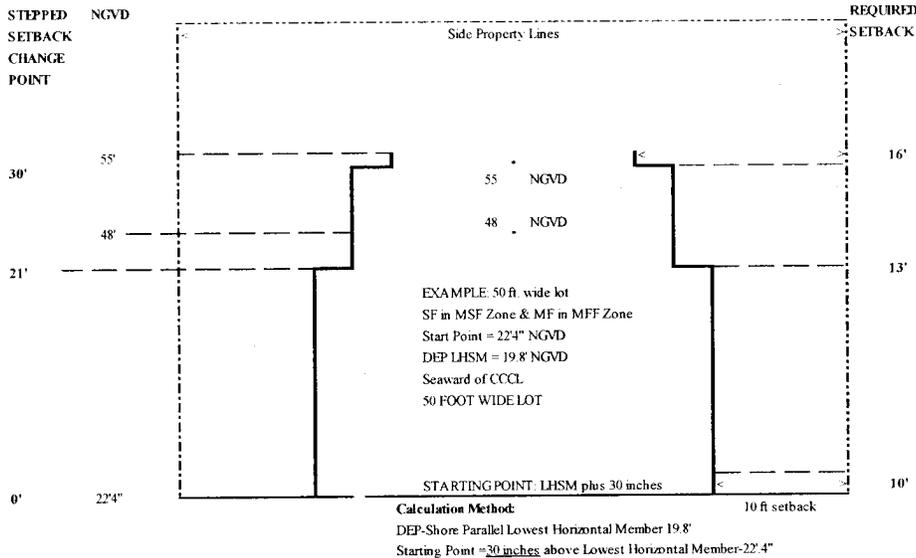
**Structure Setback Method from MFFE**

Setback	Range
10 feet	2 ft above MFFE - 21 ft
13 feet	21 ft - 30 ft
16 feet	30 ft - Max Ht.

MFFE-Minimum Finished Floor Elevation

1  
2  
3

**Setback Calculation Methodology & Maximum Height Calculation Methodology**  
Seaward of CCCL



**Maximum Height Method**

Max Ht.  
48' MSF Zone from 0 NVGD seaward of CCCL  
55' MMF Zone from 0 NGVD Seaward of CCCL  
Measured to the Highest Constructive Element

**Structure Setback Method from LHSM**

Setback	Range
10 feet	30 inches above LHSM- 21 ft
13 feet	21 ft - 30 ft
16 feet	30 ft - Max Ht.

LHSM-Lowest Horizontal Structural Member

4

1 **(9) *Peripheral Landscape Strip.*** Peripheral ~~L~~andscape ~~s~~trips are required on all lots within the  
2 Manasota and Sandpiper Key Overlay District. All properties, conforming and nonconforming, shall  
3 have front, side interior and rear interior ~~p~~Peripheral ~~L~~andscape Strips of no less than ~~ten~~ (10) feet  
4 from the property line. Peripheral ~~L~~andscape ~~s~~trips shall be located immediately adjacent and  
5 parallel to all sides of a lot boundary. All ~~p~~Peripheral ~~L~~andscape ~~s~~trips shall be green open  
6 areas. A 10-foot wide green open area with a vegetated landscape strip along the entire 10-foot  
7 perimeter is required and intended to screen and separate new development or improvements to  
8 existing development from adjacent existing development and from the public right-of-way.  
9 Vegetated landscaping means grass, ground cover, mulch, shrubs, vines, hedges, or trees.  
10 Pavement, sand, shell, rock, and aggregate shall not be considered approved landscape material  
11 for the 10-foot peripheral landscape strip, except that clean shell and native beach shell may be  
12 used in lieu of mulch around shrubs. No encroachments shall be allowed within the ~~ten~~ (10) feet  
13 ~~p~~Peripheral ~~L~~andscape ~~s~~trip including but not limited to structures, accessory structures, AC  
14 units, driveways, parking areas, pools and pool accessories, electrical equipment, signage,  
15 stormwater management systems, and holding tanks. Neither a structure nor any portion thereof  
16 shall be erected or shall encroach or overhang upon the required ~~p~~Peripheral ~~L~~andscape ~~s~~trip.

17 The only exceptions shall be:

- 18 a. Dune walkovers, sidewalks and driveway crossovers, where permissible.
- 19 b. Fences,
- 20 c. Guttered roof overhangs -that may extend two (2) feet into the Peripheral ~~L~~andscape ~~s~~trip,  
21 only on lots 50 feet wide or less.
- 22 d. Sunshades that may extend two (2) feet into the Peripheral ~~L~~andscape ~~s~~trip only on lots  
23 50 feet wide or less.
- 24 e. For non-conforming multifamily lots 50 feet wide or less, the owner may request an  
25 administrative waiver of up to 20% of the side setback (~~2~~ two feet on each side) to redress  
26 hardships associated with meeting driveways and parking requirements for multifamily  
27 development. Waiver limits are as follows: No portion of the waiver areas shall be used for  
28 habitable space, for an increase in building envelope of livable area from the first floor to the  
29 highest constructed element or be permanently enclosed or roofed, and; the waiver request  
30 must document need for additional space exclusively for parking and driveway use that does  
31 not increase the livable space envelope and offers the least invasive design option  
32 regarding encroachment into the side Peripheral ~~L~~andscape ~~s~~trips.

33 **(10) *Yard setbacks.*** Yard setbacks, greater than ~~ten~~ 10 feet Peripheral ~~L~~andscape ~~s~~trip, shall be  
34 required for structures based on zoning district minimum yard requirements, abutting properties,

1 abutting water, and building height requirement of the Overlay Code. No primary structures shall  
2 be allowed to encroach within the greater yard building setback area, however appurtenances and  
3 mechanical equipment for the primary structure, which are typically allowed within required yards  
4 may be located within the greater yard setback. Accessory structures, parking, and driveways may  
5 be located within the greater yard building setback area as long as County Codes and the Overlay  
6 Code district standards and architectural standards are met.

7 **(11) Accessory Structures.** No accessory structures or uses, other than fences shall be allowed within  
8 the ~~ten-10-foot (10) feet~~ pPeripheral lLandscape sStrip. All accessory structures must conform to  
9 the side and rear setback requirements of the appropriate zoning district as well as the stepped  
10 setback requirements of this Overlay Code; exceptions are specified under Section (h)(13)g  
11 above. Detached permanent garages must conform to the front setback requirements of the  
12 appropriate zoning district. All other accessory structures must be located behind the leading edge  
13 of the living area of the principal structure. The only exception is on lots 300 feet or greater in  
14 depth which may have screened accessory structures located in front of the building façade  
15 provided they are located at least 150 feet from the county right of way. Other accessory structure  
16 requirements are contained under the Architectural Design Standards below. Multifamily  
17 developments when permitted in any zoning district are permitted to contain a clubhouse,  
18 recreation room or similar community room to serve the residents of the development.

19 **(12) Nonconforming Lots.** It is the intent of this section to specify provisions of the Overlay Code that  
20 supersede the Ccounty nonconforming provisions and exceptions to Yards provisions and which  
21 sections of the ~~county cCode~~ remain in place. It is also the intent to include provisions unique to  
22 nonconforming lots in the Overlay boundary. Other than the administrative waiver provided for in  
23 this Overlay Ccode, it is the intent that all lots contain a 10 foot pPeripheral lLandscape sStrip.

24 A) Within the Manasota and Sandpiper Key Overlay District, the provisions of the County Code  
25 requiring a variance to build on a lot less than 5,000 square feet or less than 50 feet in width  
26 shall not apply as long as the building conforms to the requirements for the zoning district in  
27 which the lot is located.

28 B) The minimum side yard interior setbacks in all districts for conforming and nonconforming lots,  
29 including lots less than 5,000 square feet shall be 10 feet. The only exception is provided for  
30 under the administrative waiver procedure for MMF and MCT-residential lots in this Overlay  
31 Code. In these cases, documentation shall be provided to indicate why the administrative  
32 waiver is warranted, and an administrative variance shall be not granted in addition to the  
33 administrative waiver.

1 C) The variance provisions of the ~~County~~ Code under 3-9-6.1 provide for relief in hardship cases  
2 for nonconforming lots in the Overlay Code. The administrative variance under 3-9-6.1 (g) shall  
3 not be permitted for side yard variances which result in a side yard of less than 10 feet, and the  
4 provisions contained in Sec. 3-9-10.(c)(3)a.5-e and Sec.3-9-75(2)3-9-5.3(2) shall not apply  
5 when they would result in a side yard of less than 10 feet.

6 **(13) Parking Standards.** For any residential development within the Overlay District, each residential  
7 dwelling unit shall provide a minimum of two ~~(2)~~ spaces per unit. Multifamily developments shall  
8 provide additional parking spaces for services and guests. Service parking requirements shall be  
9 the lowest whole number that is greater than or equal to ~~ten (10)~~ percent of the number of units  
10 contained within the multifamily project. Guest parking requirements shall be the lowest whole  
11 number that is greater than or equal to ~~twenty (20) percent~~ percent of the number of units contained  
12 within the multifamily project. At least one ~~(1)~~ of the guest parking spaces as required by this  
13 Section shall be handicapped accessible. Beach access points on the islands shall not be  
14 obstructed by parked cars or any other barriers. Parking of unlicensed or unregistered  
15 automobiles, recreational vehicles, boats and/or trailers shall be prohibited. Parking standards for  
16 commercial structures shall meet the Code requirements.

17 **(14) ~~Disaster Recovery.~~** Following a natural disaster, as determined by the Board ~~of County~~  
18 ~~Commissioners~~, multifamily developments that are nonconforming due to their density may be  
19 rebuilt with no increase in square footage, so long as they comply with as many other development  
20 standards of this Overlay Code as possible, while still allowing the overall pre-disaster density  
21 which existed to be retained. In redevelopment of the site, first priority shall be given to  
22 establishing the pPeripheral lLandscape sStrip, to the greatest extent possible. Documentation  
23 shall be provided to indicate where a particular development standard cannot be met.

24 **(15) ~~Underground utilities.~~** Electrical wires that connect poles with structures shall be placed  
25 underground.

26 **(16) Spot ground elevations.** The spot ground elevations for new development and for reconstruction  
27 that exceeds ~~fifty (50)~~ percent of the replacement value of an existing structure shall be  
28 established prior to any clearing of the site by a signed and sealed survey prepared by a surveyor  
29 licensed in Florida. There shall be a minimum of one spot elevation per site, with additional spot  
30 ground elevations provided at every one foot of elevation change within the site.

31 **(17) Density on barrier islands.** There shall be no transfer of Density Units into Manasota and  
32 Sandpiper Key from other areas of the County. Transferring density between Manasota Key and  
33 Sandpiper Key is prohibited. In addition to the requirements set forth in the County's Transfer of  
34 Density Units Code, the transfer of Density Units within Manasota Key or Sandpiper Key shall not

1 be used contrary to the intent of the Manasota Community Plan and shall comply with the following  
2 criteria:

3 A) Density Units from Category I Hurricane Storm Surge zone cannot be transferred into a  
4 Tropical Storm Surge zone; and

5 B) Density Units from an AE Flood Zone cannot be transferred into a VE flood zone; and

6 C) No transfers of density from a less to a more restrictive flood zone; and

7 D) All development standards set forth in this Section shall apply.  
8

9 **(k) Architectural Design Standards.**

10 **Applicability.** These architectural design standards shall apply to all new development within the  
11 Overlay District, including but not be limited to new development, new structures and to any  
12 alterations or additions to existing structures that exceed 50 percent of the replacement value of the  
13 structure. These standards shall regulate the appearance and constructive elements of structures  
14 and be used in addition to those expressed elsewhere in this Overlay Code.

15 **(1) Driveways and Parking Areas and Walkways/Sidewalks**

16 a. No driveway shall exceed 24 feet in width where it connects with the roadway.

17 b. In MES and MSF Districts, only one ~~(1)~~ driveway crossing is permitted within the front yard  
18 setback. In MMF Districts, one driveway crossing allowed every 300 feet within the front yard  
19 setback.

20 c. New private roads and parking and driveways, and those where 50% ~~percent~~ of their original  
21 area is repaired or replaced shall be paved with crushed shell, stone, brick, or other permeable  
22 pervious materials, to in accordance with the latest technology allowed by permitting  
23 districts, improve drainage and runoff and in a manner that will permit maximum water  
24 absorption. Pervious surfacing must be on a bed of sand designed and installed in a manner  
25 that will permit water absorption through the joints and the sand bed. New asphalt and concrete  
26 (porous or nonporous) shall be prohibited. Concrete walkways are permitted only when ADA  
27 compliance is required. Parking lot, driveway, patio and pool pavers shall be subject to  
28 Advisory Committee review. When pavers are installed, the contractor must provide a letter  
29 certifying that the pavers are pervious and that the pavers will be installed to maximize on-site  
30 water absorption. Developments built before 2008 that have asphalt driveways, are exempt from  
31 the pervious surface requirements of the Section when repairing or replacing their asphalt  
32 driveways, though encouraged to address runoff issues associated with driveways.

- d. Walkways are permitted within the ~~p~~Peripheral ~~L~~Landscape ~~s~~Strip only when they are necessary to comply with the Americans with Disabilities Act. Asphalt paving is prohibited. This requirement shall not apply to areas under the footprints of approved structures.
- e. Stepping stones are permitted.
- f. Driveways shall not encroach upon the side ~~p~~Peripheral ~~L~~Landscape ~~s~~Strip. Corner lots may have one ~~(1)~~ driveway crossing off either street but not both.
- g. Entry walkways shall be clearly defined and shall no greater than 4 feet in width and shall be constructed of shell, pavers, or other permeable materials. ~~On lots with moderate grade between the elevation of the driveway and the entry door, low rise steps not to exceed four (4) feet in height (including railing) shall be allowed so long as they do not encroach upon the 10 foot side~~ ~~p~~Peripheral ~~L~~Landscape ~~s~~Strip.
- h. A single dune walkover per lot, where applicable, is permitted.

## (2) Building and Facade Materials and Design

- a. All facades, excluding doors, windows, and trim, shall be improved and constructed with one or a combination of the following materials: i. Masonry, although unfinished and exposed concrete block is prohibited; ii. Wood; iii. Stucco; iv. Vinyl. All additions shall be required to resemble material uses on the existing structure on the same property.
- b. No reflective materials are permitted on building facades.
- c. All wall openings on traditional buildings, including but not limited to windows, doors, balconies, and alcoves are required to have trim installed according to the following standards: a. Trim shall resemble wood, masonry stone, stucco, or tile; b. Reflective finishes are prohibited.
- d. All buildings shall have a clearly-defined entrance with numbers facing the street.
- e. Garage doors shall be flush or recessed with the front facade or recessed so as not to dominate the architectural design and appearance. Garage door height is limited to ten feet.
- f. Roofs shall be constructed, maintained, and repaired according to the following standards:
  - i. Roofs shall be made of non-reflective materials. Skylights or other glass roof surfaces shall be limited to 5% percent of the roof and not located on the front of the building.
  - ii. Roof materials shall resemble non-reflective metal, wooden shingles, “dimensional” asphalt shingles, barrel tile, concrete tile, or slate, and roof additions shall be required to resemble or material uses on the existing structure on the same property.
  - iii. Flat roofs shall be exempt from all preceding roof material standards provided a parapet or mansard wall is used to screen the roof and rooftop equipment. Parapets and mansard walls must conform to the height limits.

## (3) Architectural Accents

- 1 a. Chimneys must be vertical, and must conform to the height limits.
- 2 b. Awnings shall be permanently affixed and shall have a minimum clearance of eight feet above
- 3 any sidewalk and 18 feet above any driveway on commercial properties.
- 4 c. Gutters shall resemble or match the building trim or primary facade color. Gutters shall not
- 5 cause water to accumulate on neighboring properties or directly upon driveways, sidewalks, or
- 6 walkways.
- 7 d. The space between the first floor of a building and the ground shall be screened with lattice or
- 8 breakaway walls. Lattice or breakaway walls shall be used specifically to conceal
- 9 appurtenances placed below the first floor and the ground, and shall be the same pattern and
- 10 appearance as the outside of the structure, and shall be permanently affixed to the principal
- 11 structure and be constructed of vinyl or painted wood.
- 12 e. All structures shall post address numbers on the front façade in a location either by the entrance
- 13 or garage door, or signage easily visible and legible from the adjacent roadway.
- 14 f. Sunshades shall be permanently affixed and shall be retractable for use as hurricane shutters
- 15 providing they meet County and State Code.

16 **(4) Lighting Fixtures, Structures, and Elements**

- 17 a. All outside lighting fixtures shall be installed consistent with the Sea Turtle Lighting standards.
- 18 b. Fixtures for lighting areas shall follow a consistent theme.
- 19 c. Light posts shall be installed consistent with the following standards:
  - 20 i. Light posts shall be constructed and installed to resemble wood, polished concrete, or painted
  - 21 metal.
  - 22 ii. Unfinished or unpainted metal and concrete surfaces and untreated wooden posts are
  - 23 prohibited.
  - 24 iii. Light posts on private property shall not exceed 16 feet in height.
- 25 d. Outside lighting fixtures shall be installed to orient light downward and to provide glare reduction
- 26 optics and shielding features. No fixture shall direct light upward or onto adjacent property.
- 27 (Exemptions shall include small accent lights that are directed upward to softly illuminate
- 28 landscaping.)
- 29 e. Light globes shall not protrude below shades.

30 **(5) Fencing and Walls**

- 31 a. Chain link fencing is prohibited. Coated chain link fencing may be used to enclose tennis courts
- 32 and swimming pools, ~~or as temporary security fencing for construction sites~~. In such cases, the
- 33 fence shall be replaced at the first signs of wear or rust. A coated chain link fence may also

1 include tennis fence netting. Temporary security fences for construction sites installed for six  
2 months or less shall not be required to be coated chain link fencing.

- 3 b. Concrete block walls must be split-faced or finished, and capped. Unfinished concrete block is  
4 prohibited.
- 5 c. Wood fences must be constructed of pressure-treated lumber to prevent deterioration and rot.
- 6 d. Solid walls and fences on or near the periphery of a lot must contain openings that may be used  
7 by wildlife. These openings must be at least nine inches wide and six inches high and must be  
8 located every 25 feet along the bottom of the fence or wall.
- 9 e. Fences and walls that abut a body of water shall not exceed four feet in height for portions that  
10 extend beyond the building facade that faces the body of water.
- 11 f. Fences and walls shall not exceed six feet of height, measured from the finished grade of the  
12 parcel.
- 13 g. Fences and wall forward of the front building facade shall not exceed four-~~(4)~~ feet in height.

14 **(6)\_Accessory Structures.** In addition to the accessory requirements contained under the  
15 development standards above, accessory structures must meet the following architectural design  
16 standards:

- 17 a. The total area of accessory structures shall not exceed one-half the footprint of the principal  
18 structure or 1,000 square feet, whichever is greater, and shall not exceed the maximum lot  
19 coverage allowed by zoning district when combined with area of the principal structure. Owners  
20 of lots greater than one acre in area may apply for a Special Exception to exceed the maximum  
21 lot coverage standard.
- 22 b. Metal buildings or temporary structures such as awnings or carports are not permitted.  
23 Accessory structures must be built with materials designed to withstand salt and high winds.
- 24 c. Garage or storage structures over 250 square feet in area must be compatible in appearance  
25 and materials with the principal structure.
- 26 d. Sheds, gazebos, cabanas, and decks must be located behind the front building façade, and  
27 may not be located within the ~~p~~Peripheral ~~l~~Landscape ~~s~~Strips. The only exception is on lots 300  
28 feet or greater in depth which may have screened accessory structures located in front of the  
29 building façade provided they are located at least 150 feet from the County right of way.
- 30 e. Roofing materials must resemble or be complimentary to the materials used on the principal  
31 structure.
- 32 f. Gazebos, -detached garages, and detached screened pool enclosures may not exceed 15 feet  
33 in height from finished grade. All other accessory structures may not exceed ~~ten~~-10 feet in  
34 height.

- 1 g. Swimming pools, hot tubs, spas, and other water features and their decks shall be installed and
- 2 constructed consistent with the following standards:
- 3 i. Swimming pools are limited to one vertical accessory including but not limited to slides and
- 4 diving boards. Vertical accessories shall not exceed eight feet in height. Swimming pools
- 5 and pool equipment shall not be located within the pPeripheral lLandscape sStrips.
- 6 ii. Above-ground exterior swimming pools, hot tubs, and spas are prohibited. Exterior
- 7 swimming pools, hot tubs, and spas must be permanently installed in the ground or within a
- 8 masonry foundation.
- 9 iii. Portable spas must be modified to conform to these standards.
- 10 h. Air conditioning and heating units must be installed consistent with the following standards:
- 11 i. Units must be screened from off-site view.
- 12 ii. Consideration must be given to avoid impacts to adjacent properties.
- 13 iii. Mechanical equipment shall be expressly prohibited from being considered for a variance or
- 14 special exception.
- 15 i. Pool equipment and propane tanks of 250 cubic feet or greater shall be screened from off-site
- 16 view.
- 17 j. Miscellaneous accessory structures must be constructed consistent with the following
- 18 standards:
- 19 k. Ramps, where required, must be concealed with landscaping to the greatest extent possible,
- 20 and must blend with the scale and architectural features of the structure.
- 21 l. No accessory structures shall be permitted within the 10 feet pPeripheral lLandscape sStrip.
- 22 m. Above roof appurtenances on Commercial Buildings shall be screened from view.
- 23 m.n. New Dumpsters shall be stored and screened within an enclosed area, not in front of the
- 24 leading edge of the building façade. Waste receptacles, garbage and trash containers shall be
- 25 screened from off-site view and meet all other County code requirements. All existing dumpsters
- 26 that cannot be moved to meet the new requirements shall be required to be screened with an
- 27 enclosure that exceeds the height of the Dumpster.

28 **(7) Commercial and Multifamily Buildings**

29 In addition to the above architectural design standards, all commercial and multifamily buildings must  
 30 also conform to the following standards:

- 31 a. Primary building entrances must be oriented towards adjacent roadways.
- 32 b. Loading docks and delivery vehicle parking areas should be located to the rear and side of the
- 33 building. To the greatest extent possible, these elements should not be placed between the front
- 34 building facade and the roadway.

1 c. Drive-through facilities are prohibited.

2  
3 **(I) Landscaping**

4 Landscaping on Manasota and Sandpiper Keys shall be subject to the provisions and standards of the  
5 Overlay Code. In addition to such standards, all landscaping on the Manasota and Sandpiper Key shall  
6 be installed, repaired and maintained consistent with the guidelines in this Section.

7 (1) A landscaping plan is required to be submitted to the Advisory Committee with or prior to the  
8 application for approval for all new development and modifications to existing structures that exceed  
9 fifty percent of the total structure's assessed value.

10 (2) The landscape plan must be drawn to scale with dimensions, distances and scale, and shall identify  
11 the type and location of existing and proposed vegetation and other landscape features including  
12 the proposed green vegetation in the peripheral landscape strip, the landscape plan for the yards,  
13 as well as all easements, building structures, accessory structures, stormwater retention, and  
14 similar features.

15 (3) The proposed plantings in the peripheral landscape strip shall meet the objectives to screen and  
16 separate new development or improvements to existing development from adjacent existing  
17 development and from the public right-of-way. Vegetated landscaping means grass, ground cover,  
18 mulch, shrubs, vines, hedges, or trees. Pavement, sand, shell rock, and aggregate shall not be  
19 considered approved landscape material for the 10-foot peripheral landscape strip, except that  
20 clean shell and native beach shell may be used in lieu of mulch around shrubs.

21 (4) Developers shall meet the one tree point per 2,000 square feet of development site. A "buy-out"  
22 option from this requirement shall be prohibited. On nonconforming lots less than 5,000 square feet,  
23 a minimum of two tree points shall be required.

24 (5) Foundation plantings shall be installed around buildings to soften their appearance from offsite  
25 view.

26 (6) Peripheral landscape strips and yard areas shall be treated with Florida friendly landscape material.

27 (7) Commercial buildings and multi-family residence requirements, in addition to be requirements  
28 above:

29 a. A landscaping plan, signed and sealed by a landscape design professional, shall be submitted  
30 with all new construction and/or modifications to existing structures that exceed fifty percent of  
31 the total structure's assessed value.

32 b. Parking lot areas shall be screened with low fencing and/or landscaping whenever such areas  
33 abut public rights-of-way, existing residential uses, or property zoned for residential use. One  
34 tree is required for every 35 feet of perimeter landscape strip abutting a public right-of-way.

1 **(m) Signs Standards**

2 (1) Applicability. These regulations are intended to complement the ~~Charlotte County~~ Sign Code and  
3 address the limited amount of area available to promote the business on the keys. Any sign on  
4 Manasota & Sandpiper Key that is erected, constructed, installed, altered or moved shall conform to  
5 the provisions of the Overlay Code. Any inconsistencies between the Overlay Code and any other  
6 building, electric codes adopted by the County, the most restrictive shall apply.

7 (2) General Provisions for Signs on Manasota and Sandpiper Key.

8 a. Private and temporary signs shall not be placed in the roundabout nor shall they be placed on  
9 any public right of way, including along Beach Road, Gulf Boulevard, or North Beach Road, and  
10 shall not exceed four square feet.

11 b. Single-faced signs shall be painted black on the back side.

12 c. All new free-standing signs shall be monument signs. Maximum height of monument signs shall  
13 be four (4)-ft. above the crown of the road. Eight inch street names and number may be placed  
14 on top of these monument signs.

15 d. Traffic or other directional sign, symbols or devices relating to traffic, parking, public services,  
16 facilities or warnings shall be painted black on the rear when visible to the general public and be  
17 mounted on decorative poles. Whenever a traffic or way finding directional sign is erected on  
18 public right of way for the benefit of or upon request by a private development or individual, the  
19 sign shall be paid by the project requesting or benefiting from the sign and be on decorative  
20 poles paid by them.

21 e. No sign including an exempt sign shall be constructed, erected or interferes with any utility,  
22 communication, cable or storm water infrastructure.

23 e.f. All temporary signs and flags shall be removed in the event of a tropical storm, hurricane and  
24 flood warnings.

25 g. Flags shall not be placed in the public-right-of-way.

26 h. Non advertising directional signs, symbols or devices related to traffic, parking or warnings on  
27 private property: entrances, exits, slow, no trespassing or no parking shall not exceed three  
28 square feet.

29 d.i. Political signs shall be limited to four square feet and be remove in 10 days after the election  
30 and may be erected no more than 45 days prior to election.

31 e.j. Murals and wall art shall not be calculated as sign area if they do not contain text or logos. All  
32 wall art visible from the abutting or adjacent road right-of-way shall be reviewed for approval by  
33 the Advisory Committee to ensure that wall art visible from the road shall be in character with  
34 the coastal setting.

1 f.k. Two-sided signs with the same face on each side shall be calculated on only one side. With  
2 respect to a double-faced (back-to-back) sign, there can be no separation between the backs of  
3 each face of the sign other than the structural support to which each sign is attached.

4 l. Normal maintenance to existing conforming signs shall not be deemed alterations within this  
5 Overlay Code.

6 m. Dedicatory tablets or memorial plaques setting forth the name or erection date of a building,  
7 commemorating a person or persons and like uses shall be cast in metal or engraved in stone  
8 or concrete or otherwise inscribed in or on a monumental material, not to exceed four square  
9 feet.

10 n. No signs shall be exempt from obtaining a permit on Manasota and Sandpiper Key.

11 g-o. Sign area shall be calculated as the area within the smallest regular geometric shape or  
12 combination of shapes which encompasses all the display elements (letters, numbers, figures,  
13 characters, corporate logos, etc.) of the sign, including blank areas between display elements.  
14 The area of the sign shall include all changing copy features such as letter boards or light  
15 boards. Only the eight inch street names and numbers placed on top of non-residential signs  
16 shall not be calculated as part of the total allowed square footage.-

17 (3) Residential Signage

18 a. Single Family units and multifamily complex– one freestanding temporary yard sign that does  
19 not exceed ~~twelve~~ (12) by ~~eighteen~~ (18) inches. For Example: for garage or property sale,  
20 lease or rent. An additional sign of 12x-18 inches which is located in their yard on a navigable  
21 body of water shall be allowed facing the water.

22 b. One ~~(1)~~ sign denoting the architect, engineer or contractor for work under construction, not  
23 exceeding four ~~(4)~~-square feet.

24 c. Multi-Family units shall be treated as a single unit with the exception of:

25 i. Multifamily developments may have one ~~(1)~~ community sign per ~~three hundred~~ (300) foot of  
26 road right-of-way and street name. Eight inch street names and numbers may be placed on top  
27 of these signs.

28 iii. Community signs shall be monument signs, limited to four ~~(4)~~ foot in height and ~~sixteen~~ (16)  
29 square feet in area. Community signs shall include eight ~~(8)~~-inch street numbers.

30 iii. Community signs may be two-sided providing each side is exactly the same and will count  
31 as only one side for sign allocation, and shall not contain any form of advertising.

32 iv. Community signs shall not be located in the side ~~p~~Peripheral ~~l~~andscape ~~s~~Strip area.

33 iv. Residential signs may not be internally lit. Community signs may have low level ground –up  
34 lighting providing the light does not illuminate above or beyond the sign. All lit signs must

1 comply with the County sea turtle lighting code and must provide two copies of the lighting  
2 plan to the County.

3 vi. Multifamily communities may have one ~~(1)~~ building wall or fence sign instead of a monument  
4 sign. Wall and fence signs shall be limited to ~~sixteen~~ (16) square ft. and shall include the 8  
5 inch street numbers. Wall signs shall not be located above the peak of the roof or highest  
6 constructive element. Wall signs shall not project horizontally beyond the building wall.

7 vii. Vacant property may have one ~~(1)~~ sign of ~~sixteen~~ (16) square feet.

8 (4) Nonresidential Signage

9 a. Each unit is allowed a sign allocation of ~~sixty~~ (60) square feet. ~~Monument signs are preferred.~~  
10 Free standing signs must be monument signs. Sign allocation may be flexible where monument  
11 signs are inappropriate due to parking viability requirements.

12 b. Each unit is allowed one ~~(1)~~ monument primary sign not to exceed 25 square feet. Non-  
13 residential primary signs shall include street name and numbers of eight (8) inches in height and  
14 may contain movable lettering. Eight inch street names and numbers may be placed on top of  
15 these signs. These street names and number shall not be calculated as part of the total allowed  
16 square footage.

17 c. Monument primary signs may be two-sided providing each side is exactly the same and will  
18 count as only one ~~(1)~~ side for sign allocation. No portion of any monument sign shall be allowed  
19 to encroach onto a private walkway or driveway or within the public right-of-way.

20 d. Each unit may have one ~~(1)~~ building sign that does not rise above the peak of the roof or  
21 highest constructive element and does not project horizontally beyond the end of the building  
22 wall. Building signs are limited to ~~thirty-two~~ (32) square feet per sign. The sign allocation for  
23 each property combined between wall and free standing sign shall be 60 square feet. No portion  
24 of any wall sign shall be allowed to encroach onto a private walkway or driveway.

25 e. Monument signs shall not be located in the peripheral landscape strip.

26 f. Wall signs shall not be located on the side or rear of a building which abuts to a residentially-  
27 zoned property.

28 g. Changeable copy signs are limited to a maximum of eight sq. ft. per sign face with a maximum  
29 letter height of eight inches and shall be included in the sign allocation. Sign face may be  
30 illuminated with low level internal lighting that does not create a problem for our turtle friendly  
31 neighborhood.

32 h. Only in MCG & MCT commercial zoning districts may existing pole or pylon signs installed  
33 before February, 2005 be replaced, and only when parking will obscure sign face of a  
34 monument signs.

- i. Banners, pendants, feather flags and sail flags in MCG & MCT commercial zoning districts, so long as they are sited on private property and do not fly over the public right of way, sidewalks or streets, and no more than one of these per 50 foot of frontage. No more than one of these allowed per 50 foot of frontage with a maximum of two per business property, and each banner, pendant, feather, flag and sail signs shall be no greater than 24 square feet, provided they may be flown no more than two times per calendar year and for no more than 30 days per permit. National and state flags are excluded from this requirement.
- d.j. Vacant property may have one sign of 16 square feet.

(5) Prohibited signs

- a. Neon, chasing, animated or flashing signs
- b. Signs that emit an audible sound or visible matter such as smoke or steam
- c. Billboards
- d. Portable illuminated signs, whirling signs, animated signs, or wind signs.
- e. Temporary signs placed on sidewalks or bike paths.
- f. Signs above the roof or mansard of the building.
- g. New pole or pylon signs, except as provided in (4)(h) above.
- h. Any sign prohibited by state or federal law.
- i. Any sign creating a traffic hazard by obstructing vision in any sight triangle.
- j. Any sign from preventing free ingress or egress from any door, window, fire escape or other entrance or exit to any building, or any sign attached to a standpipe or fire escape.
- k. Any sign that is obscene, such as a sign depicting nudity or sexual conduct.
- l. Any sign that constitutes a public nuisance, such as signs that produce hazardous amounts of glare, advertise an illegal activity, convey false information, or lead the public into errors of conduct, thought or judgment, especially by intentionally deceiving.
- m. Any sign that emits a sound, smell or smoke.
- n. Any sign that has been abandoned, including primary signs, unless the signs panel within the abandoned sign structure has been removed and replaced with a sign panel or neutral color containing no message.
- o. Any sign designed with mechanized or electric changeable copy to display more than one image on an ongoing basis where any information flashes, fades, dissolves, or scrolls or signs that move or create the illusion of movement, or signs that are or appear to be animated or projected.
- p. Any sign affixed to a tree or utility pole.

1 q. Portable signs which are manifestly designed to be transported as a trailer, on its own wheels  
2 even where the wheels may be removed and the remaining chassis may be permanently  
3 attached to the ground.

4 r. Primary signs with a noncommercial message.

5 s. Any off-premise sign.

6 e.t. Any vehicular sign located on a truck, bus, trailer, taxi or other vehicle used for the purpose of  
7 advertisement on private property or on the public right of way. The only exception is a vehicle  
8 used as transportation for the owner or employee of the business that is moved daily on and off  
9 the property.

10 (6) Street Signage. Traffic or other directional, way finding or traffic control signs or devices erected by  
11 any federal, state or local government shall be mounted on decorative poles and the back of the sign  
12 shall be painted black. Whenever such signs are for the benefit of or upon request by private  
13 development the sign and pole shall be paid by the project requesting or benefiting from the  
14 sign. Chanel poles are not permitted.

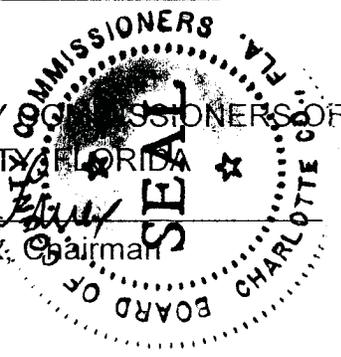
15  
16  
17 Section 2. Conflict with Other Ordinances. The provisions of this Ordinance shall  
18 supersede any provision of exiting ordinances in conflict herewith to the extent of said conflict.

19  
20 Section 3. Severability. If any subsection, sentence, clause, phrase, or portion of this  
21 Ordinance is for any reason held invalid or unconstitutional by any court of competent  
22 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and  
23 such holding shall not affect the validity of the remainder of this Ordinance.

24  
25 Section 4. Effective Date. This Ordinance shall take effect upon its filing with the Office  
26 of the Secretary of State, State of Florida.

1 PASSED AND DULY ADOPTED this 28<sup>th</sup> day of April, 2015.

2  
3  
4 BOARD OF COUNTY COMMISSIONERS OF  
5 CHARLOTTE COUNTY, FLORIDA  
6 By: William G. Truex  
7 William G. Truex, Chairman  
8  
9



9 ATTEST:  
10 Barbara T. Scott, Clerk of  
11 Circuit Court and Ex-Officio  
12 Clerk to the Board of County  
13 Commissioners  
14 By: Michele D. Beaudino  
15 Deputy Clerk  
16

17 APPROVED AS TO FORM  
18 AND LEGAL SUFFICIENCY:  
19 By: Janette S. Knowlton  
20 Janette S. Knowlton, County Attorney  
21 LR2015-3205  
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FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

May 1, 2015

Clerk of the Circuit Court  
Charlotte County  
18500 Murdock Circle, Room 416  
Port Charlotte, Florida 33948

Attention: Ms. Michelle DeBeradino

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2015-016, which was filed in this office on May 1, 2015.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



PUBLISHER'S AFFIDAVIT OF PUBLICATION  
STATE OF FLORIDA  
COUNTY OF CHARLOTTE:

Before the undersigned authority personally appeared Holly Vinacco, who on oath says that she is legal clerk of the Charlotte Sun, the Englewood Sun, and the North Port Sun, each a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Public Hearing, was published in said newspaper in the issue(s) of:

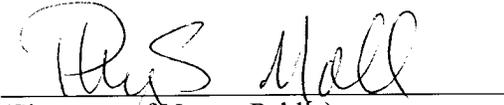
April 13, 2015

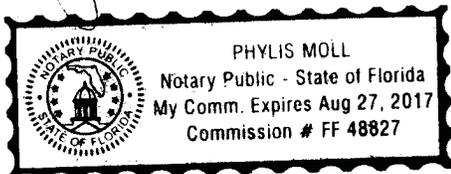
Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each publication day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

  
(Signature of Affiant)

\$ 503-

Sworn and subscribed before me this 13<sup>th</sup> day of April, 2015.

  
(Signature of Notary Public)



Personally known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

# NOTICE OF PUBLIC HEARING FOR ONE OR MORE OF THE FOLLOWING MATTERS: PROPOSED CHANGES TO THE FUTURE LAND USE MAP AND COMPREHENSIVE PLAN ELEMENTS, DEVELOPMENTS OF REGIONAL IMPACT OR CHANGES THERETO, REZONINGS, PRELIMINARY PLATS, STREET AND PLAT VACATIONS

A PUBLIC HEARING ON PROPOSALS AND PETITIONS AS DESCRIBED BELOW WILL BE CONDUCTED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING ON TUESDAY, **APRIL 28, 2015, AT 2:00 P.M.** OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD DURING THE COURSE OF ACTION. THE HEARING WILL BE HELD IN COMMISSION CHAMBERS, ROOM 119, FIRST FLOOR, BUILDING A, THE CHARLOTTE COUNTY ADMINISTRATION CENTER, 18500 MURDOCK CIRCLE, PORT CHARLOTTE, FLORIDA. THE BOARD IS NOT BOUND TO CONSIDER THE PETITIONS IN THE ORDER LISTED IN THIS NOTICE. ANY OF THESE PETITIONS MAY BE CONSIDERED AS SOON AS THE MEETING COMMENCES.

COPIES OF SAID PETITIONS WITH COMPLETE LEGAL DESCRIPTIONS AND SUBSEQUENT STAFF REPORTS WILL BE AVAILABLE FOR REVIEW AT THE CHARLOTTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT AND ALL CHARLOTTE COUNTY PUBLIC LIBRARIES. A MEETING AGENDA AND PETITION PACKETS MAY BE REVIEWED AT THE FOLLOWING INTERNET ADDRESS: <http://www.charlottecountyfl.gov/Pages/BCC-meeting-agendas.aspx>

ALL INTERESTED PERSONS ARE URGED TO ATTEND THESE PUBLIC HEARINGS. THE PUBLIC IS WELCOME TO SPEAK; THERE WILL BE A FIVE-MINUTE TIME LIMIT FOR EACH CITIZEN'S PRESENTATION ON AN AGENDA ITEM. IF YOU HAVE SPECIFIC QUESTIONS OR COMMENTS, YOU ARE ENCOURAGED TO CONTACT A STAFF PERSON AT ANY TIME IN ADVANCE OF THE PUBLIC HEARING(S). PLEASE CALL 941-764-4903 AND MENTION THE PETITION NUMBER OF THE MATTER YOU WISH TO DISCUSS.

## PETITIONS

### PA-14-09-14-LS

**Legislative** **Countywide**  
Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to 1) amend FLU Appendix I: Land Use Guide by revising the Mineral Resource Extraction (MRE) Future Land Use Map (FLUM) category, amending the "Requirements of the Plan Amendment" and the "Special Provisions" subsections of the MRE FLUM category; 2) replace the term "Group III excavation(s)" with "Commercial Excavation(s)" in the County's Comprehensive Plan; 3) amend FLUM Series Map #24: MRE Prohibited Locations to correct scrivener's errors; Petition No. PA-14-09-14-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

### Buffers, Landscaping, and Tree Requirements

**Legislative** **Countywide**  
An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Part III Land Development and Growth Management, Chapter 3-5, Planning and Development, of the Code of Laws and Ordinances of Charlotte County, Florida, by deleting Article XVIII Landscaping and Buffers; amending Chapter 3-2, Buildings and Building Regulations, of the Code of Laws and Ordinances of Charlotte County, Florida, by deleting Article IX Tree Requirements; and amending Article IV, Site Design Standards and Requirements of Chapter 3-9, Zoning, by creating new Section 3-9-100, Buffers, Landscaping and Tree Requirements, new Section 3-9-100.1, Buffers, new Section 3-9-100.2, Landscaping, and new Section 3-9-100.3, Tree Requirements; providing for revised buffers and landscaping requirements, standards, and maintenance; providing for revised tree requirements, standards, and maintenance; providing for conflict with other ordinances; providing for severability; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Section 3-9-69, Conditional Uses and Structures

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by revising Section 3-9-69, Conditional Uses and Structure; providing for revised conditions for boat, travel trailer and motor vehicle sales and rentals, including recreational vehicles and campers; providing for revised conditions for boat, travel trailer and motor vehicle repair and services, including recreational vehicles and campers; providing for revised conditions for noncommercial vehicle rental; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Section 3-9-77, Manufactured Homes and Recreational Vehicles

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by revising Section 3-9-77, Manufactured Homes and Recreational Vehicles; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Section 3-9-81, Patio Houses

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by revising Section 3-9-81, Patio Houses; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Section 3-9-86, Swimming Pools

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by revising Section 3-9-86, Swimming Pools; providing for revised location requirements; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Section 3-9-89, Visibility at Road Intersections

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by revising Section 3-9-89, Visibility at Road Intersections; providing for revised requirements regarding clear sight triangles; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Land Development Regulations Table of Contents

**Legislative** **Countywide**  
An Ordinance amending the Code of Laws and Ordinances of Charlotte County, Florida, Chapter 3-9, Zoning, by adding Article IV, Site Design Standards and Requirements; deleting Section 3-9-8, Establishment of Zoning Districts and Official Zoning Atlas; renumbering Section 3-9-9, Rules for Interpretation of District Boundaries to Section 3-9-8; renumbering Section 3-9-10, Legal Nonconformities to Section 3-9-9; and renumbering Section 3-9-11, Amendments to Section 3-9-10; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

### Revisions to Manasota and Sandpiper Key Zoning District Overlay

**Legislative** **Commission District III**  
An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9, by revising Section 3-9-50, Manasota Key Zoning District Overlay, and renaming this Section to Manasota and Sandpiper Key Zoning District Overlay; clarifying the intent and requirements of the code; adding back in provisions that were omitted in 2013 revisions; adding new provisions to address issues that have arisen during implementation of the code; making minor corrections and editorial changes; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

SHOULD ANY AGENCY OR PERSON DECIDE TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING, A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE, A VERBATIM RECORD OF THE PROCEEDING IS REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

# **Attachment 8: Sandhill Development Order, Resolution Number 2014-174**

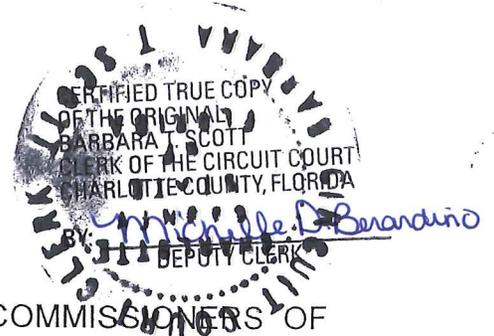
**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

RESOLUTION  
2014- 174



A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING RESOLUTION 2009-237, THE SANDHILL DEVELOPMENT OF REGIONAL IMPACT (DRI) DEVELOPMENT ORDER; FINDING THAT THIS AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on February 17, 1981, the Board of County Commissioners of Charlotte County, Florida ("Board") approved and adopted a Development Order ("DO") for the Sandhill Development of Regional Impact (DRI) Planned Development (PD-80-4), pursuant to Section 380.06, Florida Statutes; and

WHEREAS, Sandhill Properties requested changes to the Sandhill DO that were considered to be a Substantial Deviation from (PD-80-4), and an Application for Development Approval ("ADA") was submitted by Sandhill Properties on September 30, 1985 as well as two supplemental sufficiency responses; and

WHEREAS, on September 9, 1986, the Board approved and adopted Resolution 86-230 which amended the Sandhill DO (PD-80-4) adopted on February 17, 1981; and

WHEREAS, the Sandhill DO adopted by Resolution 86-230 was amended by various resolutions including, but not limited to, Resolution 86-325 on November 18, 1986; Resolution 87-07 on January 20, 1987; Resolution 87-156 on July 21, 1987; Resolution 87-289 on December 15, 1987; Resolution 88-56 on April 19, 1988; Resolution 88-57 on April 19, 1988; Resolution 88-235 on October 4, 1988; Resolution 88-282 on December 20, 1988; Resolution 89-42 on February 21, 1989; Resolution 89-90 on April 25, 1989; Resolution 89-324 on October 24, 1989; Resolution 89-330A on October 31, 1989; Resolution 90-258 on October 16, 1990; Resolution 91-99 on May 21, 1991; and Resolution 91-123 on June 18, 1991; and

WHEREAS, Wallace B. Hinshaw, Jr. and James E. Moore, III, as Trustees requested changes to the Sandhill DO which constituted a Substantial Deviation from the approved DRI and an ADA was submitted on October 23, 1991, as well as one supplemental sufficiency statement on February 10, 1992; and

WHEREAS, on December 15, 1992, the Board approved and adopted Resolution 92-285 which amended the Sandhill DO; and

WHEREAS, the Sandhill DO adopted by Resolution 92-285 was amended by various resolutions including, but not limited to, Resolution 93-59 on May 4, 1993; Resolution 97-0610A0 on July 15, 1997; Resolution 2002-064 on May 28, 2002; Resolution 2002-178 on November 12, 2002; Resolution 2003-028 on February 11, 2003; Resolution 2006-026 on February 21, 2006; Resolution 2006-027 on February 21, 2006, Resolution 2006-173 on September 19, 2006; Resolution 2006-212 on November 21, 2006; Resolution 2007-112 on August 14, 2007; Resolution 2007-161 on October 16, 2007; Resolution 2008-029 on March 18, 2008; Resolution 2008-158; Resolution 2009-237; and as amended herein.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Sandhill DRI, as described in Exhibit "A" attached hereto and incorporated herein by this reference, is not in an area of critical State concern designated pursuant to the provisions of Section 380.05, F.S.
2. The proposed development does not unreasonably interfere with the achievement of the objectives of any adopted State land development plan applicable to Charlotte County.
3. The granting of the requested amendment to the Development Order as described in Revised Map H submitted by the applicant, attached as Exhibit "B" hereto, is consistent with the local Land Development Regulations, the local Comprehensive Plan, the State Land Development Plan and the State Comprehensive Plan.
4. Section 3-9-49 of the Charlotte County Code requires final development plan approval prior to the issuance of construction or other permits by Charlotte County consistent with the Concept Plan and conditions attached hereto and establishes the standards and requirements for the approval of a final development plan.
5. A Municipal Service Taxing Unit has been established, pursuant to Ordinance 86-68 as amended by Ordinance 90-45, for the whole project area to meet the requirements for essential services and municipal services and capital improvements. In addition, right-of-way dedications listed pursuant to Resolution 86-230 have been made.
6. The removal of phasing within the Sandhill DRI as authorized pursuant to the Development Order as amended, and amended herein, permits the Master Plan submitted for the DRI, and in accordance with Capital

Improvements commitments and funding made through the MSTU/BU established for the overall DRI, as well as commitments through developer agreements and designated improvements under the Charlotte County Comprehensive Plan. It is consistent with all conditions and commitments made within the original Development Order for the Sandhill DRI, as amended by Resolution 86-230 and as amended herein:

7. The Sandhill site contains 713.12± acres with the land use distributed and approved as follows:

Residential	<u>154.84</u> <del>138.59</del> acres	<u>2626</u> <del>2600</del> units
***Commercial	<u>249.39</u> <del>242.91</del> acres	2,008,800 gross square feet
Hotel/Motel		120 units
*Research & Development	4.2 acres	42,000 gross square feet
Golf Course	<del>84.09</del> acres	
**Park/Public/Semi-Public	<u>44.35</u> <del>50.18</del> acres	65,000 gross square feet
Lake	61.4 acres	
Public	2.6 acres	
Mitigation	84.7 acres	
Preservation	6.55 acres	
Roads	37.9 acres	
Nursing Home/ACLF	19.56 acres	458 beds
Industrial	47.64 acres	<u>365,000</u> gross square feet
Retail Parking Spaces		8,030

\*261,000 gross square feet of the originally approved Research and Development gross square footage was analyzed as commercial retail for traffic purposes

\*\*Building area only applies to Tract 2 Public/Semi-Public 24.78 acres for government offices

\*\*\*On Parcel C-24 of Tract 2, 17,000 square feet of commercial and 120 hotel/motel units.

NOW THEREFORE, be it resolved that the Sandhill DO is deleted in its entirety and replaced with the following:

A. Drainage/Water Quality:

Condition 2. Drainage/Water Quality:

(1) Subsequent to the issuance of Amended Development Order pursuant to Resolution #86-230, the Sandhill Master

Drainage Plan has been submitted and approved by the Southwest Florida Water Management District (SWFWMD), and the Sandhill MSTU/BU is in place with authorization to assess the properties in the DRI for drainage improvements. For each sub-basin, the following has been completed:

- (a) Detailed survey, design and analysis of downstream discharge capabilities;
  - (b) Submission of the information and design to the County engineer for review and approval;
  - (c) Approval of the construction and funding for the drainage facilities as necessary by the Sandhill MSTU/BU or developer.
- (2) Individual sites will not be approved for stormwater by Charlotte County until any and all downstream facilities for each sub-basin related to that site are in place and certified as proper and functional by an engineer of record registered in the State of Florida except on-site stormwater retention for individual properties will be permitted as a temporary means of accommodating stored drainage provided that they be designed to tie into the master drainage system as soon as downstream facilities are in place.
  - (3) All costs for surveying, engineering and monitoring shall be assessed through the MSTU/BU on a sub-basin basis. Where benefit accrues to a sub-basin, that cost shall not be assessed on parcels outside the sub-basin, however, the benefit shall be assessed on a fair proportionate basis on all parcels in the sub-basin including parcels owned by the government.
  - (4) Prior to any construction associated with this substantial deviation, the applicant shall be required to receive written notice from the Southwest Florida Water Management District stating that the proposed changes do not require a modification of the previously issued conceptual permit or shall obtain such modified permits as required.
  - (5) The development parcels near the roosting area within Tract 2, which includes parcel C-13 as shown on Revised Map H (attached hereto and by reference incorporated herein), shall have shielded lighting (i.e., no spotlights or overhead dusk to dawn lights which may light up the roosting area).

- (6) Any site development plan for the public/semi-public that provides for government office space as herein otherwise permitted near the roosting area shall be reviewed by Charlotte County, the Florida Fish and Wildlife Commission and the Southwest Florida Regional Planning Council for potential impacts to the roost site.

Passive types of recreation shall be encouraged near the roosting area, notwithstanding the development of government office space.

- (7) In order to provide an added buffer to the roosting area, the oak hammock located in the public/semi-public park area on the eastern edge of the roost shall be preserved and, if possible, a fringe of oaks shall be preserved in parcel C-22, and if not possible, there shall be mitigation at the time of final plan approval by providing additional vegetation in the public/semi-public parcel to provide a visual buffer, however, cross access of sixty feet (60') shall be permitted through parcel C-22, parallel to Kings Highway.
- (8) Implementation of the Southwest Florida Water Management District permit requires buffering of existing and created wetlands and the creation of three islands which are intended to function like the existing willow-heads to provide a visual barrier to wetlands and nesting and roosting areas for wading birds.
- (9) All of the wetlands shall be incorporated into the overall design of the project surface water management system.
- (10) Restoration of hydroperiod to wetlands which have been partially drained by past activities.
- (11) The building site and stormwater management system for the automotive convenience maintenance service shall be designed to include appropriate structural elements such as oil water separators, spill containment barriers, sediment collectors, and detention areas to prevent, to the greatest extent technically feasible, automobile generated pollutants from entering receiving bodies. Furthermore, a regular monitoring and maintenance program shall be established by the applicant (developer of the individual site) to ensure that the proper storage and treatment functions of the

stormwater management system are maintained, in accordance with the SWFWMD permit.

- B. Energy: The development as proposed would be an all electric development and would increase the energy demands of the region. The applicant has committed in the ADA to provide a variety of energy conservation measures to reduce the impact of that increased energy demand.

Conditions:

As a condition precedent to final detail plan and development plan approval, the applicant shall include the following energy conservation features in the final site plans and architecture for Sandhill Properties:

- (1) Provision of a bicycle/pedestrian system connecting land uses, to be placed along arterial and collector roads within the project, which system is to be consistent with Charlotte County requirements, and provision for bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.
- (2) Use of energy-efficient features in window design (e.g. tinting and exterior shading).
- (3) Reduced coverage by asphalt, concrete, rock, and other similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
- (4) Installation of energy-efficient lighting for streets, parking areas, recreation areas, and other in exterior public areas.
- (5) Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) (as specified in the Water Conservation Act, Chapter 553.14, F.S.)
- (6) Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.
- (7) Planting of native shade trees to provide reasonable shade for all recreation areas, streets, and parking areas, and placement of trees to provide needed shade in the warmer

months while not overly reducing the benefits of sunlight in the cooler months.

- (8) Planting of native shade trees for each residential unit.
- (9) Orientation of structures as possible to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- (10) Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.
- (11) Inclusion of porch/patio areas in residential units.
- (12) Cooperation in the locating of bus stops, shelters, and other passenger and system accommodations for any transit system to serve the project area.
- (13) Use of operable windows and ceiling fans.
- (14) Installation of energy-efficient appliances and equipment.
- (15) There shall be no deed restrictions or covenants that would prevent or unnecessarily hamper any of the conservation efforts.

C. Fire Protection:

Conditions:

- (1) As a condition precedent to any detail plan and development plan approval, the developer must obtain from the Charlotte County fire official and, if it has not been consolidated with the County, the representative of the Harbour Heights Fire District, certification that the facilities, equipment and full time paid manpower necessary to provide adequate fire protection to the development will be available to service that portion of the development for which approval is sought. In determining whether to issue such certification, a determination shall be made of whether sufficient revenue will be available from the District's special fire assessment, or from any successor fire assessment district in which the development is included, or from an MSTU set up for this purpose to meet the costs of the additional facilities, manpower, and equipment, and in the event projected

revenues from the subject development are not sufficient, the developer may enter into an agreement with the County, in a form found to be sufficient by the County Attorney, to contribute the additional funds needed. If the County Impact Fee Ordinance is amended to include a public safety component, the developer shall be subject to that component.

- (2) Fire sprinklers shall be included in the commercial and research and development areas, and the common areas of the residential buildings.

- D. Flood Plain/Hurricane Evaluation: The project area has a natural elevation above the category 3 storm surge height (19.0 feet MSL). Furthermore, any community/recreation buildings with onsite shelter potential will have a minimum first floor elevation of 20 feet MSL. The potential for onsite public use areas to serve as areawide hurricane evacuation shelter would provide a use of regional benefits:

Condition:

- (1) The applicant shall meet with Charlotte County Emergency Management to identify those public areas to be used as shelters.

- E. Solid Waste: The project will generate about 37.5 tons of solid waste per day at build out, which will place additional demand on the Charlotte County landfill. The increased size of the commercial uses and the addition of a research and development use could generate significant amounts of hazardous wastes.

Condition:

- (1) As a condition precedent to detail plan and development plan approval, the applicant shall submit to all appropriate local, state and federal agencies for prior approval a plan identifying the proper onsite handling procedures and temporary storage facilities for any generated on site, in accordance with local regional and state hazardous waste programs; this plan shall indicate how the applicant and subsequent tenants will carry out these procedures and maintain these storage facilities.

- F. Wastewater: The applicant estimates the project will generate about 1.31 million gallons per day of waste water at build out. The applicant has committed not to use septic tanks on the project. The addition of a research and development use and the expansion of the commercial use may change the character of the waste water.

Conditions:

- (1) Consistent with the original development order, as a condition precedent to detail plan and final development plan approval, the applicant must obtain a letter of commitment to serve the project throughout its life prior to construction of each phase or year.
- (2) As a condition of detail plan and final development plan approval, the applicant shall indicate how any waste water containing hazardous waste will be segregated from every day wastewater.

- G. Water Supply: Total potable water demands for the project will be according to the applicant 1.7 MGD.

Conditions: As a condition precedent to detail plan and development plan approval:

- (1) The applicant shall demonstrate to Charlotte County and the Southwest Florida Water Management District, through letters of commitment, that adequate water supplies are available for that respective portion of construction throughout the life of the project.
- (2) The applicant shall demonstrate to Charlotte County that a modification to the existing Consumptive Use Permit has been granted by SWFWMD as stipulated within Chapter 40D-2, F.A.C.
- (3) The lowest quality of water possible and appropriate shall be utilized for all non-potable water use.
- (4) Water conservation measures and practices shall be utilized. At a minimum, water conservation devices as described within the Water Conservation Act must be used; landscape irrigation shall be restricted to the hours of 5:00 P.M. to 9:00 A.M. after the establishment of landscaping, the non-potable water sources and/or reuse shall be utilized.

- H. Education: The Sandhill DRI will add an estimated 1,256 students to the Charlotte County School System, which are expected to enter Charlotte County schools at a fairly constant rate of 83 students per year. The School Board is under contract to purchase an elementary school site at a cost of \$123,800 with a capacity for 600 students that will serve the Sandhill DRI.

Condition: Prior to final building inspection and issuance of Certificate of Occupancy for residential units, the developer shall contribute the sum of \$26, plus 5% for each year payment is made after 1987, per unit to offset the elementary school acquisition costs; this contribution shall be paid to the Zoning Director. In the event an Impact Fee Ordinance component for schools is established, the developer shall be subject to that component in lieu of this contribution for schools.

- I. Transportation:

Condition 12. Transportation

- (a) Site Related Improvements – The property owners and their successors within Sandhill shall be responsible for their site-related roadway and intersection improvements required within the Sandhill DRI. The property owners or their successors shall be required to pay the full cost for any of their site-related intersection improvements (including but not limited to signalization, turn lanes and additional through lanes) found to be necessary by Charlotte County or the Florida Department of Transportation (FDOT) for the project's access intersections. The MSTU/BU, which has been created for Sandhill, shall be responsible for funding the cost of an Interchange Modification Report, when needed, as shown by the biennial monitoring report, to identify any improvements to the interchange.
- (b) Significant Impacts – Contributions shall be made by the property owners in Sandhill through impact fees and by Charlotte County in order to provide the necessary transportation improvements, including design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain the adopted level of service for the

following significantly impacted regional and local roadways through project buildout on March 2, 2012.

(1) Regional Road Segments

Kings Highway

-DeSoto County line to Sandhill Boulevard: 4 lanes (2 additional lanes)

-Sandhill Boulevard to I-75: 6 lanes (2 additional lanes)

-I-75 to Hillsborough Boulevard: 8 lanes (4 additional lanes)

-Hillsborough Boulevard to Midway Boulevard: 6 lanes (2 additional lanes)

Hillsborough Boulevard

-Kings Highway to Peachland Boulevard: 6 lanes (2 additional lanes)

-Peachland Boulevard to Murdock Circle: 4 lanes (2 additional lanes)

I-75 ramps

-Kings Highway to southbound lanes: 2 lanes (1 additional lane)

-Southbound lanes to Kings Highway: 2 lanes (1 additional lane)

-Northbound lanes to Kings Highway: 3 lanes (2 additional lanes)

Local Road Segments

Peachland Boulevard

-Loveland Boulevard to Yorkshire Street: 4 lanes (2 additional lanes)

Sandhill Boulevard

-Kings Highway to Deep Creek Boulevard: 4 lanes (2 additional lanes)

Rampart Boulevard

-Rio de Janeiro Avenue to I-75: 4 lanes (2 additional lanes)

-I-75 to Kings Highway: 6 lanes (4 additional lanes)

(2) Regional Intersections

Kings Highway/Sandhill  
-Signalization/turn lanes

Kings Highway/I-75 NB Ramps  
-Signalization/turn lanes

Kings Highway/I-75 SB Ramps  
-Signalization/turn lanes

Kings Highway/Hillsborough Boulevard  
-Turn lanes

Kings Highway/Rampart Boulevard  
-Turn lanes

Kings Highway/Midway Boulevard  
-Turn lanes

Hillsborough Boulevard/Peachland Blvd.  
-Signalization/turn lanes

Hillsborough Boulevard/Loveland Avenue  
-Turn lanes

Hillsborough Boulevard/Harbor Boulevard  
-Signalization/turn lanes

#### Local Intersections

Peachland Boulevard/Loveland Avenue  
-Signalization/turn lanes

Peachland Boulevard/Orlando Avenue  
-Turn lanes

Peachland Boulevard/Harbor Boulevard  
-Signalization/Turn lanes

Midway Boulevard/Loveland Avenue  
-Turn lanes

Midway Boulevard/Beacon Avenue  
-Turn lanes

Midway Boulevard/Conway Boulevard

-Turn lanes

Midway Boulevard/Harbor Boulevard

-Turn lanes

Significant Impacts – The estimated cost of construction of the above road links and intersection improvements is \$20,980,000. These improvements would serve Sandhill at buildout in the year 2012 and serve the projected growth in the surrounding area. The proportionate share of Sandhill's impact of the above improvements is:

Link-Related	\$7,600,150
Intersection-Related	\$1,697,850
Total Project Impacts	\$9,298,000

- (c) Mitigation – As mitigation for the above transportation impacts of the Sandhill DRI, the property owners or their successors shall pay Charlotte County road impact fees in effect at the time building permits are issued pursuant to the Charlotte County Road Impact Fee Ordinance. (Road impact fees are estimated to generate \$10,205,126. In addition, \$1,324,214 of right-of-way donation has been received by Charlotte County. Total project contributions towards needed road improvements are estimated to be \$11,529,340.)

As mitigation for transportation impacts of the 514,500 square feet of commercial retail uses approved for parcels C-21, C-25 and C-1 ("Charlotte Commons Parcels") within Tract 1 as depicted on Revised Map H, the property owners or their successors shall design, permit and construct the following improvements (the "Improvements"):

Kings Highway and Veterans Boulevard  
(Assume Kings Highway is East-West and Veterans Boulevard is North-South)

1. Add an exclusive Southbound through lane.
2. Add an exclusive 2<sup>nd</sup> Eastbound left turn lane
3. Add a receiving Eastbound through lane (Length approximately 800 ft from Veterans Blvd to I-75)
4. Add an exclusive 2<sup>nd</sup> Westbound right-turn lane

5. Mill and resurface the existing Eastbound right-turn lane to convert to a shared Eastbound through/right-turn lane
6. Signal Upgrade

Peachland Boulevard and Veterans Boulevard  
(Assume Peachland Boulevard is East-West and Veterans Boulevard is North-South)

7. Add an exclusive Southbound left turn lane.
8. Add an exclusive Southbound through lane (completed)
9. Add an exclusive 2<sup>nd</sup> Eastbound right turn lane
10. Add an exclusive 2<sup>nd</sup> Northbound left turn lane
11. Upgrade Westbound approach (completed)
12. Signal Upgrade
13. Interconnect

Additionally, the property owners of the Charlotte Commons Parcels or their successors shall:

- 1) Pay Charlotte County road impact fees equal to the total cost of the design, permitting, construction and construction management of the Improvements including interest costs of any construction loan.;
- 2) Provide stormwater drainage and retention for the Improvements within the Charlotte Commons Parcels' stormwater facilities or within the Sandhill DRI stormwater basins.
- 3) Submit design plans for Improvements numbered 1, 2, 4, 6, 7, 9, 11 and 12, above ("Phase I Improvements"), as part of its first submittal to the Development Review Committee for approval of any portion of up to 100,000 square feet of commercial space.
- 4) Submit design plans for Improvements numbered 3, 5, 8, 10, and 13 above ("Phase II Improvements"), as part of its first submittal to the Development Review Committee for approval of any portion of commercial space in excess of 100,000 square feet.
- 5) Prepare, submit and process all necessary permits from local, state and federal agencies for the

Improvements. If wetlands are impacted by the design for the Improvements, the property owners of the Charlotte Commons Parcels shall obtain the necessary local, state and federal permits for such impacts. All permit fees, application fees, administration fees and other expenses will be documented to Charlotte County.

6) Commence Phase I Improvements within 24 months from May 4, 2008.

The approved 514,500 square feet may be constructed in two phases. Phase I shall consist of not more than 100,000 square feet of commercial space. No certificate of occupancy for any portion of the 100,000 square feet of Phase I development shall be issued until the Phase I Improvements are complete. Phase II shall consist of not more than 414,500 square feet of commercial space. No certificate of occupancy for any portion of the 414,500 square feet of Phase II development shall be issued until the Improvements are complete.

The property owners of the Charlotte Commons Parcels or their successors may use such County property as is necessary to design, permit, install, construct and complete the Improvements.

If wetlands are impacted by the design for the Improvements, impacts shall be mitigated. Those mitigation costs attributable to the Improvements will be paid solely and directly by the County.

The property owners of the Charlotte Commons Parcels or their successors will prepare and administer the bid package for construction of the Improvements in coordination with the County Engineer and will notify the County Engineer upon the selection of the qualified lowest contractor bid.

The property owners of the Charlotte Commons Parcels or their successors shall receive road impact fee credits equal to the total cost of the design, permitting and construction of the Improvements including interest costs of any construction loan. The County shall be provided with an updated estimate of

costs concurrent with notification to County of the qualified lowest contractor bid.

The property owners of the Charlotte Commons Parcels or their successors shall submit monthly invoices to County. The invoices shall be subject to review and verification by the County Engineer. Impact fee credits shall be issued by County within thirty (30) days of submission of each monthly invoice. Any amounts that remain uncredited following said 30 day period shall bear interest at the prime rate published from time to time by Wells Fargo Bank.

Road impact fee credits shall only be applied to offset the road impact fees due for development of the Charlotte Commons Parcels and shall not expire. The road impact fee obligation for the Charlotte Commons Parcels shall be equal to the total cost of the design, permitting, construction and construction management of the Improvements including interest costs of any construction loan.

If the Improvements are provided as detailed herein, the Charlotte Commons Parcels shall be deemed vested to construct 514,500 square feet of commercial/retail uses, consistent with any subsequently approved Final Detail Plan.

7) As mitigation for development of Parcels 5-19B, C, F, G, I J K and L with 43,000 square feet of commercial development, 458 assisted living and memory care beds, 365,000 square feet of industrial development and 650 multi-family dwelling units or other development consistent with this Sandhill DRI Development Order that will generate not more than 4,419 net new external trips, the developer shall comply with the terms of the Development Agreement attached as **Exhibit "F"** hereto and incorporated herein by this reference.

- (d) Monitoring – The timing for the initiation of the improvements outlined in Condition 12 (b) above shall be made at the time that a road segment or intersection is projected to exceed the level of service standard adopted in the local comprehensive plan.

To determine the existing and projected levels of service on regional and local facilities in need of improvements in a timely manner, the Sandhill DRI through the Sandhill MSTU/BU shall submit a biennial monitoring report to Charlotte County, FDOT, the Florida Department of Community Affairs and the Southwest Florida Regional Planning Council for review and approval. This first monitoring report shall be submitted one year after the issuance of this development order for the Sandhill DRI Substantial Deviation and every two years thereafter until after buildout of the project in year 2012 2017.

At a minimum, the report shall contain p.m. peak hour trip generation estimates and turning movements at each of the access intersections and the off-site intersections listed above in Condition 12 (b)(2), and a calculation of the peak season peak hour level of service at these intersections and on the road segments indicated above Condition 12 (b)(1). The levels of service shall be calculated according to current professional standards. Prior to submitting each biennial monitoring report, the property owners shall coordinate with the reviewing agencies to review the methodology. The applicant will furnish all traffic analysis in a format compatible with Charlotte County's Comprehensive Plan, Traffic Element, Policy 1.1 and Charlotte County's Concurrency Management System; that is traffic data in the format of "Average Daily Trips" and "Peak Season/Peak Hour".

The biennial monitoring report shall, in addition to current counts and traffic information, provide a projection of project traffic for the following year to be based on anticipated construction for the same period of one year on all of the above listed regional roads and intersections. The projection will include traffic generated by all of the completed project development, all of the portion of the project for which building permits have been issued, and the amount of project development for which the property owners intend to seek building permits in the following year. Also, the biennial monitoring report should indicate the status of those road improvements from the County's Capital Improvements Element that were assumed to be committed for this analysis.

- (e) If the analysis from the biennial monitoring report indicates that any of the identified roadways now exceeds or will exceed during the next year the level of service standards adopted by the County and the project is utilizing or is projected to utilize more than 5% of the level of service "D" capacity for urban areas or "C" for rural areas, then further building permits shall not be granted, with the exception of building permits for up to 514,500 square feet of commercial retail or less intense development on parcels C-21, C-25 and C-1 within Tract 1 as shown on Revised Map H, until the standards of the County's concurrency management system have been met and the affected roadway improvement, as identified in this Development Order, is listed as committed for construction based on the criteria listed below.

No building permits for developments beyond those projected in the biennial monitoring report shall be issued until the next biennial monitoring report with projections is performed.

A committed roadway improvement for the purpose of meeting the requirements of Section 380.06(15) (e)2., Florida Statutes, shall be recognized as either:

- 1) A roadway improvement scheduled for construction to commence in or before the first year of the appropriate local government's Comprehensive Plan capital improvement element. A roadway improvement scheduled for construction to commence in or before the third year of Charlotte County's Comprehensive Plan capital improvements element will be recognized as a committed roadway improvement; with no additional amendment to this Development Order required, when Charlotte County amends its adopted comprehensive plan and the comprehensive plan amendment is found to be in compliance by final agency action with Rule 9J-5.0055(2)(c), Florida Administrative

Code, except insofar as (2)(c) would allow concurrency to be satisfied by using the provision in Rule 9J-5.0055(2)(a)1. - 4, Florida Administrative Code or Rule 9J-5.0055(2)(b)1. and 2., Florida Administrative Code.

- 2) A roadway improvement scheduled for construction within the first three years of the Florida Department of Transportation's Five Year Work Program; or
- 3) Any alternative agreed upon by the Charlotte County, SWFRPC, FDCA, and the property owners in Sandhill. The property owners have the right to propose as an alternative, the use of a Local Government Development Agreement pursuant to Section 163.3220, Florida Statutes, which contains commitments by the property owners (potentially including a proportionate share payment) and the local government to provide the necessary improvements which ensures concurrency on all significantly impacted regional and local roads and intersections. As an alternative, the MSTU/BU may provide the necessary improvements pursuant to the above described agreement. Any agreed upon alternative shall be incorporated into this Development Order by amendment pursuant to the procedures set forth in Section 380.06(19), Florida Statutes.

- (f) The location of individual access points to the project shall be determined in consultation with the County Engineer's Department prior to submission of detail plans for approval; access points and curb cuts onto public roads shall be minimized and arterial and collector roads within the project should be constructed to minimize the need for offsite circulation, and an interior roadway and frontage road

concept should be utilized within the commercial and research and development areas to enable access to adjoining development without accessing existing streets.

- (g) Parcel C-22 (Parcel 4 in Comprehensive Plan Amendment) shall not have direct access onto Kings Highway; Parcel C-13 (Parcel 5 in Comprehensive Plan Amendment) shall be allowed access in compliance with the Charlotte County Access Management Ordinance; Parcel C-25 shall have direct access onto Loveland Boulevard, however all truck access from Parcel C-25 onto Loveland Boulevard shall be prohibited.

J. Master Concept Plan:

- (1) The Sandhill DRI Master Concept Plan is approved and is attached and incorporated herein as Exhibit "B", Revised Map H, December 6, 2007 Attachment "B" as incorporated into Resolution #86-230 is hereby null and void. Exhibit C provides a site plan that illustrates the area of the Public/Semi-Public section in which government office buildings are permitted.

- (a) All commercial areas are to be restricted to uses permitted in the CG (Commercial, General Classification) of the Charlotte County Zoning Regulations and all listed special exceptions, excluding multi-family, schools and flea markets, and billiard parlors and game arcades, in effect as of the date of Development Review Committee site plan approval, with the exceptions of Parcel 5-19A which shall be restricted to uses permitted in the CN (Commercial, Neighborhood Classification) of the Charlotte County Zoning Regulations, in effect as of the date of Development Review Committee site plan approval and portions of Parcels C-21 and C-25 as depicted on Map H-1, attached as Exhibit "D" hereto, which shall be restricted to uses permitted in the CG (Commercial General Classification) or the following uses:

1. Equipment rental;

2. Wholesale sales;
3. Car wash;
4. Mini-warehouses or storage facilities, but not bulk storage of flammable liquids;
5. Laboratories, class 3, provided central sewer is available;
6. Automobile rental agencies located on a parcel no larger than 1.5 acres;
7. Light manufacturing and assembly in a completely enclosed building;  
and
8. Carpentry, cabinet and machine shops in a completely enclosed building,

and adding as a use "automotive convenience maintenance service" to the commercial general areas which would include; cleaning windshields, checking tire pressure, filling the fluid reservoirs and battery, changing lubricants and filters and replacing bulbs and other items that require periodic maintenance. The uses permitted are subject to the following requirements:

- (i) The landscaping plans for perimeter landscaping of all street parking areas and interior landscaping for drive-thru restaurants and gasoline pumping stations shall be in compliance with regulations in existence at the time of local permitting.
- (ii) All signage shall be in compliance with existing regulations at the time of permitting.
- (iii) The internal circulation system shall comply with regulations in effect at the time of permitting.

- (iv) All perimeter interior landscaping, interior circulation system and signs shall be consistent with the regulations in effect at the time of permitting.
  - (v) All light manufacturing and assembly uses and all carpentry, cabinet and machine shops shall be limited to those internal locations depicted on Map H-1, attached as Exhibit "D" hereto.
- (b) Research and development areas to be restricted to uses found in the OMI (Office, medical, institutional) zoning classification as of the date of Development Review Committee site plan approval and to light manufacturing in completely enclosed buildings and warehousing.
  - (c) Substantial buffers shall be provided to protect residential areas from the research and development sites.
  - (d) Development standards are to be provided to the Zoning Director and Planning Director for review prior to final detail plan submissions.
  - (e) All wetlands shall be preserved, or, when preservation is not possible, mitigated on a one-to-one basis.
  - (f) Upland areas which are considered to be important habitat or quality passive recreational sites, including, but not limited to, oak hammocks, shall be identified by the appropriate County employee and the developer prior to site planning. These areas shall be the primary consideration for recreation and/or preservation of natural areas of each development stage. Evidence of compliance with this item shall be the burden of the developer.
  - (g) Phasing of recreation areas shall be by section and allocated proportionately to each multi-family project.
  - (h) All costs for maintaining and installing additional recreation facilities are to be borne by the developer and/or MSTU/BU. The MSTU/BU was established

by December 31, 1986, and the costs for maintaining the public park and open space areas may be funded through it. A site and design plan shall be submitted to Florida Power and Light for approval for those areas within its easement. The 24.78 acre public/semi-public parcel in Tract 2 is excluded from this section and the County shall provide facilities and maintenance as specified in the Agreement for Park and Surface Water Management Retention Area.

- (i) The Planned Development stipulations and the conditions of this development order are to run with the land.
- (j) The lands designated as mitigation on Revised Map H are those lands in the Water Management District permit that are or will be part of the surface water management system and includes but is not limited to preservation of existing wetlands and mitigation wetlands to be created in the future. Although the precise boundaries of the mitigation areas will be established at the time of final plan approval, the acreage figures are binding.
- (k) Land uses may be increased or decreased in conformance with the Equivalency Matrix in Exhibit "E" attached hereto and incorporated herein by this reference. Pursuant to §380.06(19)(e)2. Fla. Stat., such increases and decreases, which will not increase the number of external peak hour trips and which do not reduce open space and conserved areas within the project shall not be deemed to be a substantial deviation and shall not require the filing of a notice of proposed change but shall require an application to Charlotte County to amend the development order. Following adoption, Charlotte County shall render to the state land planning agency the amendment to the development order.
- (l) Lands designated as Industrial on Revised Map H are limited to the Permitted Uses and Structures set forth in Sec. 3-9-43(b) of the Land Development Regulations, as they may be amended from time to time, with the addition of laboratories, class 1, 2, 3 and outdoor storage yard which shall also be

permitted as conditional uses and with the exception of the following uses which shall be prohibited: biofuel production, dairy, grain, fruit, field crop and vegetable processing, industrial marina, mass transit stations and sexually oriented business.

K. Phasing:

Specific properties in land uses incorporated into the Sandhill DRI shall submit detailed preliminary and final plans in accordance with Charlotte County Zoning Regulations as governed by the conditions and commitments contained herein.

L. Housing:

Charlotte County has completed an affordable housing study as a prelude to updating the Housing Element of its Comprehensive Plan in 2010. The study was prepared by Novogradac and Company, LLP and is dated February 6, 2007. Any appropriate mitigation required within the Sandhill DRI as a result of the study shall be reviewed as a notice of proposed change by the Southwest Florida Regional Planning Council.

M. The existing procedures for the granting of building permits being adequate to insure compliance with this order, the Director of Zoning, the Director of Planning, the County Energy Officer, the Director of Building and the County Engineer are designated as the local officials responsible for insuring compliance.

The developer's biennial report required by Chapter 380, Florida Statutes, shall contain copies of all documents filed with the County in connection with final development approval and, after final development approval, shall contain a report by date and filing number of all building and other permits applied for and a statement of all acts taken toward compliance with the conditions of the final development approval and all information required in section 9B-16.25, F.A.C. The developer shall submit the report beginning October 1, 1987 and each subsequent October 1, until project build-out. The developer shall submit the biennial report to Charlotte County, the Southwest Florida Regional Planning Council, the Department of Community Affairs, and all affected State permitting agencies. If the biennial report is not received, the Southwest Florida Regional Planning Council or the Department of Community Affairs shall notify Charlotte County. If Charlotte County does not receive the biennial report or receives notification that the Southwest Florida Regional Planning Council or the

Department of Community Affairs has not received the report, Charlotte County shall request in writing that the developer submit the report within 30 days. Failure to submit the report after 30 days shall result in Charlotte County temporarily suspending this Development Order. This report shall specify the number of parking spaces approved for the commercial and research and development uses.

- N. This order shall terminate July 3, 2017 ~~March 1, 2012~~, or upon the completion of the project, whichever shall have occurred first. This Order shall become effective on the 9<sup>th</sup> day of September, 1986.
- O. The developer shall cause to be filed in the public records such notice as will inform prospective purchasers of this Development Order and the conditions established herein for detail plan and final development plan approval, including required reassessments and review.
- P. Legal effect and limitations of this development order and administrative requirements

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Charlotte County, Florida that:

- A. This Resolution shall constitute the Amended Development Order of this Board issued in response to the Development of Regional Impact known as the Sandhill DRI.
- B. All commitments and impact mitigating actions committed to by the project in the original Development Order, subsequent Resolution #86-230, within the September 30, 1985 and October 25, 1991 Substantial Deviation Applications for Development Approval (and supplementary documents) not in conflict with the conditions or stipulations specifically enumerated herein are hereby incorporated to this Amended Development Order by reference.
- C. The terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Amended Development Order.
- D. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorneys' fees, shall be paid by the defaulting party.

E. Any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor-in-interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

F. In the event that any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect.

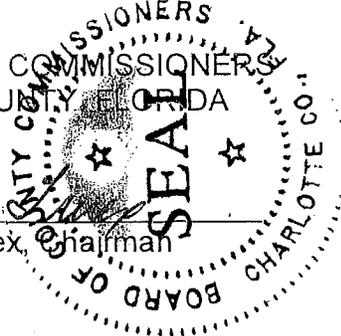
G. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the applicant to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the applicant to comply with any County ordinance or other regulations not in conflict with the provisions herein adopted after the effective date of this Amended Development Order.

H. The Clerk of the Circuit Court is hereby directed to forward a certified copy of this resolution and its attachments to ~~Daniel L. Trescott~~, the Southwest Florida Regional Planning Council, 1926 Victoria Avenue, Fort Myers, FL 33901-3414, ~~Suzanne Lex~~, the ~~Department of Community Affairs, 2555 Shumard Oak Boulevard, State of Florida, Department of Economic Opportunity, Division of Community Planning & Development, The Caldwell Building MSC 160, 107 East Madison Street, Tallahassee, FL 32399~~ and to ~~Seann Smith~~ ~~DRI Coordinator~~, Jie Shao, Charlotte County Community Development Department, 185400 Murdock Circle, Port Charlotte, FL 33948.

PASSED AND DULY ADOPTED this 9<sup>th</sup> day of December, 2014.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: William G. Truex  
William G. Truex, Chairman



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

By: Michelle DiBerardino  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: Janette S. Knowlton  
Janette S. Knowlton, County Attorney  
LR2014-3085

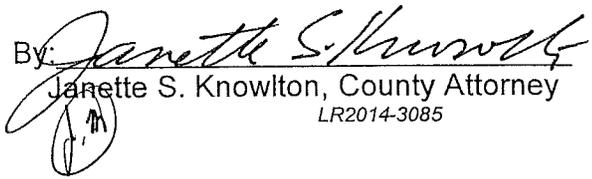


EXHIBIT A

All of Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, LESS therefrom the following:

1. A parcel of land in said Section 6, Township 40 South, Range 23 East, being more particularly described as follows: Begin at the Northeast corner of said Section 6, the same being the Northeast corner of Lot 1, THE LINKS, according to the Plat thereof as recorded in Plat Book 15, at Page 18A, of the Public Records of Charlotte County, Florida; thence N89°30'39"W. [Bearings based on D.O.T. Right-of-Way Maps for State Road No. 93 (1-75), Section 01075-2404] along the North line of said Section 6 and along the North boundary of said plat of THE LINKS for 2661.15 feet; thence S00°07'52"W along the West line of Lot 26 of THE LINKS subdivision and along its northerly extension for 320.00 feet to the Southwest corner of said Lot 26; thence S89°30'39"E along the South boundary of the aforementioned plat of THE LINKS for 2661.22 feet to an intersection with the East line of the Northeast 1/4 of said Section 6; thence N0°16'25"E along the last described East line for 320.00 feet to the POINT OF BEGINNING.

2. The existing right-of-ways (either deeded by separate instrument or dedicated by prescriptive rights) of Interstate 75, Kings Highway, and Peachland Boulevard that lies within the above mentioned Section 6. Subject to two existing Florida Power and Light Easements recorded in Deed Book 6, Page 104, and Official Records Book 350, Page 128, both of the Public Records of Charlotte County, Florida.

AND

The North. 901.25 feet of Section 7, Township 40 South, Range 23 East, Charlotte County, Florida, bounded on the West by the D.O.T. Easterly Right-of-Way of Kings Highway and bounded on the East by the D.O.T. Westerly Right-of-Way of Interstate 75, as shown on the Right-of-Way Maps for State Road No. 93 (1-75), Section 01075-2404. Subject to maintained Right-of-Ways for Kings Highway and Peachland Boulevard.

AND

That portion of Section 7, Township 40 South, Range 23 East, Charlotte County, Florida, lying West of Kings Highway and South of Peachland Boulevard, LESS the following described parcel: COMMENCE at the Southwest corner of Section 7, Township 40 South, Range 23 East; thence N0°12'18"E [Bearings based on D.O.T. Right-of-Way Maps for State Road No. 93 (1-75), Section 01075-2404] along the West line of said Section 7 for 2971.01 feet; thence S89°47'42"E for 863.64 feet to the POINT OF BEGINNING of the herein described parcel; thence S2°27'18"W for 450.35 feet; thence S89°47'44"E for 401.03 feet to the centerline of Kings Highway; thence N8°36'56"E along the centerline of Kings Highway for 454.89 feet; thence N89°47'42"W for 209.87 feet; thence N0°12'18"E for 571.24 feet; thence N89°47'42"W for 217.56 feet; thence S2°27'18"W for 571.68 feet to the POINT OF BEGINNING.)

AND

A parcel of land lying in Section 7, Township 40 South, Range 23 East, Charlotte County, Florida, more particularly described as follows: Commence at the Northwest corner of said Section 7, Township 40 South, Range 23 East; thence run S89°40'59"E [Bearings based on D.O.T. Right-of-Way Maps for State Road No. 93 (1-75), Section 01075-2404] along the North line of said Section 7 for 1694.45 feet to a point of intersection with the Northerly Right-of-Way line of Peachland Boulevard as shown as the aforementioned Right-of-Way Maps, said point being the POINT OF BEGINNING

EXHIBIT

"A"

of the herein described parcel; thence continue S89°40'59"E along the last described North line for 296.33 feet to an intersection with the Westerly Right-of-Way line of Kings Highway; thence along the Westerly Right-of-Way line of Kings Highway for the following three (3) described courses: (1) S36°54'32"W for 44.03 feet; (2) S53°05'20"E for 10.00 feet; (3) S36°54'32"W for 120.00 feet; thence N53°05'28"W for 205.01 feet; thence S36°54'32"W for 10.00 feet to a point on a circular curve concave to the Southwest, said point bearing N36°54'32"E from the center of said curve; thence Northwesterly along the arc of said curve having a radius of 360.00 feet and a central angle of 6°50'00" for 42.93 feet to the POINT OF BEGINNING. Subject to Right-of-Way for Peachland Boulevard.

AND

Commence at the Southwest corner of Section 7, Township 40 South, Range 23 East. Thence North 00° 04' 11" West, along the West line of Section 7, 2,971.01 feet; Thence North, 89° 55' 49" East, 863.64 feet to the Point of Beginning; Thence North, 02° 10' 49" East, 571.68 feet; Thence North, 89° 55' 49" East, 217.56 feet; Thence South, 00° 04' 11" East, 571.24 feet; Thence, South, 89° 55' 49" West, 240.00 feet to the Point of Beginning and containing 3.00 acres, more or less and subject to a 15.00 foot wide easement along the Westerly line thereof, as more particularly set forth in that revised July 27, 1976, survey prepared by John C. Smith, Certificate Number 2357.

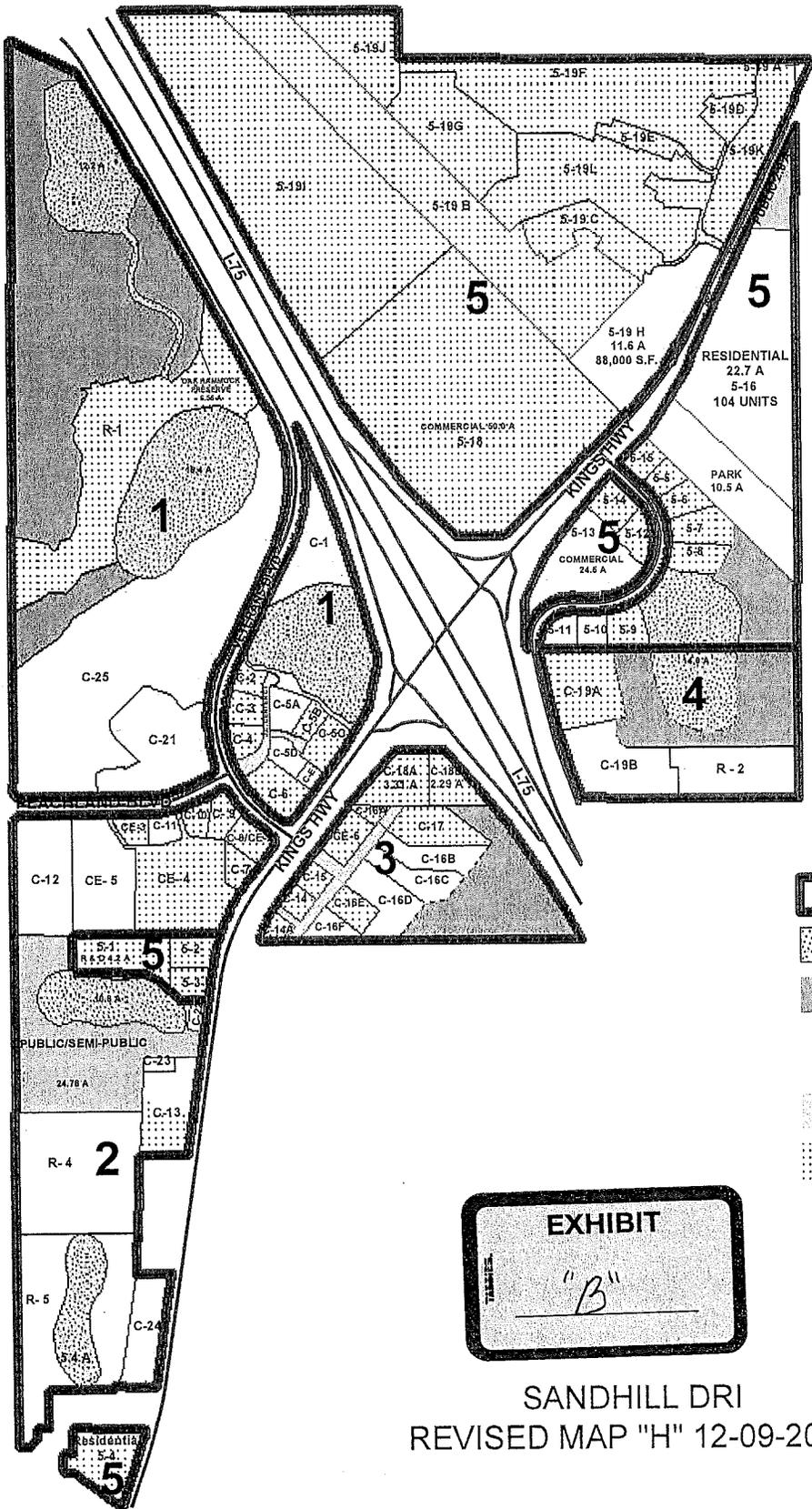
Less and except:

THAT CERTAIN PARCEL OF LAND LYING IN SECTION 7, TOWNSHIP 40 SOUTH, RANGE 23 EAST, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 7, TOWNSHIP 40 SOUTH, RANGE 23 EAST; THENCE S 89°20'10" E, ALONG THE SOUTH LINE OF SAID SECTION 7, A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE S 89°20'10" E, ALONG SAID SOUTH LINE, A DISTANCE OF 482.57 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF KINGS HIGHWAY; THENCE N 18°16'41" E, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 645.79 FEET; THENCE N 53°28'53" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 356.03 FEET; THENCE N 21°18'14" W, A DISTANCE OF 26.58 FEET; THENCE N 89°20'10" W, A DISTANCE OF 69.75 FEET; THENCE N 47°04'08" W, A DISTANCE OF 26.21 FEET; THENCE N 00°37'29" E, A DISTANCE OF 119.38 FEET; THENCE S 89°22'31" E, A DISTANCE OF 65.00 FEET; THENCE N 00°37'29" E, A DISTANCE OF 161.86 FEET; THENCE S 89°18'10" E, A DISTANCE OF 489.36 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS POINT LIES N 73°51'18" W, A DISTANCE OF 3091.90 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 05°04'49" A DISTANCE OF 274.16 FEET TO A POINT OF NON-TANGENCY; THENCE N 79°23'08" W, A DISTANCE OF 54.37 FEET; THENCE S 83°49'54" W, A DISTANCE OF 69.10 FEET; THENCE N 79°48'37" W, A DISTANCE OF 129.54 FEET; THENCE S 41°38'29" W, A DISTANCE OF 39.22 FEET; THENCE N 89°18'10" W, A DISTANCE OF 434.36 FEET; THENCE S 00°41'50" W, A DISTANCE OF 259.98 FEET; THENCE N 89°18'10" W, A DISTANCE OF 83.59 FEET; THENCE S 00°39'50" W, A DISTANCE OF 74.48 FEET; THENCE S 45°25'54" W, A DISTANCE OF 63.90 FEET; THENCE N 89°48'02" W, A DISTANCE OF 75.47 FEET TO THE INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY OF LOVELAND BOULEVARD; THENCE S 00°11'58" W, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1027.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 748,523 SQUARE FEET (17.18 ACRES).



-  TRACTS 1-5
-  LAKE AREAS
-  WETLAND, MITIGATION, AND PRESERVE AREAS
-  PARKS/OPEN SPACE
-  PUBLIC/SEMI-PUBLIC AREA
-  EXISTING DEVELOPMENT

**EXHIBIT**  
"B"

**SANDHILL DRI  
REVISED MAP "H" 12-09-2014**



This map is a representation of compiled public information. It is based on conceptual design rather than legal description. Charlotte County and its employees make no guarantees, implied or otherwise as to its use. This is not a survey or is it to be used for design.

SANDHILL DEVELOPMENT OF REGIONAL IMPACT  
Exhibit B, Map H Notes #1 - Vested Rights As of 12/09/2014

Tract	Parcel	Allocated	Allocated	Allocated	Allocated	Allocated	Allocated					
		Commercial (SF)	Park/Public/ Semi-Public (SF)	Research & Development (SF)	Residential (DUs)	Assisted Living Area (beds)	Hotel/Motel (Rooms)					
1	R-1	0	0	0	280		0					
1	C-1	41,000										
1	C-2	11,000										
1	C-3	10,000										
1	C-4	8,200										
1	C-5A (old "C-4")	11,200										
1	C-5B	7,500										
1	C-5C	54,000										
1	C-5D	8,200										
1	C-6	17,000										
1	C-21	63,500										
1	C-25	410,000										
1	CE-1	1,074										
1	Lakes											
1	Mitigation											
1	Preservation											
1	Roads											
2	R-4	0	0	0	436		0					
2	R-5	0	0	0	542		0					
2	C-7 (old "5-19H")	10,000										
2	C-8	4,000										
2	C-9	13,000										
2	C-10	9,000										
2	C-11	9,000										
2	C-12	73,000										
2	C-13	40,000										
2	C-22	5,000										
2	C-23	5,000										
2	C-24	17,000						0	0	0		120
2	Public/Semi-Public	0						65,000	0	0		0
2	CE-2	7,013										
2	CE-3	4,495										
2	CE-4	91,747										
2	CE-5	89,300										
2	Lakes											
2	Roads											
3	C-14A	8,000										
3	C-14	6,800										
3	C-15	3,000 4,000										
3	C-16A	1,900										
3	C-16B/C/F & C-17	90,100										
3	C-16D	56,000										
3	C-16E	12,000										
3	C-18A	10,175										
3	C-18B	39,825										
3	CE-6	4,000										
3	Mitigation											
3	Roads											

Exhibit B, Map H Notes #1 - Vested Rights As of 12/09/2014 (page 2)

4	C-19A	43,000					
4	C-19B	50,000 12000					
4	R-2	0	0	0	320		0
4	Lakes						
4	Mitigation						
4	Roads						
5	5-1 R&D	40,500 0	0	42,000	0		0
5	5-2	4,136					
5	5-20 (old "Comm 5-3")	35,362					
5	5-3	2,160					
5	5-4	0	0	0	54		0
5	5-5	3,260					
5	5-6	24,000					
5	5-7						
5	5-8	36,900					
5	5-9	35,310 35,670					
5	5-10	40,000 12,000					
5	5-11	9,000 12,000					
5	5-12	8,000					
5	5-13	189,000 67,300					
5	5-14	3,952					
5	5-15	3,225					
5	5-16	0	0	0	104		0
5	5-18	325,000 300,000					
5	5-19A	3,500					
5	5-19B	0	0	0	0	0	0
5	5-19C	0	0	0	144	0	0
5	5-19D	0	0	0	48	0	0
5	5-19E	0	0	0	48	0	0
5	5-19F,G,J	0	0	0	624 650	0	0
5	5-19H	88,000	0	0	0	0	0
5	5-19I	365,000 (ind)	0	0	0	0	0
5	5-19K	43,000	0	0	0	0	0
5	5-19L	0	0	0	0	458 (beds)	0
5	Lakes						
5	Mitigation						
5	Parks						
5	Public						
5	Roads						
Unallocated Commercial Rights		53,668					
Calculated Totals (Industrial):		365,000					
Calculated Totals (Commercial):		2,008,800	65,000	42,000	1,976	458 (beds)	120

**Sandhill DRI  
Map H, Exhibit #2  
Notes**

Revision Notes:

1. July 2002 Revisions:
  - a. Tract 1: Revised Parcels, lakes & wetlands
  - b. Tract 3: Revised Parcel C-16 & removed wetland
  - c. Tract 4: Revised Parcel C-19 & increased wetland
2. January 2006 (NOPC-051283) Revisions:
  - a. Subdivided C-16, C-17, C-18, C-20, Newport Golf
3. January 2006 (NOPC-051284) Revisions:
  - a. Reallocated Commercial S.F. & residential units between existing tracts 1 & 4
    - i. Transferred 320 residential units from R-1 (Tract 1) to R-2 (Tract 4)
    - ii. Transferred 75,000 S.F. of commercial from R-2 (Tract 4) to C-21 & C-25 (Tract 1)
4. Added Parcel 5-19A
5. Add commercial parcel 5-19A
6. July 14, 2006 – revise acreages
7. July 17, 2006 – Revise acreages and 5-16
8. November 9, 2006 – add S.F. to 5-19H
9. August 14, 2007 – consolidation of resolutions
10. October 16, 2007 – add 65,000 S.F. to Tract 2 Public/Semi-Public site
11. March 18, 2008 – Revision to C-24, 30,400 SF to 17,000 SF & 120 hotel rooms
12. December 16, 2008 – relocate mitigation area, allow access to Loveland, incorporate road improvement obligations
13. August 18, 2009 – Correct scrivener's errors; reallocate dwelling units from 5-4 to R-5; remove portions of R-5 and 5-4 from Sandhill DRI and add to Victoria Estates DRI
14. 2014 Proposed – Correct scrivener's errors; eliminate 84.09 acre golf course and replace with 6.48 acres and 43,000 SF of commercial, 19.56 acres and 458 ACLF beds; 47.64 acres and 365,000 SF of industrial; 16.35 acres and 26 multi-family units; the increased 26 dwelling units shall be transferred to the site through the County's Transfer of Density Units process according to the provisions set forth in the Transfer of Density Units Code; add equivalency matrix

General Notes:

1. Roads and other improvements are conceptual
2. Wetlands shown are based on Southwest Florida Water Management District Master Drainage Permit (MSW 492947.049), as amended.

3. All parcels not included in the most recently approved substantial deviation (Resolution 92-285) were assigned to Tract 5. ~~"5", 26 parcels were assigned to Tract 5 (Parcels 5-1 thru 5-19, including parcels 5-16A, 5-16B, 5-19A, 5-19B, 5-19C, 5-19E, 5-19F, & 5-19G)~~
4. This map and associated exhibits were revised by Charlotte County staff.



**Exhibit D  
MAP H-1**

-  All CG uses.  
Equipment retail.  
Wholesale Sales.
-  Car wash.
-  Mini warehouses or storage facilities but not bulk storage of flammable liquids.
-  Laboratories, class 3, provided central sewer is available.
-  Automobile rental agencies located on parcels no larger than 1.5 acres.

 All uses listed above plus:  
Light manufacturing in a completely enclosed building.  
Carpentry, cabinet and machine shops in a completely enclosed building.

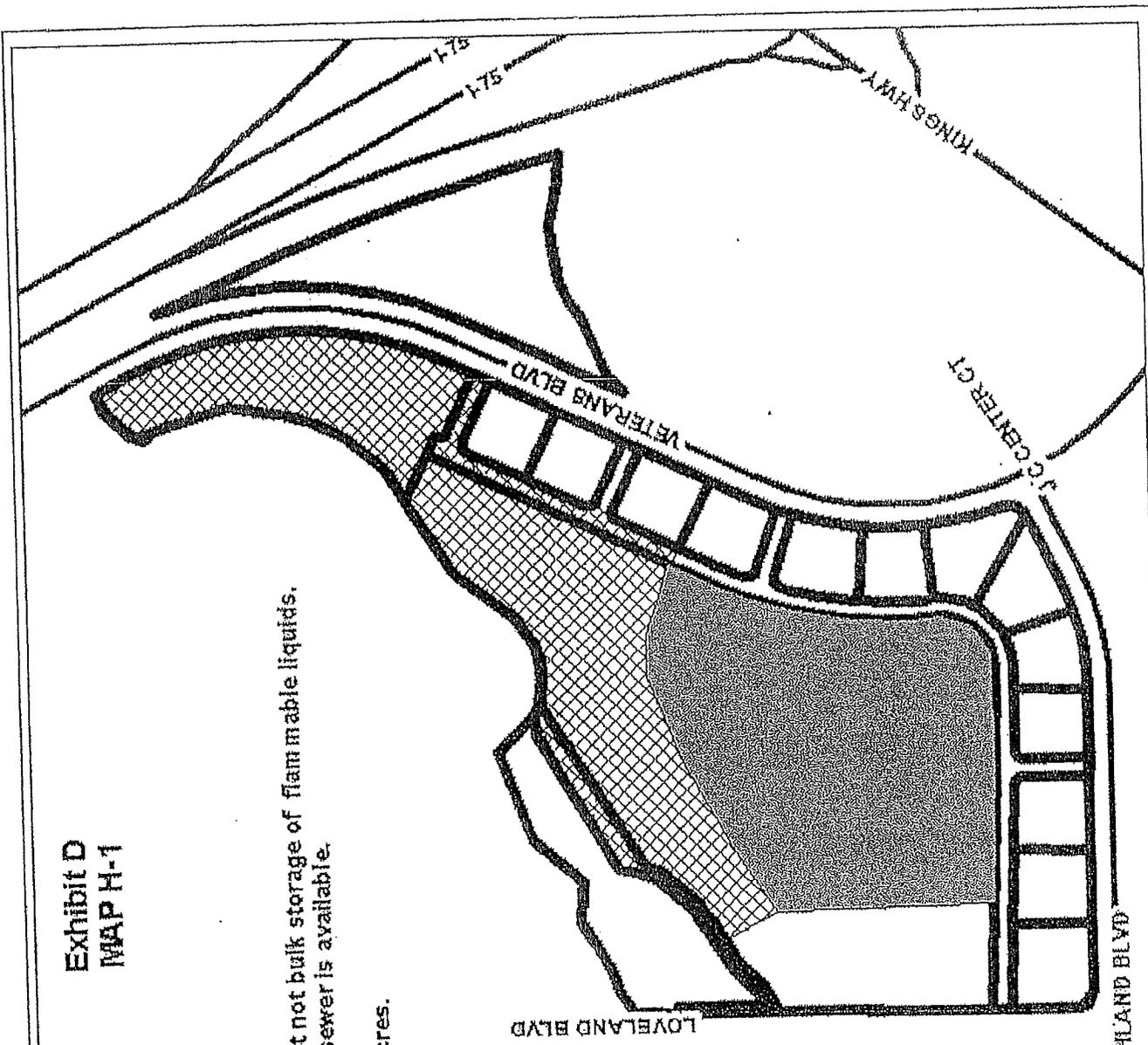


Exhibit E

EQUIVALENCY MATRIX

	110: General Light Industrial	220: Apartment Multi-family	820: Shopping Center	710: Office Building	210: Single Family Detached	310: Hotel	254: Assisted Living
110: General Light Industrial	-	0.639 du/ksf	3.825 ksf/ksf	1.536 ksf/ksf	1.031 du/ksf	0.619 room/ksf	0.227 bed/ksf
220: Apartment Multi-family	1.565 ksf/du	-	5.984 ksf/du	2.403 ksf/du	1.613 du/du	0.968 room/du	0.355 bed/du
820: Shopping Center	0.261 ksf/ksf	0.167 du/ksf	-	0.402 ksf/ksf	0.270 du/ksf	0.162 room/ksf	0.059 bed/ksf
710: Office Building	0.651 ksf/ksf	0.416 du/ksf	2.490 ksf/ksf	-	0.671 du/ksf	0.403 room/ksf	0.148 bed/ksf
210: Single Family Detached	0.970 ksf/du	0.620 du/ksf	3.710 ksf/du	1.490 ksf/du	-	0.600 room/du	0.220 bed/du
310: Hotel	1.617 ksf/room	1.033 du/room	6.183 ksf/room	2.483 ksf/room	1.667 du/room	-	0.367 bed/room
254: Assisted Living	4.409 ksf/bed	2.818 du/bed	16.864 ksf/bed	6.773 ksf/bed	4.545 du/bed	2.727 room/bed	-

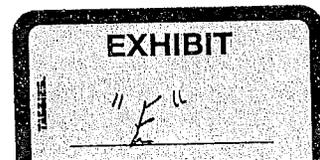
Land Use to be Increased

1. Land use changes are based on the peak hour of adjacent street traffic, one hour between 4 and 5 PM
2. Equivalency factors are based on the ITE Trip Generation Manual 9<sup>th</sup> Edition, 2012 average rate for each land use
3. When increasing a land use, multiply by the value in the table. When decreasing a land use, divide by the value in the table

Examples:

Increase 50 single-family dwelling units by decreasing 13,500 SF of shopping center ( $50 \times 0.270 = 13.5$ )  
 Increase 10,000 SF of office building by decreasing 15,360 SF of light industrial ( $10 \times 1.536 = 15.36$ )  
 Decrease 15,000 SF. of shopping center by increasing 37,313 SF of office ( $15/0.402 = 37.313$ )

4. Any conversion to residential dwelling units above the maximum approved by the original Sandhill DRI DO, which is 2,626 density units, shall be subject to the Transfer Density Units (TDU) provisions set forth in the County's Comprehensive Plan.



## DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into this 9<sup>th</sup> day of December, 2014, by and between ATM II, LLC, a Florida Limited Liability Company ("Developer") and Charlotte County, a political subdivision of the State of Florida ("County").

### RECITALS

WHEREAS, Developer is the contract purchaser of that property located in the Sandhill Development of Regional Impact ("Sandhill DRI") more particularly described in **Exhibit "A"** which is attached hereto and incorporated herein by this reference (the "Property"); and

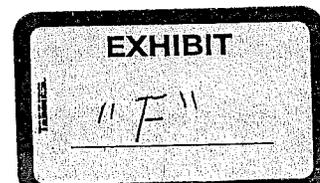
WHEREAS, Developer, with the authorization of all owners of the Property, has submitted to County a Notice of Proposed Change which would replace a 84.09 acre golf course with 43,000 square feet of commercial development, 458 assisted living and memory care beds, 365,000 square feet of industrial development and 26 multi-family dwelling units (the "Project"); and

WHEREAS, the Project is in the northeast quadrant of the intersection of Interstate 75 and Kings Highway; and

WHEREAS, the Development Order in re the Application of Sandhill Properties, Inc., for PD Zoning and Development Approval was adopted by the Charlotte County Board of County Commissioners ("Board") on February 17, 1981 and subsequently amended by the adoption of Resolutions #86-230 on September 9, 1986, #87-07 on January 20, 1987, #87-156 on July 21, 1987, #87-289 on December 15, 1987, by #88-56 on April 19, 1988, #88-57 on April 19, 1988, #88-235 on October 4, 1988, #88-262 on December 20, 1988, #89-42 on February 21, 1989, #89-90 on April 25, 1989, #89-234 on October 24, 1989, #89-330A on October 31, 1989, #90-258 on October 16, 1990, #91-99 on May 21, 1991, and #91-123 on June 18, 1991; and

WHEREAS, the Board approved a second substantial deviation amendment to the Sandhill DRI Development Order by Resolution 92-285 on December 15, 1992; and

WHEREAS, the substantial deviation Resolution 92-285 was amended by Resolution 93-59 on May 4, 1993; Resolution 97-0610A0 on July 15, 1997; Resolution 2002-064 on May 28, 2002; Resolution 2002-178 on November 12, 2002; Resolution 2003-028 on February 11, 2003; Resolution 2006-026 on February 21, 2006; Resolution 2006-027 on February 21, 2006, Resolution 2006-173 on September 19, 2006; Resolution 2006-212 on November 21, 2006; Resolution 2007-112 on August 14, 2007; Resolution 2007-161 on October 16, 2007; Resolution 2008-029 on March 18, 2008; Resolution 2008-158 and Resolution 2009-237 (all references to the Development Order for the Sandhill DRI shall hereafter refer cumulatively to Resolution 86-230, as amended and Resolution 92-285, as amended and shall hereinafter be the "Sandhill



DO”); and

WHEREAS, on December 16, 1986, the Board adopted Ordinance 86-68 creating a municipal service taxing unit to provide a funding mechanism for essential facilities and municipal services for the Sandhill DRI (“Sandhill MSTU”); and

WHEREAS, the Sandhill DRI has been found to be consistent with the Charlotte County Comprehensive Plan and the Charlotte County land development regulations; and

WHEREAS, County and Developer desire to enter into a Development Agreement setting forth the commitments by the Developer and the County as to transportation improvements necessary to ensure concurrency on all impacted regional roads and intersections as a result of the development of the Project.

NOW THEREFORE, for and in consideration of the premises and in reliance on the mutual promises, covenants, undertakings, recitals and other matters contained herein, the parties hereby covenant and agree as follows:

**1. Land Subject to the Agreement**

The land subject to this Agreement is more particularly described in **Exhibit “A”** attached hereto and incorporated herein by this reference.

**2. Ownership**

DA Port Charlotte Holdings, LLC, Etcetera, Etc Inc. and TA Kings Highway, LLC are the owners of the Project (“Owners”). Developer is authorized to act as agent for Owners.

**3. Permitted Development Uses**

Upon approval of the pending Notice of Proposed Change, the Sandhill DO will approve a total of 43,000 square feet of commercial development, 458 assisted living and memory care beds, 365,000 square feet of light industrial development and 650 multi-family dwelling units on the Property.

**4. Public Facilities**

The Project will receive water and sanitary sewer service from Charlotte County Utilities. Fire control, rescue services, solid waste removal and disposal will be provided by Charlotte County or its assigns.

**5. Reservation, Dedication or Conveyance of Land**

No reservations, dedication, or conveyances of land within the project for traffic purposes are anticipated.

## 6. County Development Permits

The following is a list of the local development approvals that have been granted to date and those that may be required for the development of the Project:

1. Sandhill DO;
2. Preliminary Development Review Committee approval;
3. Final detail plan approval;
4. Preliminary and final plat approval;
5. Construction plan approval;
6. Drainage permit;
7. Right-of-way permit;
8. Building permit.

## Consistency

The County finds that the proposed development entitlements for the Project are consistent with the Charlotte County Comprehensive Plan and with the Charlotte County land development regulations. No development approvals are granted by this finding of consistency.

## 7. Terms of the Agreement

### a. General

1. The Developer's total proportionate share obligation for the Project is Six Hundred Seventy Three Thousand, Seven Hundred Four and 00/100 Dollars (\$673,704.00) (hereinafter "Proportionate Share"). The Proportionate Share is derived from anticipated traffic impacts based on the development parameters set forth in the Sandhill DO, as may be amended.
  - i. The term "proportionate share" shall have the same meaning as in Rule 9J-2.045(1)(h), Florida Administrative Code except that construction cost shall not include the cost of sidewalks, bike lanes, utility relocation, improvement relocations on other private lands (e.g., mail boxes, driveways and trees), landscaping and other urban design elements.
  - ii. County agrees that Developer's compliance with this Agreement shall fulfill its Proportionate Share obligation and fully mitigate the transportation impact of the Project. Upon Developer's completion of its obligations under this Agreement, Developer shall be exempt from any transportation-related assessment or other mitigation for completion of the Project.

- b. Developer shall design, permit and construct the improvements more specifically described in **Exhibit "B"** attached hereto and incorporated herein by this reference (collectively the "Improvements") except that Developer may alternatively pay its proportionate share contribution to signalize the Kings Highway & I-75 Southbound Ramps intersection.

The estimated cost for surveying, design, construction and construction administration of the Improvements is Eight Hundred Forty Three Thousand, Five Hundred Fifty Eight and 00/100 Dollars (\$843,558.00).

- c. If necessary, Developer shall provide stormwater drainage and retention for the Improvements within the Project's stormwater facilities or within the Sandhill DRI stormwater basins.
- d. The Developer shall submit design plans and a transportation impact analysis for Site Plan Review for approval of any portion of the Project. The Developer shall coordinate the locations of any new site access points with Charlotte County Public Works.
- e. The Developer will prepare, submit and process all necessary permits from local, state and federal agencies for the Improvements. If wetlands are impacted by the design for the Improvements, Developer shall obtain the necessary local, state and federal permits for such impacts. All permit fees, application fees, administration fees and other expenses will be documented to the County.
- f. Developer may construct the Project in any number of phases. For each phase of the Project submitted for development approval, Developer shall provide a transportation impact analysis detailing the number of net new external trips that will be generated by the proposed phase. The following improvements or proportionate share payments will be required concurrent with development within the Project. External trip thresholds are cumulative, calculated by adding the net new external trips generated from prior development within on the Property with the net new external trips to be generated by the proposed development on the Property.

1,000 net new external trips or at the time a signal is warranted, whichever is later – Signalization of the site driveway intersection at Kings Highway, south of the existing St. James Place driveway.

1,400 net new external trips – Installation of a traffic signal at the I-75 southbound ramps intersection and signal optimizations at the signalized intersection at the I-75 northbound ramps intersection. Alternatively, Developer may pay its fifty nine percent (59%) proportionate share contribution for design and installation at the time that the signal is warranted.

1,500 net new external trips – Signal optimization of the Sandhill Boulevard & Kings Highway intersection.

Until proposed development within the Project cumulatively generates 1,000 or more net new external trips there shall be no requirement for completing transportation improvements and development within the Project which cumulatively generates less than 1,000 new external trips may receive certificates of occupancy. Once approval is received for development within the Project which will cumulatively generate 1,000 or more net new external trips, no certificate of occupancy for any development which will cumulatively generate 1,000 or more net new external trips shall be issued until the required transportation improvements are complete.

## 8. County Obligations

- a. The Developer may use such County property as is necessary to design, permit, install, construct and complete the Improvements. County, as a political subdivision defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions, and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions. Nothing contained in this section shall be construed to be a waiver by County of any protections under sovereign immunity, Section 768.28, Florida Statutes, or any other similar provision of law. Nothing contained herein shall be construed to be a consent by County to be sued by third parties in any matter arising out of this or any other agreement.
- b. If wetlands are impacted by the design for the Improvements, impacts shall be mitigated at the sole cost and expense of Developer.
- c. Developer will prepare and administer the bid package for construction of the Improvements in coordination with the County Engineer. Developer will notify the County Engineer upon the selection of the contractor.
- f. Developer shall receive road impact fee credits equal to the total cost of the design, permitting, construction and construction management of the Improvements including interest costs of any construction loan. Developer shall provide County with an updated estimate of costs concurrent with its notification to County of the selected contractor. If Developer chooses to make a proportionate share contribution, then Developer shall receive road impact fee credits equal to the cost of its proportionate share contribution.
- g. Developer shall submit invoices to County following completed installation of any required improvements. The invoices shall be subject to review and

verification by the County Engineer. Impact fee credits shall be issued by County within thirty (30) days of submission of each invoice. Any amounts that remain uncredited following said 30 day period shall bear interest at the prime rate published from time to time by Wells Fargo Bank.

- h. Road impact fee credits may be applied to offset road impact fees due for development within the areas designated as Schedule A – Urban Zone in Chapter 3-3.5 Impact Fees of the Charlotte County Code of Ordinances and shall not expire.
- i. County agrees to cooperate with Developer, at no liability, loss or expense to County, in all submissions or applications to the appropriate government authorities, to obtain permits, approvals, licenses or authorizations necessary to develop the Property in accordance with Buyer's intended use. Promptly after request from Developer, County will execute such filings, applications, agreements, instruments, documents or similar items so as to enable the accomplishment of all of the foregoing at Developer's cost. To the extent reasonably possible, Developer will execute and/or perform all filings, applications, agreements, documents and similar items in Developer's name.

#### **9. Failure to Comply with the Requirements**

- a. If the Developer fails to comply with the terms of this agreement, then County may withhold building permits for the net new external trips for which no mitigation has been provided.
- b. The parties shall have all rights available by law to enforce this Agreement.

#### **10. Concurrency and Vesting**

- a. If the transportation mitigation is provided in accordance with Section 7 of this Agreement, the Project shall be deemed vested to construct 43,000 square feet of commercial development, 458 assisted living and memory care beds, 365,000 square feet of industrial development and 650 multi-family dwelling units or other development consistent with the Sandhill D.O. that will generate not more than 4,419 net new external trips, consistent with any subsequently approved Final Detail Plan.

#### **11. Impact Fees**

- a. The Developer shall pay road impact fees for construction of the Project.

#### **12. Duration of Agreement**

- a. This Agreement shall be effective upon execution of all parties and shall continue in force until thirty years from the effective date (Termination Date).
- b. This Agreement is executed in order to satisfy the concurrency requirements of the Project through its buildout. Provided that there are no prior acts of default or termination, the parties contemplate that this Agreement will be renewed at regular intervals until the Project is built out. This Agreement may be extended by written mutual consent of the County and Developer.
- c. If Developer has fully complied with the terms of this Agreement upon the Termination Date or upon any expiration of the Sandhill DO and County has not yet performed its obligations on the Termination Date, County is obligated to perform in accordance with the terms of this Agreement as though the Agreement or the Sandhill DO, whichever the case may be, had not expired.

### **13. Amendment of Agreement**

This Agreement may only be amended in writing by mutual consent of the parties or their successors in interest.

### **14. Other Provisions**

- a. The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Developer of the necessity of complying with the law governing those permitting requirements, conditions, terms or restrictions.
- b. The terms of this Agreement may not supersede the procedural requirements of Florida law under Chapter 380.06, Florida Statutes.
- c. County, Developer or their successors or assigns may file an action for injunctive relief in the Circuit Court of Charlotte County to enforce the terms of this Agreement.
- d. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject

matter of this Agreement that are not contained in or incorporated into this Agreement. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior written or oral representations or agreements.

- e. If any provisions of this Agreement are contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid. The remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect.
- f. The parties agree that suits or actions at law arising from the provisions, performance, or breach of this Agreement shall initially be brought in Charlotte County, Florida, and no other jurisdiction. This Agreement shall be construed and interpreted under the laws of the State of Florida.
- g. This Agreement shall not be construed more strictly against any party.
- h. The parties shall have all rights available by law to enforce this Agreement.

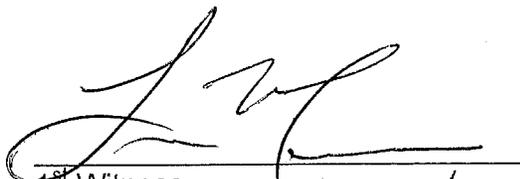
**15. Successors and Assigns**

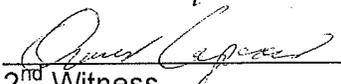
This Agreement shall inure to the benefit of and be obligatory upon the parties hereto and their respective successors and assigns.

**16. Section 163 Development Agreement**

This Agreement is consistent with and governed by the provisions of Sections 163.3220 – 163.3243, Fla. Stat.

**IN WITNESS WHEREOF**, County and Developer have executed this Agreement on the date first above written.

  
\_\_\_\_\_  
1<sup>st</sup> Witness  
Print Name: Lysander Warner

  
\_\_\_\_\_  
2<sup>nd</sup> Witness  
Print Name: Omar Cepeda

ATM II, LLC  
  
By: \_\_\_\_\_  
Print Name: Arturo Madero  
Title: MANAGER

STATE OF Florida  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 23 day of December, 2014 by Alexis Mervens, as Manager of ATM II, LLC, on behalf of the limited liability company. The above named person is personally known to me or has produced \_\_\_\_\_ as identification.

(Notary Seal)



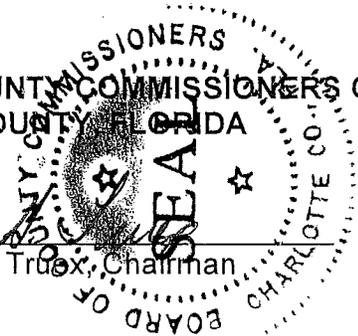
ALEJANDRO DANIEL PAZMINO  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE188391  
Expires 4/11/2016

[Signature]  
Signature of Notary Public  
Alejandro Pazmino  
Printed Name of Notary Public  
My commission expires on 4-11-16

This Agreement is passed and duly adopted this 9<sup>th</sup> day of Dec, 2014.

BOARD OF COUNTY COMMISSIONERS OF  
CHARLOTTE COUNTY, FLORIDA

By: William G. Truex  
William G. Truex, Chairman



ATTEST:

Barbara T. Scott, Clerk of  
Circuit Court and Ex-Officio  
Clerk to the Board of County  
Commissioners

By: Michelle D. Berardino  
Deputy Clerk

Approved as to form:

Janette S. Knowlton  
Janette Knowlton, County Attorney

**Exhibit "A"**  
**Legal Description**

EXHIBIT A

Newport West Parcel:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S 0 degrees 16' 27" W., along the East line of said Section, a distance of 565.39 feet; thence N. 89 degrees 43' 33" W., 2007.12 feet to the boundary line of Eagle Point Golf Course Parcel 5, as described in Quitclaim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

Thence N. 76 degrees 46' 06" W., along said boundary line, a distance of 521.00 feet; thence S. 89 degrees 44' 05" W., along said boundary line, a distance of 179.92 feet to a point on a circular curve concave to the West, having a radius of 165.00 feet, with a chord bearing and distance of S 0 degrees 25' 42" W., 203.19 feet; thence Southerly, along the arc of said curve, having a central angle of 76 degrees 00' 29", a distance of 218.89 feet to the boundary line of Eagle

Point Golf Course Parcel 4, as described in said Quitclaim Deed; thence S. 73 degrees 39' 28" E., along said boundary line, a distance of 317.32 feet; thence S. 81 degrees 22' 01" E., along said boundary line, a distance of 247.79 feet; thence N. 16 degrees 06' 15" E., 81.96 feet; thence S. 73 degrees 53' 45" E., 53.16 feet; thence N. 16 degrees 06' 15" E., 8.00 feet; thence S. 73 degrees 53' 45" E., 15.00 feet to the point of curvature of a circular curve concave to the North, having a radius of 272.00 feet, with a chord bearing and distance of S. 76 degrees 54' 37" E., 28.61 feet; thence Easterly, along the arc of said curve, through a central angle of 6 degrees 01' 46", a distance of 28.62 feet; thence N. 10 degrees 04' 40" E., 46.00 feet; thence S. 81 degrees 15' 21" E., 10.51 feet; thence N. 1 degrees 16' 49" E., 106.53 feet to the Point of Beginning.

Newport II Phase 3:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S. 0 degrees 16' 27" W., along the East line of said Section, a distance of 716.11 feet; thence N. 89 degrees 43' 33" W., 1222.97 feet to the boundary line of Eagle Point Golf Course Parcel 5, as described in Quitclaim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

thence S. 15 degrees 34' 10" W., 28.06 feet; thence S. 19 degrees 23' 01" W., 18.00 feet; thence N. 70 degrees 36' 59" W., 37.23 feet; thence S. 19 degrees 23' 01" W., 8.00 feet to a point on a circular curve concave to the South, having a radius of 312.01 feet, with a chord bearing and distance of N. 76 degrees 59' 43" W., 69.33 feet; thence Westerly, along the arc of said curve, through a central angle of 12 degrees 45' 28", a distance of 69.47 feet; thence S. 6 degrees 37' 34" W., 82.83 feet to the boundary line of Eagle Point Golf Course Parcel 4, as described in said Quitclaim Deed; thence N. 88 degrees 43' 11" W., along said boundary line, a distance of 261.35 feet; thence N. 1 degrees 16' 49" E., 83.83 feet; thence S. 88 degrees 43' 11" E., 47.33 feet; thence N. 1 degrees 16' 49" E., 26.00 feet; thence N. 88 degrees 43' 11" W., 23.33 feet; thence N. 1 degrees 16' 49" E., 53.00 feet; thence S. 88 degrees 43' 11" E., 42.00 feet; thence S. 1 degrees 16' 49" W., 25.00 feet; thence S. 88 degrees 43' 11" E., 173.98 feet to the point of curvature of a circular curve concave South, having a radius of 366.01 feet, with a chord bearing and distance of S. 79 degrees 40' 05" E., 115.17 feet; thence Easterly along the arc of said curve, through a central angle of 18 degrees 06' 12", a distance of 115.65 feet to the point of tangency; thence S. 70 degrees 36' 59" E., 35.38 feet to the Point of Beginning. Less and Except that part of Phase 3 contained in the following described property:

A tract of land lying in Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at a 4" x 4" concrete monument with disk stamped P.L.S. 2405 at the North 1/4 corner of said Section 6; Thence along the West line of "The Links", a subdivision recorded in Plat Book 15, Pages 18 and 18A, Public Records of Charlotte County, Florida, S 00 degrees 5' 56" W 259.07 feet to a point on a curve, concave to the East, having a radius of 105.00 feet and a delta angle of 101 degrees 11' 28", whose chord bears S 27 degrees 14' 41" W; thence along said curve in a counter-clockwise direction 185.44 feet to the beginning of a compound curve concave to the East having a radius of 150.00 feet and a delta angle of 20 degrees 09' 12" whose chord bears S 33 degrees 25' 39" E; thence along said curve in a counter-clockwise direction, 52.76 feet to the beginning of a reverse curve concave to the West having a radius of 165.00 feet and a delta angle of 05 degrees 55' 43" whose chord bears S 40 degrees 32' 24" E; thence along said curve in a clockwise direction, 17.07 feet, thence leaving said curve on a non-radial line N 89 degrees 44' 05" E, 179.92 feet; thence S 76 degrees 46' 06" E 521.00 feet; thence S 88 degrees 43' 11" E, 252.81 feet to the Point of Beginning of this description; thence continue S 88 degrees 43' 11" E, 217.13 feet; thence S 01 degrees 16' 49" W, 107.83 feet; thence N 88 degrees 43' 11" W, 217.13 feet; thence N 01 degrees 16' 49" E, 107.83 feet to the Point of Beginning.

Newport II Phase 4:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S. 0 degrees 16' 27" W., along the East line of said Section, a distance of 716.11 feet; thence N. 89 degrees 43' 33" W., 1222.97 feet to the boundary line of Eagle Point Golf Course Parcel 5, as described in a Quit Claim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

thence N. 1 degrees 16' 49" E., along said boundary line, a distance of 136.93 feet; thence N. 88 degrees 43' 11" W., along said boundary line, 363.34 feet; thence S. 1 degrees 16' 49" W., 82.82 feet; thence S. 88 degrees 43' 11" E., 42.00 feet; thence S. 1 degrees 16' 49" W., 25.00 feet; thence S. 88 degrees 43' 11" E., 173.98 feet to the point of curvature of a circular curve concave to the South, having a radius of 366.01 feet, with a chord bearing and distance of S. 79 degrees 40' 05" E., 115.17 feet; thence Easterly, along the arc of said curve, through a central angle of 18 degrees 06' 12", a distance of 115.65 feet to the point of tangency; thence S. 70 degrees 36' 59" E., 35.38 feet to the Point of Beginning. Less and Except that part of Phase 4 contained in the following described property:

A tract of land lying in Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at a 4" x 4" concrete monument with disk stamped P.L.S. 2405 at the North 1/4 corner of said Section 6; Thence along the West line of "The Links", a subdivision recorded in Plat Book 15, Pages 18 and 18A, Public Records of Charlotte County, Florida, S 00 degrees 5' 56" W 259.07 feet to a point on a curve, concave to the East, having a radius of 105.00 feet and a delta angle of 101 degrees 11' 28", whose chord bears S 27 degrees 14' 41" W; thence along said curve in a counter-clockwise direction 185.44 feet to the beginning of a compound curve concave to the East having a radius of 150.00 feet and a delta angle of 20 degrees 09' 12" whose chord bears S 33 degrees 25' 39" E; thence along said curve in a counter-clockwise direction, 52.76 feet to the beginning of a reverse curve concave to the West having a radius of 165.00 feet, and a delta angle of 05 degrees 55' 43" whose chord bears S 40 degrees 32' 24" E; thence along said curve in a clockwise direction, 17.07 feet, thence leaving said curve on a non-radial line N 89 degrees 44' 05" E, 179.92 feet; thence S 76 degrees 46' 06" E 521.00 feet; thence S 88 degrees 43' 11" E, 252.81 feet to the Point of Beginning of this description; thence continue S 88 degrees 43' 11" E, 217.13 feet; thence S 01 degrees 16' 49" W, 107.83 feet; thence N 88 degrees 43' 11" W, 217.13 feet; thence N 01 degrees 16' 49" E, 107.83 feet to the Point of Beginning.

Newport II Phase 5:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S. 0 degrees 16' 27" W., along the East line of said Section, a distance of 818.01 feet; thence N. 89 degrees 43' 33" W., 1612.16 feet to the boundary line of Eagle Point Golf Course Parcel 4, as described in Quitclaim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

thence N. 88 degrees 43' 11" W., along said boundary line, a distance of 259.32 feet; thence N. 1 degrees 16' 49" E., 83.83 feet; thence N. 88 degrees 43' 11" W., 32.35 feet; thence N. 1 degrees 16' 49" E., 54.00 feet; thence S. 88 degrees 43' 11" E., 315.67 feet; thence S. 01 degrees 16' 49" W., 28.00 feet; thence S. 88 degrees 43' 11" E., 23.33 feet; thence S. 1 degrees 16' 49" W., 26.00 feet; thence N. 88 degrees 43' 11" W., 47.33 feet; thence S. 1 degrees 16' 49" W., 83.83 feet to the Point of Beginning.

Newport II Phase 6:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S. 0 degrees 16' 27" W., along the East line of said Section, a distance of 572.82 feet; thence N. 89 degrees 43' 33" W., 1583.85 feet to the boundary line of Eagle Point Golf Course Parcel 5, as described in a Quit Claim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

thence S. 1 degrees 16' 49" W., 107.82 feet; thence N. 88 degrees 43' 11" W., 347.33 feet; thence N. 1 degrees 16' 49" E., 43.00 feet; thence N. 88 degrees 43' 11" W., 18.00 feet; thence N. 1 degrees 16' 49" E., 64.82 feet to said boundary line of Eagle Point Golf Course Parcel 5; thence S. 88 degrees 43' 11" E., along said boundary line, a distance of 365.33 feet to the Point of Beginning. Less and Except that part of Phase 6 contained in the following described property:

A tract of land lying in Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at a 4" x 4" concrete monument with disk stamped P.L.S. 2405 at the North 1/4 corner of said Section 6; Thence along the West line of "The Links", a subdivision recorded in Plat Book 15, Pages 18 and 18A, Public Records of Charlotte County, Florida, S 00 degrees 5' 56" W 259.07 feet to a point on a curve, concave to the East, having a radius of 105.00 feet and a delta angle of 101 degrees 11' 28", whose chord bears S 27 degrees 14' 41" W; thence along said curve in a counter-clockwise direction 185.44 feet to the beginning of a compound curve concave to the East having a radius of 150.00 feet and a delta angle of 20 degrees 09' 12" whose chord bears S 33 degrees 25' 39" E; thence along said curve in a counter-clockwise direction, 52.76 feet to the beginning of a reverse curve concave to the West having a radius of 165.00 feet and a delta angle of 05 degrees 55' 43" whose chord bears S 40 degrees 32' 24" E; thence along said curve in a clockwise direction, 17.07 feet, thence leaving said curve on a non-radial line N 89 degrees 44' 05" E, 179.92 feet; thence S 76 degrees 46' 06" E 521.00 feet; thence S 88 degrees 43' 11" E, 252.81 feet to the Point of Beginning of this description; thence continue S 88 degrees 43' 11" E, 217.13 feet; thence S 01 degrees 16' 49" W, 107.83 feet; thence N 88 degrees 43' 11" W, 217.13 feet; thence N 01 degrees 16' 49" E, 107.83 feet to the Point of Beginning.

Newport II Phase 7:

A parcel of land lying within Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of Section 6, bear S. 0 degrees 16' 27" W., along the East line of said Section, a distance of 566.41 feet; thence N. 89 degrees 43' 33" W., 1949.13 feet to the boundary line of Eagle Point Golf Course Parcel 5, as described in Quit Claim Deed correcting the property description, as recorded in Official Records Book 3618, Pages 708 through 722, of the Public Records of Charlotte County, Florida, and to the Point of Beginning;

thence S 1 degrees 16' 49" W., 64.82 feet; thence S. 88 degrees 43' 11" E., 18.00 feet; thence S 1 degrees 16' 49" W., 43.00 feet; thence S. 88 degrees 43' 11" E., 31.66 feet; thence S 1 degrees 16' 49" W., 54.00 feet; thence S. 88 degrees 43' 11" E., 32.35 feet; thence S 1 degrees 16' 49" W., 83.83 feet to the boundary line of Eagle Point Golf Course Parcel 4, as described in said Quit Claim Deed; thence N. 88 degrees 43' 11" W., along said boundary line, a distance of 249.34 feet; thence N. 37 degrees 19' 59" W., along said boundary line, 40.12 feet; thence N. 16 degrees 06' 15" E., 81.96 feet; thence S. 73 degrees 53' 45" E., 53.16 feet; thence N. 16 degrees 06' 15" E., 8.00 feet; thence S. 73 degrees 53' 45" E., 15.00 feet to the point of curvature of a circular curve concave to the North, having a radius of 272.00 feet,

with a chord bearing and distance of S. 76 degrees 54' 37" E., 28.61 feet; thence Easterly, along the arc of said curve, through a central angle of 6 degrees 01' 46", a distance of 28.62 feet; thence N. 10 degrees 04' 40" E., 46.00 feet; thence S. 81 degrees 15' 21" E., 10.51 feet; thence N. 1 degrees 16' 49" E., 106.53 feet to the said boundary line of Eagle Point Golf Course Parcel 5; thence S. 88 degrees 43' 11" E., along said boundary line, a distance of 58.00 feet to the Point of Beginning.

Easements:

Ingress, egress and utility easement set forth in that certain Easement Agreement recorded in Official Records Book 1868, Page 182, Public Records of Charlotte County, Florida and Official Records Book 474, Page 348, Desoto County, Florida. The subject easement is located in Desoto County, Florida.

And

Ingress and egress easement set forth in that certain Grant of Easement recorded in Official Records Book 1028, Page 205, Public Records of Charlotte County, Florida.

Together with:

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PORTION OF SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE RUN N89°30'14"W ALONG THE NORTH LINE OF SAID SECTION 6 FOR 159.83 FEET; THENCE RUN S00°05'56"W FOR 260.18 FEET; THENCE RUN S89°54'04"E FOR 23.41 FEET; THENCE RUN S00°05'56"W FOR 84.70 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 200.00 FEET (DELTA 43°36'11") (CHORD BEARING S21°42'10"E) (CHORD 148.56 FEET) FOR 152.20 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 115.00 (DELTA 116°45'20")

See Continuation Sheet

(Legal Description - Continued)

(CHORD BEARING S14°52'25"W) (CHORD 195.85 FEET) FOR 234.34 FEET TO A POINT OF TANGENCY; THENCE RUN S73°15'05"W FOR 315.19 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 250.00 FEET (DELTA 59°55'52") (CHORD BEARING S43°17'09"W) (CHORD 249.74 FEET) FOR 261.50 FEET TO A POINT OF TANGENCY; THENCE RUN S13°19'13"W FOR 147.31 FEET; THENCE RUN N33°09'20"W FOR 223.84 FEET; THENCE RUN N54°05'01"W FOR 32.12 FEET; THENCE RUN N33°09'20"W FOR 208.47 FEET; THENCE RUN N23°55'45"W FOR 277.58 FEET; THENCE RUN N42°54'09"W FOR 88.52 FEET; THENCE RUN N33°39'37"W FOR 266.98 FEET; THENCE RUN S57°02'45"W FOR 217.85 FEET; THENCE RUN S33°39'37"E FOR 107.27 FEET; THENCE RUN S00°05'04"W FOR 45.21 FEET; THENCE RUN S28°30'00"E FOR 221.62 FEET; THENCE RUN S23°55'45"E FOR 331.58 FEET; THENCE RUN S31°08'43"E FOR 535.09 FEET; THENCE RUN S39°21'17"W FOR 31.69 FEET; THENCE RUN S50°38'43"E FOR 166.83 FEET; THENCE RUN N39°21'17"E FOR 299.40 FEET; THENCE RUN S75°08'04"E FOR 84.09 FEET; THENCE RUN S14°51'56"W FOR 29.33 FEET; THENCE RUN S75°08'04"E FOR 245.77 FEET; THENCE RUN S26°44'04"W FOR 74.82 FEET; THENCE RUN S63°15'56"E FOR 299.78 FEET; THENCE RUN S21°38'52"E FOR 220.40 FEET; THENCE RUN N49°59'02"E FOR 290.15 FEET; THENCE RUN N45°05'40"W FOR 83.09 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 152.00 FEET (DELTA 15°55'23") (CHORD BEARING N53°03'21"W) (CHORD 42.11) FOR 42.24 FEET; THENCE RUN N28°58'57"E FOR 29.33 FEET TO A POINT ON A CURVE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT OF RADIUS 181.33 FEET (DELTA 10°55'27") (CHORD BEARING N66°28'46"W) (CHORD 34.52) FOR 34.57 FEET TO A POINT OF TANGENCY; THENCE RUN N71°56'30"W FOR 123.77 FEET; THENCE RUN N26°44'04"E FOR 81.30 FEET; THENCE RUN N62°51'14"W FOR 283.19 FEET; THENCE RUN N75°08'04"W FOR 487.05 FEET; THENCE RUN N13°19'13"E FOR 166.77 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 200.00 FEET (DELTA 59°55'52") (CHORD BEARING N43°17'09"E) (CHORD 199.79 FEET) FOR 209.20 FEET TO THE POINT OF TANGENCY; THENCE RUN N73°15'05"E FOR 315.19 FEET TO THE POINT OF CURVATURE; THENCE RUN NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 165.00 FEET (DELTA 116°45'20") (CHORD BEARING N14°52'25"E) (CHORD 281.00) FOR 336.23 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 150.00 FEET (DELTA 20°09'12") (CHORD BEARING N33°25'39"W) (CHORD 52.49 FEET) FOR 52.76 FEET TO A POINT OF COMPOUND CURVATURE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 105.00 (DELTA 101°11'19") (CHORD BEARING N27°14'36"E) (CHORD 162.26 FEET) FOR 185.44 FEET TO THE WEST LINE OF "THE LINKS" AS DESCRIBED IN PLAT BOOK 15, PAGES 18 AND 18A OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE RUN N00°05'56"W ALONG THE SAID EAST LINE OF "THE LINKS" FOR 259.07 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE EASEMENT RIGHTS SET FORTH IN THAT CERTAIN WARRANTY DEED DATED NOVEMBER 18, 2004, FROM CHARLOTTE LENDING, INC., A FLORIDA CORPORATION, TO ROYAL PALMS GOLF CONDOMINIUM PARTNERS, LLC RECORDED IN OFFICIAL RECORDS BOOK 2593, PAGE 574, PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

See Continuation Sheet

(Legal Description - Continued)

AND

PARCEL A

A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST CHARLOTTE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6 THENCE RUN N89°30'14"W ALONG THE NORTH LINE OF SAID SECTION 6 FOR 159.83 FEET TO THE POINT OF BEGINNING; THENCE S00°05'56"W, FOR 260.18 FEET; THENCE S89°54'04"E FOR 23.41 FEET; THENCE S00°05'53"W FOR 24.06 FEET; THENCE S00°05'57"W FOR 60.64 FEET TO THE POINT OF CURVATURE OF A NON-TANGENTIAL CURVE, CONCAVE EAST, OF WHICH THE RADIUS POINT LIES S89°54'04"E, A RADIAL DISTANCE OF 200.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°31'40", FOR 61.18 FEET; THENCE S89°44'05"W, FOR 49.74 FEET; THENCE N00°05'56"E, FOR 405.55 FEET; THENCE S89°30'14"E FOR 17.05 FEET TO THE POINT OF BEGINNING.

PARCEL B

A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE RUN N89°30'14"W ALONG THE NORTH LINE OF SAID SECTION 6 FOR 159.83 FEET; THENCE RUN S00°05'56"W FOR 260.18 FEET; THENCE RUN S89°54'04"E FOR 23.41 FEET; THENCE RUN S00°05'56"W FOR 84.70 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 200.00 FEET (DELTA 43°36'11") (CHORD BEARING S21°42'10"E) (CHORD 148.56 FEET) FOR 152.20 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 115.00 (DELTA 116°45'20") (CHORD BEARING S14°52'25"W) (CHORD 195.85 FEET) FOR 234.34 FEET TO A POINT OF TANGENCY; THENCE RUN S73°15'05"W FOR 315.19 FEET TO A POINT ON A CURVE, CONCAVE SOUTHEAST, OF WHICH THE RADIUS POINT LIES S16°44'55"E, A RADIAL DISTANCE OF 250.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 40°01'54", FOR 174.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 19°53'58" FOR 86.83 FEET; THENCE N33°09'20"W, FOR 224.01 FEET; THENCE N54°05'01"W, FOR 32.12 FEET; THENCE N33°09'20"W, FOR 208.47 FEET; THENCE N23°55'45"W, FOR 277.58 FEET; THENCE N42°54'09"W, FOR 88.52 FEET; THENCE N33°39'37"W, FOR 266.98 FEET; THENCE S57°02'45"W, FOR 217.85 FEET; THENCE S33°39'37"E, FOR 107.27 FEET; THENCE S00°05'04"E FOR 45.21 FEET; THENCE S28°30'00"E, FOR 221.62 FEET; THENCE S23°55'45"E, FOR 331.58 FEET; THENCE S31°08'43"E, FOR 535.09 FEET; THENCE S39°21'17"W FOR 10.21 FEET; THENCE CONTINUE S39°21'17"W, ALONG SAID LINE, A DISTANCE OF 21.48 FEET; THENCE N31°08'43"W, FOR 508.76 FEET; THENCE

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(Legal Description - Continued)

THE ARC OF A CURVE TO THE LEFT OF RADIUS 200.00 FEET (DELTA 43°36'11") (CHORD BEARING S21°42'10"E) (CHORD 148.56 FEET) FOR 152.20 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 115.00 (DELTA 116°45'20") (CHORD BEARING S14°52'25"W) (CHORD 195.85 FEET) FOR 234.34 FEET TO A POINT OF TANGENCY; THENCE RUN S73°15'05"W FOR 315.19 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 250.00 FEET (DELTA 59°55'52") (CHORD BEARING S43°17'09"W) (CHORD 249.74 FEET) FOR 261.50 FEET TO A POINT OF TANGENCY; THENCE RUN S13°19'13"W FOR 147.31 FEET; THENCE RUN N33°09'20"W FOR 223.84 FEET; THENCE RUN N54°05'01"W FOR 32.12 FEET; THENCE RUN N33°09'20"W FOR 208.47 FEET; THENCE RUN N23°55'45"W FOR 277.58 FEET; THENCE RUN N42°54'09"W FOR 88.52 FEET; THENCE RUN N33°39'37"W FOR 266.98 FEET; THENCE RUN S57°02'45"W FOR 217.85 FEET; THENCE RUN S33°39'37"E FOR 107.27 FEET; THENCE RUN S00°05'04"W FOR 45.21 FEET; THENCE RUN S28°30'00"E FOR 221.62 FEET; THENCE RUN S23°55'45"E FOR 331.58 FEET; THENCE RUN S31°08'43"E FOR 535.09 FEET; THENCE RUN S39°21'17"W FOR 31.69 FEET; THENCE RUN S50°38'43"E FOR 166.83 FEET; THENCE RUN N39°21'17"E FOR 299.40 FEET; THENCE RUN S75°08'04"E FOR 84.09 FEET; THENCE RUN S14°51'56"W FOR 29.33 FEET; THENCE RUN S75°08'04"E FOR 245.77 FEET; THENCE RUN S26°44'04"W FOR 74.82 FEET TO THE POINT OF BEGINNING; THENCE S63°15'56"E, FOR 299.78 FEET; THENCE S21°38'52"E, FOR 220.40 FEET; THENCE S49°59'02"W, FOR 21.07 FEET; THENCE N21°38'52"W, FOR 214.76 FEET; THENCE N62°51'14"W, FOR 295.68 FEET; THENCE N26°44'04"E, FOR 20.98 FEET TO THE POINT OF BEGINNING.

PARCEL E

A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE RUN N89°30'14"W ALONG THE NORTH LINE OF SAID SECTION 6 FOR 159.83 FEET; THENCE RUN S00°05'56"W FOR 260.18 FEET; THENCE RUN S89°54'04"E FOR 23.41 FEET; THENCE RUN S00°05'56"W FOR 84.70 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 200.00 FEET (DELTA 43°36'11") (CHORD BEARING S21°42'10"E) (CHORD 148.56 FEET) FOR 152.20 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 115.00 (DELTA 116°45'20") (CHORD BEARING S14°52'25"W) (CHORD 195.85 FEET) FOR 234.34 FEET TO A POINT OF TANGENCY; THENCE RUN S73°15'05"W FOR 315.19 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 250.00 FEET (DELTA 59°55'52") (CHORD BEARING S43°17'09"W) (CHORD 249.74 FEET) FOR 261.50 FEET TO A POINT OF TANGENCY; THENCE RUN S13°19'13"W FOR 147.31 FEET; THENCE RUN N33°09'20"W FOR 223.84 FEET; THENCE RUN N54°05'01"W FOR 32.12 FEET; THENCE RUN N33°09'20"W FOR 208.47 FEET; THENCE RUN N23°55'45"W FOR 277.58 FEET; THENCE RUN N42°54'09"W FOR 88.52 FEET; THENCE RUN N33°39'37"W FOR 266.98 FEET; THENCE RUN S57°02'45"W FOR 217.85 FEET;

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THENCE RUN S33°39'37"E FOR 107.27 FEET; THENCE RUN S00°05'04"W FOR 45.21 FEET; THENCE RUN S28°30'00"E FOR 221.62 FEET; THENCE RUN S23°55'45"E FOR 331.58 FEET; THENCE RUN S31°08'43"E FOR 535.09 FEET; THENCE RUN S39°21'17"W FOR 31.69 FEET; THENCE RUN S50°38'43"E FOR 166.83 FEET; THENCE RUN N39°21'17"E FOR 299.40 FEET; THENCE RUN S75°08'04"E FOR 84.09 FEET; THENCE RUN S14°51'56"W FOR 29.33 FEET; THENCE RUN S75°08'04"E FOR 245.77 FEET; THENCE RUN S26°44'04"W FOR 74.82 FEET; THENCE RUN S63°15'56"E FOR 299.78 FEET; THENCE RUN S21°38'52"E FOR 220.40 FEET; THENCE RUN N49°59'02"E FOR 290.15 FEET TO THE POINT OF BEGINNING; THENCE N45°05'40"W, FOR 83.09 FEET TO A POINT OF CURVATURE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 152.00 FEET AND A CENTRAL ANGLE OF 15°55'23"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, FOR 42.24 FEET; THENCE N28°58'57"E, FOR 29.33 FEET TO THE POINT OF CURVATURE OF A NON-TANGENTIAL CURVE, CONCAVE SOUTHWEST, OF WHICH THE RADIUS POINT LIES S28°58'57"W, A RADIAL DISTANCE OF 181.33 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°55'27", FOR 34.57 FEET; THENCE N71°56'30"W, FOR 123.77 FEET; THENCE N26°44'04"E, FOR 81.30 FEET; THENCE N62°51'14"W, FOR 283.19 FEET; THENCE N75°08'04"W, FOR 487.05 FEET; THENCE N13°19'13"E, FOR 37.09 FEET; THENCE S75°08'04"E, FOR 529.28 FEET; THENCE S62°51'14"E, FOR 198.74 FEET; THENCE S45°03'52"E, FOR 369.21 FEET; THENCE S49°59'02"W, FOR 58.15 FEET TO THE POINT OF BEGINNING.

PARCEL F

A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE S00°05'56"W, FOR 403.20 FEET TO THE POINT OF BEGINNING; THENCE S52°40'31"W, FOR 63.14 FEET TO THE POINT OF CURVATURE OF A NON-TANGENTIAL CURVE, CONCAVE NORTHEAST, OF WHICH THE RADIUS POINT LIES N49°24'16"E, A RADIAL DISTANCE OF 150.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 17°09'28", FOR 44.92 FEET; THENCE N89°44'05"E, FOR 73.94 FEET TO THE POINT OF BEGINNING.

PARCEL G

A TRACT OR PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 40 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE S00°05'56"W, FOR 259.07 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°05'56"W, ALONG SAID LINE, A DISTANCE OF 144.13 FEET; THENCE S89°44'05"W, FOR 73.94 FEET TO THE POINT OF CURVATURE OF A NON-TANGENTIAL CURVE CONCAVE SOUTHEAST OF WHICH THE RADIUS POINT LIES N66°31'29"E, A RADIAL DISTANCE OF 105.00 FEET;

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(Legal Description - Continued)

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF  $101^{\circ}18'45''$ , FOR 185.66 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH EASEMENT FOR INGRESS, EGRESS, STORMWATER AND UTILITY PURPOSES RECORDED IN OFFICIAL RECORD BOOK 1868, PAGE 182, PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

Together with:

Eagle Point Golf Course Parcel 3

That portion of Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, described as follows:

Commence at a 4" X 4" concrete monument with disk stamped PLS 2405 found at the North  $\frac{1}{4}$  corner of said Section 6; Thence along the North Line of said Section 6, North  $89^{\circ}30'14''$  West, 159.83 feet to the point of beginning of land being described; Thence South  $00^{\circ}03'56''$  West, 260.18 feet; thence South  $89^{\circ}54'04''$  East, 23.41 feet; thence South  $00^{\circ}05'56''$  West, 84.70 feet to the beginning of a tangential curve concave to the East having a radius of 200.00 feet and a delta angle of  $43^{\circ}36'11''$  whose chord bears South  $21^{\circ}42'10''$  East; thence along said curve in a counterclockwise direction, 152.20 feet to the beginning of a reverse curve concave to the west; having a radius of 115.00 feet and a delta angle of  $116^{\circ}45'20''$ , whose chord bears South  $14^{\circ}52'23''$  West, thence along said curve in a clockwise direction, 234.34 feet; thence tangent to the last curve, South  $73^{\circ}15'03''$  West, 315.19 feet to the beginning of a tangential curve concave to the southeast, having a radius of 250.00 feet and a delta angle of  $39^{\circ}55'52''$  whose chord bears South  $43^{\circ}17'09''$  West, thence along said curve in a counterclockwise direction, 261.50 feet; thence tangent to the last curve, South  $13^{\circ}19'13''$  West, 147.31 feet; thence North  $33^{\circ}09'20''$  West, 223.84 feet; thence North  $34^{\circ}03'01''$  West, 32.12 feet; thence North  $33^{\circ}09'20''$  West, 208.47 feet; thence North  $23^{\circ}59'45''$  West, 277.58 feet; thence North  $42^{\circ}54'09''$  West, 88.32 feet; thence North  $33^{\circ}39'37''$  West, 266.98 feet; thence South  $57^{\circ}02'45''$  West, 217.85 feet; thence South  $33^{\circ}39'37''$  East, 107.27 feet; thence South  $00^{\circ}03'04''$  West, 45.21 feet; thence South  $28^{\circ}30'00''$  East, 221.62 feet; thence South  $23^{\circ}53'45''$  East, 331.58 feet; thence South  $31^{\circ}08'43''$  East, 335.09 feet; thence South  $39^{\circ}21'17''$  West, 31.69 feet; thence South  $50^{\circ}38'43''$  East, 166.83 feet; thence North  $39^{\circ}21'17''$  East, 299.40 feet; thence South  $75^{\circ}08'04''$  East, 84.09 feet; thence South  $14^{\circ}51'56''$  West, 29.33 feet; thence South  $75^{\circ}08'04''$  East, 245.77 feet; thence South  $26^{\circ}44'04''$  West, 74.82 feet; thence South  $63^{\circ}15'56''$  East, 299.78 feet; thence South  $21^{\circ}38'52''$  East, 220.40 feet; thence South  $49^{\circ}59'02''$  West, 864.72 feet to the easterly limited access right of way line for Interstate 75 (State Road No. 93, Section 01075-2404); thence along said limited access right of way line, North  $29^{\circ}49'35''$  West, 378.34 feet to an angle point in said right of way line (lying 162.00 feet right of the center line of survey at station 274+25.94 feet); thence continue along said right of way line, North  $28^{\circ}40'49''$  West, 2123.19 feet to the north line of said Section 6; thence along said north line of Section 6, South  $89^{\circ}30'14''$  East, 1712.80 feet to the point of beginning

Eagle Point Golf Course Parcel 4

That portion of Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, described as follows:

See continuation sheet

Commence at a 4" X 4" concrete monument with disk stamped PRM PLS 2405 found at the NE corner of said Section 6; thence along the east line of said Section 6, South 00°16'27" West 383.13 feet to the westerly maintained right of way line of Kings Highway (State of Florida Department of Transportation Section 01501-2601) at Station 313+11.47, 36.16 feet left of the survey baseline; thence along said maintained right of way line, South 25°24'50" West, 311.47 feet to Station 370+00, 35.80 feet left of the survey baseline; thence continue along said right of way line, South 25°22'46" West, 500.00 feet to Station 365+00, 34.60 feet left of the survey baseline; thence continue along said right of way line, South 25°33'46" West, 320.86 feet to a point of beginning of land being described; thence continue along said right of way line, South 25°33'46" West, 179.14 feet to Station 360+00, 35.00 feet left of the survey baseline; thence continue along said right of way line, South 25°42'58" West, 194.86 feet to Station 358+05.14 feet, 35.68 feet left of said survey baseline, to the beginning of state of Florida Department of Transportation right of way (Section 01075-2404) for Interstate 75; thence along said right of way line, North 64°28'59" West 14.32 feet; thence continue along said right of way line, South 27°17'24" West 323.19 feet; thence continue along said right of way, North 64°28'59" West, 10.00 feet to a point on a curve concave to the northwest having a radius of 1839.86 feet and a delta angle of 08°27'48", whose chord bears South 29°44'51" West; thence along said curve and right of way in a clockwise direction 271.77 feet; thence radial to the last curve, North 56°01'11" West, 10.00 feet to a point on a curve concave to the northwest having a radius of 1829.86 feet and a delta angle of 08°56'32" whose chord bears South 38°27'05" West; thence along said curve and right of way in a clockwise direction, 283.59 feet; thence radial to the last curve, North 47°04'39" West, 13.00 feet; thence continue along said right of way line, South 43°55'21" West, 43.60 feet to the southerly line of a 170 feet wide Florida Power and Light Company easement recorded in Official Records Book 350, Page 128 and 129, of the Public Records of Charlotte County, Florida; thence along said Southerly line, North 45°03'52" West 1603.85 feet; thence South 49°59'02" West 33.05 feet; thence North 45°03'40" West, 83.09 feet to the beginning of a tangential curve concave to the southwest, having a radius of 152.00 feet and a delta angle of 15°55'23", whose chord bears North 53°03'21" West; thence along said curve in a counterclockwise direction, 42.24 feet; thence radial to the last curve, North 28°58'57" East, 29.33 feet to a point on a curve concave to the southwest, having a radius of 181.33 feet and a delta angle of 10°55'27", whose chord bears North 66°28'46" West; thence along said curve in a counterclockwise direction, 34.37 feet; thence tangent to the last curve, North 71°56'30" West, 123.77 feet; thence North 26°44'04" East 81.30 feet; thence North 62°51'14" West, 283.19 feet; thence North 75°08'04" West, 487.05 feet; thence North 13°19'13" East, 166.77 feet to the beginning of a tangential curve concave to the southeast, having a radius of 200.00 feet and a delta angle of 39°35'32", whose chord bears North 43°17'09" East; thence along said curve in a clockwise direction, 209.20 feet; thence tangent to the last curve, North 73°15'05" East, 315.19 feet to the beginning of a tangential curve concave to the north, having a radius of 165.00 feet and a delta angle of 34°49'09", whose chord bears North 55°30'31" East; thence along said curve in a counterclockwise direction, 100.27 feet; thence leaving said curve on a non-radial line, South 73°39'28" East, 317.32 feet; thence South 81°22'01" East, 247.79 feet; thence South 37°19'59" East, 40.12 feet; thence South 88°43'11" East, 785.01 feet; thence South 70°36'59" East 217.57 feet; thence South 19°23'01" West, 12.17 feet; thence South 70°36'59" East 86.00 feet; thence North 19°23'01" East, 12.17 feet; thence South 70°36'59" East, 234.33 feet; thence North 19°23'01" East 74.87 feet; thence South 42°00'32" East 55.40 feet; thence North 49°07'28" East, 24.33 feet to the beginning of a tangential curve concave to the south, having a radius of 5.00 feet and a delta angle of 90°00'00" whose chord bears South 83°52'32" East; thence along said curve in a clockwise direction 7.85 feet; thence tangent to the last curve, South 40°52'52" East, 93.93 feet to the beginning of a tangential curve concave to the north having a radius of 140.00 feet and a delta angle of 29°40'56" whose chord bears South 55°43'00" East; thence along said curve in a counterclockwise direction, 72.53 feet; thence tangent to the last curve, South 70°33'28" East, 40.08 feet to the beginning of a tangential curve concave to the southwest having a radius of 35.00 feet and a delta angle of 90°00'00" whose chord bears South 25°33'28" East; thence along said curve in a clockwise direction 54.98 feet; thence tangent to the last curve, South 10°26'32" West, 26.67 feet; thence North 86°03'28" West, 343.88 feet; thence North 56°03'28" West, 71.24 feet; thence South 33°56'32" West 92.50 feet; thence South 56°03'18" East, 95.00 feet; thence South 03°56'32" West, 50.00 feet; thence South 56°03'28" East 60.32 feet; thence South 03°56'32" West, 19.83 feet; thence South 86°03'28" East, 250.92 feet to the beginning of a tangential curve concave to the southwest, having a radius of 10.00 feet and a delta angle of 105°30'00" whose chord bears South 33°18'28" East; thence along said curve in a clockwise direction, 18.41 feet; thence tangent to the last curve, South 19°26'32" West, 41.80 feet to the beginning of a tangential curve concave to the east having a radius of 365.51 feet and a delta angle of 14°37'16" whose chord bears South 12°08'12" West; thence along said curve in a counterclockwise direction 93.27 feet; thence tangent to the last curve, South 04°49'34" West, 22.62 feet to the beginning of a tangential curve concave to the west, having a radius of 98.00 feet and a delta angle of 37°06'22" whose chord bears South 23°22'45" West; thence along said curve in a clockwise direction 63.47 feet; thence tangent to the last curve, South 41°55'56"

West, 113.61 feet to the beginning of a tangential curve concave to the north, having a radius of 92.00 feet and a delta angle of 50°09'35", whose chord bears South 67°00'44" West; thence along said curve in a clockwise direction, 80.54 feet; thence tangent to the last curve, North 87°54'29" West, 36.79 feet; thence North 02°05'31" East, 54.41 feet; thence North 53°46'46" West, 610.89 feet; thence South 72°59'18" West, 481.43 feet; thence South 17°00'42" East, 163.90 feet; thence South 31°43'39" East 98.41 feet; thence North 58°16'21" East, 41.33 feet; thence South 31°43'39" East, 84.83 feet; thence North 58°16'21" East 249.97 feet; thence North 31°43'39" West, 84.83 feet; thence North 38°16'21" East, 55.36 feet to the beginning of a tangential curve concave to the south having a radius of 65.00 feet and a delta angle of 67°56'53", whose chord bears South 87°45'12" East; thence along said curve in a clockwise direction 77.08 feet; thence tangent to the last curve, South 53°46'46" East, 94.99 feet; thence South 36°13'14" West, 84.83 feet; thence South 53°46'46" East, 399.03 feet; thence South 11°19'43" West, 115.39 feet; thence South 78°40'17" East, 156.83 feet; thence North 11°19'43" East, 270.47 feet; thence South 87°54'29" East, 7.31 feet to the beginning of a tangential curve concave to the north having a radius of 116.00 feet and a delta angle of 50°09'35", whose chord bears North 67°00'44" East; thence along said curve in a counterclockwise direction, 101.55 feet; thence tangent to the last curve, North 41°55'56" East, 113.61 feet to the beginning of a tangential curve concave to the south, having a radius of 75.00 feet and a delta angle of 73°29'42", whose chord bears North 78°40'47" East; thence along said curve in a clockwise direction, 96.20 feet; thence tangent to the last curve, South 64°34'22" East, 120.89 feet to the point of beginning.

**Eagle Point Golf Course Parcel 5**

That portion of Section 6, Township 40 South Range 23 East Charlotte County, Florida, described as follows:

Commence at a 4"x4" concrete monument with disk stamped PRM PLS 2405 found at the NE corner of said section 6; thence along the east line of said Section 6, South 00°16'27" West, 320.00 feet to a point on the south line of "The Links" a subdivision recorded in Plat Book 15, Page 18, of the Public Records of Charlotte County, Florida, for a point of beginning of land being described; thence continue along said section line, South 00°16'27" West, 263.13 feet to the westerly maintained right of way line of Kings Highway (State of Florida Department of Transportation Section 01501-2601) at Station 373+1.47, 36.36 feet left of the survey baseline; thence along said maintained right of way line, South 25°24'50" West, 311.47 feet to Station 370+00, 35.80 feet left of the survey baseline; thence continue along said right of way line, South 25°22'46" West, 500.00 feet to Station 365+00, 34.60 feet left of the survey baseline; thence continue along said right of way line, South 25°33'46" West, 262.86 feet; thence leaving said right of way, North 64°34'22" West, 144.09 feet to the beginning of a tangential curve concave to the northeast, having a radius of 80.00 feet and a delta angle of 84°00'54", whose chord bears North 22°33'55" West; thence along said curve in a clockwise direction, 117.31 feet; thence tangent to the last curve, North 19°26'32" East, 304.43 feet to the beginning of a tangential curve concave to the east having a radius of 168.00 feet and a delta angle of 20°50'57", whose chord bears North 29°52'01" East; thence along said curve in a clockwise direction, 61.13 feet; thence tangent to the last curve, North 40°17'29" East, 240.00 feet; thence North 20°00'00" East, 75.00 feet; thence North 08°33'28" West, 77.70 feet; thence South 81°26'32" West, 266.90 feet; thence North 45°33'28" West, 42.69 feet; thence South 44°26'32" West, 90.00 feet; thence South 45°33'28" East, 40.00 feet; thence South 44°26'32" West, 76.83 feet; thence South 45°33'28" East, 251.07 feet to a point on a curve concave to the southeast, having a radius of 192.00 feet and a delta angle of 13°39'58", whose chord bears South 26°16'11" West; thence along said curve in a counterclockwise direction, 45.80 feet; thence tangent to the last curve, South 19°26'32" West, 129.59 feet to the beginning of a tangential curve concave to the north, having a radius of 35.00 feet and a delta angle of 90°00'00", whose chord bears South 64°26'32" West; thence along said curve in a clockwise direction, 54.98 feet; thence tangent to the last curve, North 70°33'28" West, 40.08 feet to the beginning of a tangential curve concave to the north, having a radius of 116.00 feet and a delta angle of 29°40'56", whose chord bears North 55°43'00" West; thence along said curve in a clockwise direction, 60.09 feet; thence tangent to the last curve, North 40°52'32" West, 140.42 feet to the beginning of a tangential curve concave to the southwest, having a radius of 171.50 feet and a delta angle of 29°44'27", whose chord bears North 55°44'46" West, thence along said curve in a counterclockwise direction, 89.02 feet; thence tangent to the last curve, North 70°33'59" West, 420.17 feet; thence North 01°16'49" East, 136.93 feet; thence North 83°43'11" West, 786.07 feet; thence North 76°46'06" West, 521.00 feet; thence South 89°44'05" West, 179.92 feet to a point on a curve concave to the southwest, having a radius of 165.00 feet and a delta angle of 05°55'43", whose center bears North 40°32'24" West; thence along said curve in a counterclockwise direction, 17.07 feet to the beginning of a reverse curve concave to the northeast, having a radius of 150.00 feet and a delta angle of 20°09'12", whose chord bears North 33°24'39" West; thence along said curve in a clockwise direction, 52.76 feet to the

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beginning of a compound curve concave to the east having a radius of 105.00 feet and a delta angle of  $101^{\circ}11'19''$ , whose chord bears North  $27^{\circ}14'36''$  East; thence along said curve in a clockwise direction, 185.44 feet to the west line of Lot 26, "The Links" a subdivision recorded in Plat Book 15, Page 18, of the Public Records of Charlotte County, Florida; thence along said west line South  $00^{\circ}03'56''$  West 60.94 feet to a  $3/8''$  iron rod with 2" aluminum cap stamped "Hagle Point Golf Course Boundary Marker P.L.S. 4521" found at the SW corner of said Lot 26; thence along the south line of said "The Links", being a line 320.00 feet south of and parallel with the north line of the Northeast  $1/4$  of said Section 6, South  $89^{\circ}30'55''$  East 2660.73 feet to the point of beginning.

All of the above described parcels are also together with the following:

Together with ingress and egress easements recorded in Official Records Book 972, Page 1905, and Official Records Book 1028, Page 205, of the Public Records of Charlotte County, Florida.

Also together with the following described easement:

A relocatable ingress-egress easement being a strip of land 30.00 feet wide over that portion of Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, and lying 25.00 feet on each side of the following described centerline:

Commence at the North  $1/4$  corner of said Section 6; thence along the north line of said Section 6, North  $89^{\circ}30'14''$  West 25.00 feet to the point of beginning of centerline being described; thence South  $00^{\circ}05'56''$  West, 240.76 feet to a point of cusp with a curve concave to the southeast, having a radius of 130.00 feet and a delta angle of  $92^{\circ}06'38''$ , whose chord bears South  $22^{\circ}42'26''$  West; thence along said curve in a counterclockwise direction, 209.00 feet to the beginning of a compound curve concave to the east, having a radius of 175.00 feet and a delta angle of  $20^{\circ}09'12''$ , whose chord bears South  $33^{\circ}23'39''$  East; thence along said curve in counterclockwise direction, 61.56 feet to the beginning of a reverse curve concave to the west, having a radius of 140.00 feet and a delta angle of  $116^{\circ}45'20''$ , whose chord bears South  $14^{\circ}32'25''$  West; thence along said curve in a clockwise direction, 285.29 feet; thence tangent to the last curve, South  $73^{\circ}15'05''$  West 315.19 feet to the beginning of a tangential curve concave to the south, having a radius of 225.00 feet and a delta angle of  $59^{\circ}55'52''$ , whose chord bears South  $43^{\circ}17'09''$  West; thence along said curve in a counterclockwise direction 235.35 feet; thence tangent to the last curve, South  $13^{\circ}19'13''$  West, 268.09 feet; thence South  $39^{\circ}21'17''$  West 276.34 feet to the point of termination of said centerline.

The sidelines of said easement are to be extended or shortened to their respective intersections.

Also together with the following described easement:

A relocatable ingress-egress easement being a strip of land 24.00 feet wide over that portion of Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, and lying 12.00 feet on each side of the following described centerline:

Commence at the North  $1/4$  corner of said Section 6; thence along the north line of said Section 6, North  $89^{\circ}30'14''$  West, 25.00 feet; thence South  $00^{\circ}05'56''$  West, 240.76 feet to a point of cusp with a curve concave to the southeast, having a radius of 130.00 feet and a delta angle of  $92^{\circ}06'58''$ , whose chord bears South  $22^{\circ}42'26''$  West; thence along said curve in a counterclockwise direction, 209.00 feet to the beginning of a compound curve concave to the east, having a radius of 175.00 feet and a delta angle of  $20^{\circ}09'12''$ , whose chord bears South  $33^{\circ}23'39''$  East; thence along said curve in a counterclockwise direction 61.56 feet to the beginning of a reverse curve concave to the west, having a radius of 140.00 feet and a delta angle of  $43^{\circ}55'57''$ , whose chord bears South  $21^{\circ}32'17''$  East; thence along said curve in a clockwise direction, 107.35 feet to the point of beginning of centerline being described; thence radial to the last curve, South  $89^{\circ}34'18''$  East, 13.59 feet to the beginning of a tangential curve concave to the south, having a radius of 500.00 feet and a delta angle of  $12^{\circ}08'01''$ , whose chord bears South  $83^{\circ}30'18''$  East; thence along said curve in a clockwise direction, 105.89 feet; thence tangent to the last curve, South  $77^{\circ}26'17''$  East, 488.75 feet to the beginning of a tangential curve concave to the south, having a radius of 500.00 feet and a delta angle of  $04^{\circ}33'04''$ , whose chord bears South  $75^{\circ}09'45''$  East; thence along said curve in clockwise direction 39.72 feet to the beginning of a reverse curve concave to the north, having a radius of 240.00 feet and a delta angle of  $07^{\circ}01'54''$ , whose chord bears South  $76^{\circ}24'10''$  East; thence along

said curve in a counterclockwise direction, 29.45 feet to the western-most end of an existing light-e-egress easement recorded in Official Records Book 1028, Page 205 of the Public Records of Charlotte County Florida for a point of termination of said centerline

The sidelines of said easement are to be extended or shortened to their respective intersection.

LESS AND EXCEPT:

DeSoto County Portion

Lot 25, Block 2, First Plat in Pombroke subdivision recorded in Plat Book 9, Page 80, of the Public Records of DeSoto County, Florida

LESS AND EXCEPT:

Charlotte County Portion

A tract of land lying in a portion of Parcel 4 of Eagle Point Golf Course as recorded in Official Records Book 1482, Page 1999 of the Public Records of Charlotte County, Florida, said parcel being in Section 6 Township 40 South Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the North  $\frac{1}{4}$  corner of said Section 6, Township 40 South, Range 23 East, being a 4" concrete monument with aluminum disk "PRM PLS 2403", as described in Department of Natural Resources (DNR) document 0048018; thence South  $00^{\circ}17'46''$  West, along the easterly line of the West half of Section 6, a distance of 672.80 feet to a point on the northerly line of Eagle Point Golf Course Parcel 4, said point also being the point of beginning.

The following four (4) calls are along said northerly line of Parcel 4; thence South  $73^{\circ}39'28''$  East, a distance of 283.19 feet; thence South  $81^{\circ}22'01''$  East, a distance of 247.79 feet; thence South  $34^{\circ}19'59''$  East, a distance of 40.12 feet; thence South  $88^{\circ}43'11''$  East, a distance of 770.01 feet to the southwest corner of Newport II Condominiums, as recorded in Condominium Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Charlotte County, Florida; thence South  $63^{\circ}1'34''$  West, a distance of 83.11 feet (The following fourteen (14) calls are along the northerly top of bank of a lake); thence North  $82^{\circ}34'21''$  West, a distance of 260.21 feet to a point of curvature to the left of having a central angle of  $51^{\circ}25'10''$ , and a radius of 83.20 feet; thence along said curve in a southwesterly direction, an arc distance of 76.67 feet to a point of reverse curvature of a curve to the right, having a central angle of  $9^{\circ}10'54''$ , and a radius of 977.54 feet; thence along said curve in a southwesterly direction, an arc distance of 158.65 feet to a point of compound curvature of a curve to the right, having a central angle of  $25^{\circ}59'44''$ , and a radius of 119.50 feet; thence along said arc in an easterly direction, an arc distance of 54.22 feet to a point of compound curvature of a curve to the right, having a central angle of  $80^{\circ}12'57''$ , and a radius of 99.85 feet; thence along said curve in a northwesterly direction, an arc distance of 139.50 feet to a point of reverse curvature of a curve to the left, having a central angle of  $5^{\circ}57'12''$ , and a radius of 656.81 feet; thence along said curve in a northerly direction, an arc distance of 68.25 feet to a point of compound curvature of a curve to the left, having a central angle of  $55^{\circ}34'31''$ , and a radius of 74.83 feet; thence along said curve in a northwesterly direction, an arc distance of 72.58 feet to a point of compound curvature of a curve to the left, having a central angle of  $29^{\circ}25'44''$ , and a radius of 208.48 feet; thence along said curve in a westerly direction, an arc distance of 107.39 feet to the point of tangency of said curve; thence South  $70^{\circ}03'37''$  West, a distance of 112.97 feet to a point of curvature of a curve to the right, having a central angle of  $139^{\circ}31'37''$ , and a radius of 57.55 feet; thence along said curve in a northwesterly direction, an arc distance of 140.14 feet to the point of tangency of said curve; thence North  $29^{\circ}81'15''$  East, a distance of 28.64 feet to a point of curvature of a curve to the left, having a central angle of  $107^{\circ}27'23''$ , and a radius of 17.94 feet; thence along said curve in a northwesterly direction, an arc distance of 33.64 feet to the point of tangency of said curve; thence North  $77^{\circ}49'08''$  West, a distance of 112.45 feet to a point of curvature of a curve to the left, having a central angle of  $74^{\circ}31'57''$ , and a radius of 69.79 feet; thence along said curve in a southwesterly direction, an arc distance of 115.83 feet to the point of tangency of said curve; thence South  $27^{\circ}37'55''$  West, a distance of 73.75 feet to a point on the northerly line of a 180.00 feet wide Florida Power and

Light Company Easement as recorded in Official Records Book 6, Page 104, of the Public Records of Charlotte County, Florida; thence North 45°03'52" West, along said Florida Power And Light Company Easement a distance of 231.33 feet to a point on the easterly limits of future development Parcel 2, said point being on a curve to the left of which the radius lies North 32°49'48" West, a radial distance of 165.00 feet; thence along said curve in a northeasterly direction, passing through a central angle of 18°44'16", an arc distance of 53.95 feet to the end of said curve; thence South 73°39'28" East, a distance of 14.13 feet to the point of beginning.

Subject to other restriction, easements and/or rights of way of record, if any

**LESS AND EXCEPT**

A tract or parcel of land lying in Section 6, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Beginning at the North quarter corner of said Section 6 (said quarter corner of Section 6 being concrete monument as described in Department of Natural Resources (D.N.R.) Document number 0048018; thence South 00°00'56" West, along the westerly line of "The Links" subdivision, Plat Book 15, Pages 18 through 18A of the Public Records of Charlotte County, Florida a distance of 239.07 feet to a point on a curve to the left, which the radius lies South 12°09'34" East, a radial distance of 105.00 feet; thence along said curve in a southerly direction, passing through a central angle of 101°11'28", an arc distance of 185.44 feet to the point of compound curvature of a curve to the left having a radius of 150.00 feet and a central angle of 20°09'12"; thence along said curve in a southeasterly direction, an arc distance of 52.76 feet to the point of reverse curvature of a curve to the right having a radius of 165.00 feet and a central angle of 116°43'20"; thence along said curve in a southerly direction an arc distance of 336.23 feet to the point of tangency of said curve; thence South 73°15'05" West, a distance of 315.19 feet to a point of curvature of a curve to the left, having a radius of 200.00 feet and central angle of 59°55'52"; thence along said curve in a southwesterly direction, an arc distance of 209.20 feet to the point of tangency of said curve; thence North 76°40'47" West, a distance of 50.00 feet to the point of beginning

From said point of beginning thence South 13°19'13" West, a distance of 147.31 feet; thence North 33°09'20" West, a distance of 223.84 feet; thence North 59°53'48" East, a distance of 56.63 feet; thence South 55°59'09" East a distance of 129.51 feet to the point of beginning.

**LESS AND EXCEPT:**

**Description #1:**

The easement rights granted to Pri-Car, a Florida general partnership, by Charlotte Golf Management Limited Partnership, a Michigan limited partnership, pursuant to an easement recorded in Official Records Book 1822, Page 2653, of the Public Records of Charlotte County, Florida, over the property described as follows:

A 10 foot wide utility easement lying in Section 6 Township 40 South Range 23 East, Charlotte County, Florida, and lying 5.00 feet each side of the following describe centerline:

Commence at the Northwest corner of said Section 6; thence run South 89°30'14" East, along the North line of Section 6, a distance of 806.98 feet, to a point lying 15.00 feet northeasterly of the northeasterly right-of-way of Interstate 75 (SR 93), as measured at right angles from said right-of-way, said point also being the point of beginning and lying on the centerline of said 10.00 foot utility easement. From said point of beginning run South 28°40'49" East, 15.00 feet northeasterly of and parallel to said northeasterly right-of-way, 1444.33 feet to the northerly side of a sign easement and the terminus of said centerline of easement

The sidelines of said easement are to be extended or shortened to their respective intersections

**Description #2:**

An easement lying in Section 6, Township 40S, Range 23E, Charlotte County, Florida, described as follows:

Commence at the North  $\frac{1}{4}$  corner of said Section 6; thence along the North line of said Section 6, North  $89^{\circ}30'14''$  West, 25.00 feet; thence South  $00^{\circ}03'56''$  West, 240.76 feet to a point of cusp with a curve concave to the southeast, having a radius of 130.00 feet and a delta angle of  $92^{\circ}06'58''$ , whose chord bears South  $22^{\circ}42'26''$  West, thence along said curve in a counterclockwise direction, 209.00 feet to the beginning of a compound curve concave to the east, having a radius of 175.00 feet and a delta angle of  $20^{\circ}09'12''$ , whose chord bears South  $33^{\circ}25'39''$  East; thence along said curve in a counterclockwise direction 61.56 feet to the beginning of a reverse curve concave to the west, having a radius of 140.00 feet and a delta angle of  $116^{\circ}45'20''$ , whose chord bears South  $14^{\circ}52'25''$  West; thence along said curve in a clockwise direction, 285.29 feet; thence tangent to the last curve, South  $73^{\circ}15'05''$  West, 315.19 feet to the beginning of a tangential curve concave to the south, having a radius of 225.00 feet and a delta angle of  $59^{\circ}55'52''$ , whose chord bears South  $43^{\circ}17'09''$  West, thence along said curve in a counterclockwise direction 235.35 feet; thence tangent to the last curve, South  $13^{\circ}19'13''$  West, 268.09 feet; thence South  $39^{\circ}21'17''$  West, 276.54 feet; run thence North  $89^{\circ}13'39''$  West, 254.20 feet to a point lying 12.50 feet northeast of the northeasterly right-of-way of Interstate 75 (SR93) as measured at right angles from said right-of-way; thence run North  $28^{\circ}40'49''$  West, parallel to and 12.50 feet northeasterly of aforementioned northeasterly right-of-way of Interstate 75, a distance of 141.21 feet to the point of beginning of an easement described as follows:

From said point of beginning run North  $52^{\circ}17'03''$  East, 36.33 feet to the point of curvature of a curve concave to the southwest and having a radius of 21.50 feet a central angle of  $166^{\circ}59'55''$  and a chord bearing of North  $31^{\circ}12'54''$  West; thence run northerly and westerly along the arc of said curve 62.67 feet to the point of tangency thereof; thence run South  $65^{\circ}17'08''$  West 46.60 feet to a point on aforementioned northeasterly right-of-way of Interstate 75; thence run South  $28^{\circ}40'49''$  East along said right-of-way, 53.60 feet; thence departing said right-of-way run North  $52^{\circ}17'03''$  East, 12.66 feet to the point of beginning.

**Description #3:**

An ingress-egress easement lying in Section 6, Township 40S, Range 23E, Charlotte County, Florida Charlotte County, Florida, described as follows:

Commence at the North  $\frac{1}{4}$  corner of said Section 6; thence along the North line of said Section 6, North  $89^{\circ}30'14''$  West, 25.00 feet; thence South  $00^{\circ}03'56''$  West, 240.76 feet to a point of cusp with a curve concave to the southeast, having a radius of 130.00 feet and a delta angle of  $92^{\circ}06'58''$ , whose chord bears South  $22^{\circ}42'26''$  West, thence along said curve in a counterclockwise direction, 209.00 feet to the beginning of a compound curve concave to the east, having a radius of 175.00 feet and a delta angle of  $20^{\circ}09'12''$ , whose chord bears South  $33^{\circ}25'39''$  East; thence along said curve in a counterclockwise direction 61.56 feet to the beginning of a reverse curve concave to the west, having a radius of 140.00 feet and a delta angle of  $116^{\circ}45'20''$ , whose chord bears South  $14^{\circ}52'25''$  West; thence along said curve in a clockwise direction, 285.29 feet; thence tangent to the last curve, South  $73^{\circ}15'05''$  West, 315.19 feet to the beginning of a tangential curve concave to the south, having a radius of 225.00 feet and a delta angle of  $59^{\circ}55'52''$ , whose chord bears South  $43^{\circ}17'09''$  West; thence along said curve in a counterclockwise direction 235.35 feet; thence tangent to the last curve, South  $13^{\circ}19'13''$  West, 268.09 feet; thence South  $39^{\circ}21'17''$  West, 276.54 feet to the point of beginning of a 25.00 foot ingress-egress easement and lying 12.50 feet on each side of the following described centerline:

From said point of beginning, run thence North  $89^{\circ}13'39''$  West, 254.20 feet to a point lying 12.50 feet northeast of the northeasterly right-of-way of Interstate 75 (SR93) as measured at right angles from said right-of-way; thence run North  $28^{\circ}40'49''$  West, parallel to and 12.50 feet northeasterly of aforementioned northeasterly right-of-way of Interstate 75, a distance of 141.21 feet to the terminus of said centerline.

The sidelines of said easement are to be extended or shortened to their respective intersections.

Also including the right of ingress and egress to Kings Highway over the easements described in Official Records Book 1482, Page 2011 and in Official Records Book 1028, Page 205, of the Public Records of Charlotte County, Florida, for the owner of the easement recorded in Official Records Book 1822, Page 2053.

**LESS AND EXCEPT:**

A tract or parcel lying in Section 6, Township 40 South Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commencing at the Northeast corner of said Section 6; thence run South  $00^{\circ}16'27''$  West along the East line of said Section 6 for 1555.01 feet; thence run North  $89^{\circ}43'33''$  West for 457.96 feet to the westerly right-of-way line of Kings Highway; thence run South  $25^{\circ}27'33''$  West, along said right-of-way for 58.00 feet to the point of beginning; thence run South  $25^{\circ}33'46''$  West, for 179.14 feet; thence run South  $25^{\circ}42'58''$  West for 194.86 feet; thence run North  $64^{\circ}28'59''$  West for 14.32 feet; thence run South  $27^{\circ}17'24''$  West for 323.19 feet; thence run North  $64^{\circ}28'59''$  West for 10.00 feet to a point on a curve; thence run southeasterly along the arc of a curve to the right of radius 1839.86 feet (delta  $8^{\circ}27'48''$ ) (chord bearing South  $29^{\circ}44'55''$  West) (chord 271.52 feet) for 271.77 feet; thence run North  $56^{\circ}01'11''$  West for 10.00 feet to a point on a curve; thence run southeasterly along the arc of a curve to the right of radius 1829.86 (delta  $8^{\circ}56'32''$ ) (chord bearing South  $38^{\circ}27'05''$  West) (chord 285.30 feet) for 285.59 feet; thence run North  $47^{\circ}04'39''$  West for 15.00 feet; thence run South  $42^{\circ}55'21''$  West for 43.60 feet; thence run North  $45^{\circ}03'52''$  West leaving said westerly right-of-way line for 523.73 feet; thence run North  $44^{\circ}16'01''$  East for 720.24 feet; thence run North  $11^{\circ}19'43''$  East for 73.23 feet; thence run South  $78^{\circ}40'17''$  East for 47.00 feet to a point on a curve; thence run northeasterly along the arc of a curve to the right of radius 72.95 feet (delta  $80^{\circ}24'38''$ ) (chord bearing North  $51^{\circ}44'05''$  East) (chord 94.18 feet) for 102.38 feet to the point of tangency; thence run South  $87^{\circ}54'31''$  East for 56.73 feet to the point of curvature; thence run northeasterly along the arc of a curve to the left of radius 116.00 feet (delta  $50^{\circ}09'34''$ ) (chord bearing North  $67^{\circ}00'43''$  East) (chord 98.34 feet) for 101.55 feet to the point of tangency; thence run North  $41^{\circ}53'56''$  East for 113.61 feet to the point of curvature; thence run northeasterly along the arc of a curve to the right of radius 75.00 feet (delta  $73^{\circ}29'42''$ ) (chord bearing South  $78^{\circ}40'47''$  West) (chord 89.74 feet) for 96.20 feet to the point of tangency; thence run South  $64^{\circ}34'22''$  East for 120.89 feet to the point of beginning.

**LESS AND EXCEPT:**

A portion of Section 6, Township 40 South Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commencing at the Northeast corner of said Section 6; thence run South  $00^{\circ}16'27''$  West along the East line of said Section 6 for 583.12 feet to the westerly right-of-way line of Kings Highway; thence run southwesterly along said right-of-way the following three courses, South  $25^{\circ}24'50''$  West for 311.47 feet; thence run South  $25^{\circ}22'46''$  West for 500.00 feet; thence run South  $25^{\circ}33'46''$  West for 274.86 feet; thence run North  $64^{\circ}34'22''$  West leaving said right-of-way for 144.06 feet to a point of curvature; thence run northwesterly along the arc of a curve to the right of radius 92.00 feet (delta  $84^{\circ}00'54''$ ) (chord bearing North  $22^{\circ}33'55''$  West) (chord 123.14 feet) for 134.90 feet to the point of tangency; thence run North  $19^{\circ}16'32''$  East for 339.86 feet; thence run North  $70^{\circ}33'28''$  West for 87.08 feet to a point of curvature; thence run northwesterly along the arc of a curve to the right of radius 116.00 feet (delta  $29^{\circ}40'56''$ ) (chord bearing North  $55^{\circ}43'00''$  West) (chord 59.62 feet) for 60.09 feet to the point of tangency; thence run North  $40^{\circ}52'32''$  West for 140.40 feet to a point of curvature; thence run northwesterly along the arc of a curve to the left of radius 171.51 feet (delta  $29^{\circ}44'27''$ ) (chord bearing North  $55^{\circ}44'45''$  West) (chord 88.03 feet) for 89.03 feet to the point of tangency; thence run North  $70^{\circ}36'59''$  West for 420.19 feet to the point of beginning; thence run North  $01^{\circ}16'49''$  East for 196.93 feet; thence run North  $88^{\circ}43'11''$  West for 780.39 feet; thence run North  $76^{\circ}46'06''$  West for 508.87 feet; thence run South  $89^{\circ}44'03''$  West for 239.43 feet to a point on a curve; thence run southeasterly along the arc a curve to the left of radius 150.00 feet (delta  $20^{\circ}09'12''$ ) (chord bearing South  $33^{\circ}25'39''$  East) (chord 52.49 feet) for 52.76 feet to the point of reverse curvature; thence run southeasterly southerly and southwesterly along the arc a curve to the right of radius 163.00 feet (delta  $43^{\circ}58'53''$ ) (chord bearing South  $21^{\circ}30'48''$  West) (chord 123.57 feet) for 126.86 feet to a point on a curve; thence run southeasterly along the arc a curve to the right of radius 500.00 feet (delta  $10^{\circ}49'37''$ ) (chord bearing South  $81^{\circ}31'06''$  East) (chord

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94.34 feet) for 94.48 feet to the point of tangency; thence run South 77°26'17" East for 582.83 feet; thence run South 88°43'11" East for 620.86 feet to the point of curvature; thence run southeasterly along the arc of a curve to the right of radius 350.00 feet (delta 18°06'12") (chord bearing South 79°40'05" East) (chord 110.13 feet) for 110.59 feet to the point of tangency; thence run South 70°36'59" East for 42.94 feet; thence run North 15°34'10" East for 16.32 feet to the point of beginning

Less and Except:

Land described in Official records book 1742, Page 882, of the Public Records of Charlotte County, Florida

Subject to:

A 24 feet wide ingress/egress easement as described in Official Records Book 1482 Page 2011 of the Public Records of Charlotte County, Florida:

Subject to:

A 28 feet wide ingress/egress easement as described in Official Records Book 1028, Page 205, of the Public Records of Charlotte County, Florida

LESS AND EXCEPT:

A portion of Section 6, Township 40 South Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 6; thence run South 00°16'27" West along the East line of said Section 6 for 583.12 feet to the westerly right-of-way line of Kings Highway; thence run southwesterly along said right-of-way the following three courses, South 25°24'50" West for 311.47 feet; thence run South 25°22'45" West for 500.00 feet; thence run South 25°33'45" West for 274.83 feet; thence run North 54°34'22" West leaving said right-of-way for 144.86 feet to a point of curvature; thence run northwesterly along the arc of a curve to the right of radius 92.00 feet (delta 64°00'34") (chord bearing North 22°33'55" West) (chord 125.14 feet) for 134.90 feet to the point of tangency; thence run North 19°26'32" East for 339.86 feet; thence run North 70°33'28" West for 87.08 feet to a point of curvature; thence run northwesterly along the arc of a curve to the right of radius 116.00 feet (delta 29°40'56") (chord bearing North 55°43'00" West) (chord 59.42 feet) for 60.09 feet to the point of tangency; thence run North 40°52'32" West for 140.40 feet to a point of curvature; thence run northwesterly along the arc of a curve to the left of radius 171.51 feet (delta 29°44'27") (chord bearing North 55°44'45" West) (chord 88.03 feet) for 89.03 feet to the point of tangency; thence run North 70°36'59" West for 420.19 feet; thence run South 15°34'10" West for 16.32 feet to the point of beginning; thence run North 70°36'59" East for 42.94 feet to the point of curvature; thence run northwesterly along the arc of a curve to the left of radius 350.00 feet (delta 18°06'12") (chord bearing North 79°40'05" West) (chord 110.13 feet) for 110.59 feet to the point of tangency; thence run North 88°43'11" West for 620.86 feet; thence run North 77°26'17" West for 582.83 feet to the point of curvature of a curve to the left of radius 500 feet (delta 10°49'37") (chord bearing North 82°51'06" West) (chord 94.34 feet) for 94.48 feet to a point on a curve; thence run southwesterly along the arc of a curve to the right of radius 165.00 feet (delta 73°06'26") (chord bearing South 37°01'51" West) (chord 196.54 feet) for 196.54 feet to the point of tangency; thence run South 73°15'01" West for 17.97 feet; thence run South 45°03'32" East for 337.90 feet; thence run North 27°37'55" East for 155.25 feet to the point of curvature; thence run northeasterly along the arc of a curve to the right of radius 29.79 feet (delta 74°32'57") (chord bearing North 64°54'23" East) (chord 36.08 feet) for 38.76 feet to the point of tangency; thence run South 77°49'08" East for 58.51 feet to a point on a curve; thence run southwesterly and southeasterly along the arc a curve to the left of radius 120.00 feet (delta 126°11'48") (chord bearing South 46°47'29" East) (chord 214.03 feet) for 264.31 feet to the point of tangency; thence run North 70°06'37" East for 112.97 feet to the point of curvature; thence run northeasterly along the arc a curve to the right of radius 140.00 feet (delta 30°32'54") (chord bearing North 85°23'04" East) (chord 73.76 feet) for 74.64 feet to the point of compound curvature; then run southeasterly along the arc a curve to the right of radius 160.00 feet (delta 56°38'35") (chord bearing South 50°51'11" West) (chord 15.26 feet) for 15.91 feet to the point of tangency; thence run South 22°21'53" East for 65.58 feet to the point of curvature; thence run southeasterly, easterly and northeasterly along the arc a curve to the left of radius 160.00 feet (delta 106°22'21") (chord bearing South 75°33'04" East) (chord 256.19 feet) for 297.05 feet to the point of tangency; thence run North 31°15'45" East for 168.73 feet to the point of curvature; thence run northeasterly along the arc a curve to the

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right of radius 20.00 feet (delta 45°49'54") (chord bearing North 74°10'42" East) (chord 88.01 feet) for 16.00 feet to the point of tangency; thence run South 82°54'21" East for 260.70 feet; thence run North 06°37'34" East for 225.94 feet to a point on a curve; thence run southeasterly along the arc of a curve to the right of radius 312.01 feet (delta 12°45'27") (chord bearing South 76°59'43" East) (chord 69.33 feet) for 69.47 feet; thence run North 19°23'01" East for 8.00 feet; thence run South 70°36'59" East for 37.22 feet; thence run North 19°23'01" East for 18.00 feet; thence run North 15°34'10" East for 28.06 feet to the point of beginning.

Subject to:

A 24 feet wide ingress/egress easement as described in Official Records Book 1482, Page 2011, of the Public Records of Charlotte County, Florida

Subject to:

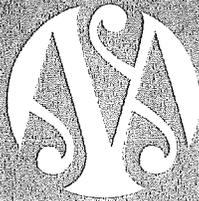
A 28 feet wide ingress/egress easement as described in Official Records Book 1028, Page 205, of the Public Records of Charlotte County, Florida.

## Exhibit "B"

### List of Improvements

1. Signalize the intersection of the proposed site driveway at Kings Highway to the south of the St. James Place driveway (Project Proportionate Share Percentage: 100%. The proportionate share dollar equivalent will be based on Florida Department of Transportation (FDOT) cost information at time of development.)
2. Signalize the Kings Highway & I-75 Southbound Ramps intersection (Project Proportionate Share Percentage: 59%. The proportionate share dollar equivalent will be based on FDOT cost information at time of development.)
3. Traffic signal optimization at the signalized intersections along Kings Highway from the I-75 interchange to Sandhill Boulevard (Project Proportionate Share Percentage: 100%. The proportionate share dollar equivalent will be based on FDOT cost information at time of development.)
4. If any of the listed improvements were completed by either Charlotte County (County) and/or Florida Department of Transportation (FDOT), the County has the authority to move the funds to other needed improvements within the vicinity of the project.

A. Jill C. McCrory, LL.M. Taxation  
Geri L. Waksler, Of Counsel \*  
Phyllis A. Walker †\*\*  
David T. Oliver  
Jeffrey R. Kuhns, LL.M. Taxation †\*\*  
Jenny C. Hazel



† Certified Family Court Mediator  
\* Certified Circuit Court Mediator  
\* Certified County Court Mediator  
† Also licensed in California  
\* Also licensed in Minnesota

2014 DEC 23 AM 10:32

**McCrory**  
Law Firm

COUNTY  
ATTORNEY'S  
OFFICE

December 22, 2014

Joshua Moye, Assistant County Attorney  
Charlotte County  
18500 Murdock Circle  
Port Charlotte, FL 33948

Re: Clarification of the Development Agreement between ATM II, LLC and Charlotte County which was adopted by Charlotte County Board of County Commissioners on December 9, 2014

Dear Mr. Moye:

This firm represents ATM II, LLC. The above-referenced Development Agreement ("DA") and the Sandhill DRI NOPC, which incorporates the DA, were presented and adopted by the Board of County Commissioners at its December 9, 2014 Land Use meeting. Subsequent to the meeting, it was discovered that Paragraph 7.b. on Page 4 of the DA could be interpreted in a way that was not the mutual understanding and intent of the parties. The current language reads:

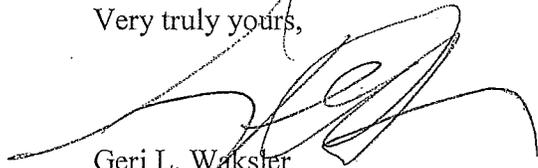
Developer shall design, permit and construct the improvements more specifically described in **Exhibit "B"** attached hereto and incorporated herein by this reference (collectively the "Improvements") except that Developer may alternatively pay its proportionate share contribution to signalize the Kings Highway & I-75 Southbound Ramps intersection.

Therefore, in an abundance of caution, this letter is being sent to clarify and confirm that the mutual understanding and intent of the parties is better understood as follows:

Developer shall design, permit and construct the improvements more specifically described in **Exhibit "B"** attached hereto and incorporated herein by this reference (collectively the "Improvements"). However, Developer may alternatively pay its proportionate share contribution for any or all of the improvements described in **Exhibit "B"** while remaining obligated to design, permit and construct any of the described improvements for which the

proportionate share contribution has not been paid.

Very truly yours,

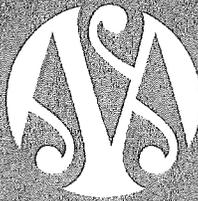
A handwritten signature in black ink, appearing to read 'Geri L. Wakster', written over a horizontal line.

Geri L. Wakster

2014 DEC 23 AM 10: 32

COUNTY  
ATTORNEY'S  
OFFICE

A. Jill C. McCrory, LL.M. Taxation  
Geri L. Waksler, Of Counsel \*  
Phyllis A. Walker †\*\*  
David T. Oliver  
Jeffrey R. Kuhns, LL.M. Taxation †\*\*  
Jenny C. Hazel



† Certified Family Court Mediator  
† Certified Circuit Court Mediator  
• Certified County Court Mediator  
† Also licensed in California  
\*Also licensed in Minnesota

2014 DEC 23 AM 10:32

McCrory  
Law Firm

COUNTY  
ATTORNEY'S  
OFFICE

December 22, 2014

Joshua Moye, Assistant County Attorney  
Charlotte County  
18500 Murdock Circle  
Port Charlotte, FL 33948

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Dear Mr. Moye:

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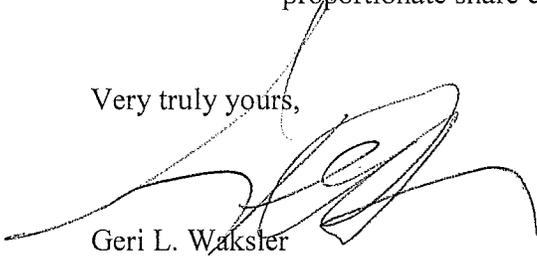
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Therefore, in an abundance of caution, this letter is being sent to clarify and confirm that the mutual understanding and intent of the parties is better understood as follows:

Developer shall design, permit and construct the improvements more specifically described in **Exhibit "B"** attached hereto and incorporated herein by this reference (collectively the "Improvements"). However, Developer may alternatively pay its proportionate share contribution for any or all of the improvements described in **Exhibit "B"** while remaining obligated to design, permit and construct any of the described improvements for which the

proportionate share contribution has not been paid.

Very truly yours,



Handwritten signature of Geri L. Waksler in black ink, consisting of a stylized, cursive script.

Geri L. Waksler

2014 DEC 23 AM 10: 32

COUNTY  
ATTORNEY'S  
OFFICE

# **Attachment 9: Babcock Mixed Use FLU designation**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

throughout the MVMU. Site development standards, locational criteria and design guidelines for all uses shall be developed and adopted by the County as Land Development Regulations for MVMU.

### **Special Provisions**

1. *Comprehensive Transportation Analysis:* The County shall require a transportation component for MVMU to focus both on vehicular and pedestrian traffic. By providing a proper mix of land uses and transportation options, a substantial portion of the trips for residents and employees of the District should be satisfied within the development itself. MVMU shall be included in the County's comprehensive bicycle and pedestrian facilities plan to be prepared once redevelopment begins to address access, connectivity and mobility. This plan will be incorporated into the MPO's Long Range Transportation Plan.
2. *Specific Transportation Connections:* The close proximity of the District to major arterials, Tamiami Trail (U.S. 41) and El Jobean Road (S.R. 776) will enable the creation of a new network of connecting roads with gateways into the MVMU. In order to facilitate emergency evacuation, the County shall require north-south gateways and an east-west connector to be incorporated into the MVMU transportation design.
3. *Multi-modal Street Design:* The arrangement and design of streets within the MVMU shall promote a pedestrian and bicycle friendly environment with an emphasis on comfortable and convenient access to neighborhoods, the Town Center, neighborhood shopping, parks, schools and civic uses.
4. *Open Space:* Open space shall constitute no less than 20 percent of the gross acreage of the MVMU. As permitted throughout the MVMU, the term "open space" shall include, but not be limited to: preserve areas, both passive and active parks (including the existing regional park), pedestrian and cycling systems; and properly-designed buffers, lakes, and waterbodies.
5. *Schools:* The County shall require the MVMU to include a maximum of 35 acres available for development as a public primary or secondary school or other educational facility. Schools of higher education, including universities/colleges and vocational schools are not included in the acreage limitation set forth above.
6. *Other Public Facilities:* At the time of rezoning, the County shall determine the need to locate public facilities such as sheriff substations, fire stations, government offices and other public services within the MVMU.

### ***BABCOCK MIXED USE (BMU)***

These lands shall develop to the standards and guidelines provided in this Comprehensive Plan within the policies of the Babcock Ranch Overlay District (BROD), within the Master Development Order for the Babcock DRI, and subsequent incremental Development Orders, and in the Babcock Ranch Zoning District. The BMU covers approximately 13,630 acres and is

situated in the southwest portion of the Babcock Ranch, east of S.R. 31 and adjacent to the Charlotte-Lee County line.

**Maximum Density/Intensity**

Development within the BROD is limited to 17,870 dwelling units and 6,000,000 square feet of non-residential uses. This total square footage for non-residential uses is further defined as including:

- 4,840,000 square feet commercial/office/retail (including medical),
- 650,000 square feet of light industrial,
- 150,000 square feet of government/civic uses,
- 72 golf course holes, and
- 600 hotel rooms (360,000 square feet).
- Primary Greenways: Minimum 4,700 acres
- Parks: Minimum 255 acres
- Schools square footage shall not count as part of the 6,000,000 square feet of non-residential or public/civic square footage.

The allocations for these uses throughout the BROD are set forth below, subject to the above totals:

FLU Table A-8: Babcock Mixed Use Density/Intensity Standards		
Land Use Classification	Development Type	Density/Acre and Intensity (FAR)
Town Center	Residential	3-24 density/ac
	Non-residential (commercial, retail, light industrial)	Up to 2.0
Village and Hamlet	Single-family	3-6 density/ac
	Multi-family	6-16 density/ac
	Non-residential/Commercial	Up to 1.0
Civic, Community, & Misc. Public Facilities	Institutional uses, government facilities, etc.	Up to 2.0

**OTHER DESIGNATIONS**

*Public Lands and Facilities*

**PUBLIC LANDS AND FACILITIES (PL)**

These lands may be publicly or privately owned. Public Lands and Facilities include those lands owned by Charlotte County government, the Charlotte County School Board, private schools, churches, auditoriums, theatres, museums, the City of Punta Gorda, the State of Florida, the United States government, private hospitals, or utilities.

# **Attachment 10: Murdock Village Mixed Use FLUM designation**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

- a. Development is limited to personal and business services, general retail and neighborhood stores, tourism establishments and restaurants.
- b. Maximum FAR is 2.5.
- 5. *Mixed Development*: Mixed development of Residential and Commercial/Professional Office uses shall comply with the following:
  - a. Provide for a combination of residential and low intensity commercial or professional office uses on the same parcel site;
  - b. Maximum residential density is 15 dwelling units per acre;
  - c. Residential development must be located on a separate floor from commercial or office uses; and
  - d. Maximum FAR is 2.5.

**CHARLOTTE HARBOR NEIGHBORHOOD BUSINESS/RESIDENTIAL (CHNBR)**

The Charlotte Harbor Neighborhood Business/Residential category provides for daily convenience goods, professional, personal and business services, and allows for residential development.

**General Range of Uses**

Residential and commercial uses; commercial uses allowed within this category may include small restaurants, drug stores, specialty retail shops, professional offices and public services and facilities.

**Maximum Density/Intensity**

*Density*: Maximum density is ten dwelling units per acre.

*Intensity*: Maximum FAR is 2.5.

**Special Provisions**

- 1. For non-residential structures that exceed 3,000 square feet of gross leasable area, a mix of residential and commercial uses must be provided.
- 2. Developments planned for greater than 3,000 square feet of non-residential uses shall be approved through the Special Exception process and no one use (commercial or residential) shall exceed 80% of the total development.

**MURDOCK VILLAGE MIXED USE (MVMU)**

The Murdock Village Mixed Use category is designed for the Murdock Village Community Redevelopment Area (MVCRA) and will encourage a high-tech, energy efficient and environmentally-friendly mix of residential, retail commercial, medical, office, office showroom, public and educational facilities, recreational and institutional redevelopment. The mixed use development focus will be on creating a vibrant and attractive gathering place for the entire community in the form of a town center; adequate provisions for distinct and interconnected multi-generational neighborhoods; "five minute walk" (the reference is not intended to be taken literally but to suggest easy walkable access) to parks, facilities and services; a pedestrian-

friendly street network; and interior greenway and blueway open space linkages that integrate the MVCRA with existing County resources.

### **Maximum Development**

Total development within the MVMU shall be limited to 3,023,882 square feet of commercial uses, 538 multi-family dwelling units and 2,744 single-family dwelling units, provided that these uses and development totals may be modified in accordance with the MVMU Equivalency Matrix, provided in FLU Section A-6. Table A-3.6, Murdock Village Mixed Use Densities/Intensities, provides additional development parameters for the primary use areas located within MVMU.

### **General Range of Uses**

Within the MVMU classification, the County shall allow a combination of residential, commercial, office, research and development, office showroom, hotels, civic, healthcare, parks and open space, public/institutional, educational land uses, and public services and facilities in order to encourage long-term sustainable development. Mobile homes and industrial uses, except as otherwise provided herein, are prohibited within the MVMU. The following types of uses are permitted in MVMU:

#### *Neighborhood Residential:*

- a. MVMU shall include distinct interconnected, multi-generational, residential neighborhoods.
- b. Residential neighborhoods shall feature easy access to a network of open space which may include bicycle/pedestrian facilities, greenways and blueways.
- c. Assisted Living Facilities shall be permitted within areas designated as Neighborhood Residential.
- d. Non-residential land uses located within areas designated as Neighborhood Residential shall be designed and developed to protect the integrity of the surrounding residential land uses.
- e. Internal Commercial sites shall be a maximum of four acres, although the total acreage of all Internal Commercial shall not exceed 16 acres, and shall only be built within the Neighborhood Residential Land Use District to provide for local daily convenience goods, retail, professional, office showrooms, healthcare, personal and business services.
- f. Both single-use and multi-use development sites can be located within Internal Commercial areas.
- g. Medium- to high-density residential will be permitted in these areas provided they are located on the upper floors of a mixed-use building.
- h. Multi-use development on a single parcel shall be designed and developed to protect the integrity of the surrounding land uses.

# **Attachment 11: Charlotte Harbor Revitalization Plan, Ordinance Number 2015-031**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

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ORDINANCE  
NUMBER 2015-031

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, PURSUANT TO SECTION 163.3184(3), FLORIDA STATUTES, TO AMEND THE FUTURE LAND USE (FLU) ELEMENT BY REVISING POLICIES SPECIFICALLY RELATED TO CHARLOTTE HARBOR REDEVELOPMENT AREA AND REVITALIZING NEIGHBORHOOD; TO AMEND FLU APPENDIX I: LAND USE GUIDE, BY DELETING CHARLOTTE HARBOR TOURIST AND CHARLOTTE HARBOR NEIGHBORHOOD BUSINESS/RESIDENTIAL FUTURE LAND USE (FLUM) CATEGORIES AND REVISING CHARLOTTE HARBOR MIXED USE FLUM CATEGORY; TO AMEND FLU APPENDIX II: FUTURE LAND USE MAP SERIES, BY ADDING FLUM SERIES MAP #1A: CHARLOTTE HARBOR 2030 FLU - DETAIL MAP, FLUM SERIES MAP #26: COMMUNITY REDEVELOPMENT AREAS, AND FLUM SERIES MAP #26A: CHARLOTTE HARBOR COMMUNITY REDEVELOPMENT AREA; AND TO AMEND FLU APPENDIX IV: REVITALIZATION PLANS TO CREATE THE CHARLOTTE HARBOR COMMUNITY REVITALIZATION PLAN; PETITION PA-14-11-17-LS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.



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RECITALS

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

WHEREAS, the Charlotte Harbor CRA Redevelopment Plan was adopted by the Board on January 24, 2006; and

WHEREAS, in order to promote development and redevelopment within the Charlotte Harbor CRA and to implement the Charlotte Harbor CRA Redevelopment Plan,

1 County Staff has been working with the Charlotte Harbor Community Redevelopment  
2 Agency Advisory Committee (“CHCRAAC”) and citizens to revise some policies and FLUM  
3 Series Maps located in the Charlotte County Comprehensive Plan (“Comprehensive Plan”),  
4 specifically related to the Charlotte Harbor CRA; and

5 WHEREAS, County Staff has also been working with the CHCRAAC and citizens to  
6 create a Charlotte Harbor Community Revitalization Plan (CHCRP); and

7 WHEREAS, the proposed CHCRP contains policies to set criteria for the potential  
8 use of the Revitalizing Area Plan Incentive Density (RAPID) within the Charlotte Harbor  
9 CRA; and

10 WHEREAS, the proposed CHCRP establishes the policies that will implement the  
11 vision articulated by the Charlotte Harbor CRA Redevelopment Plan of transforming the  
12 Charlotte Harbor Community into a walkable mixed-use community; and

13 WHEREAS, the proposed revisions to the Comprehensive Plan and the proposed  
14 CHCRP were presented to CHCRAAC at their regular meetings and the CHCRAAC  
15 supports these revisions to the Comprehensive Plan and the proposed CHCRP; and

16 WHEREAS, the Board, as applicant, has filed Petition PA-14-11-17-LS seeking a  
17 large scale plan amendment to amend the Future Land Use (FLU) Element by revising  
18 policies specifically related to the Charlotte Harbor Redevelopment Area and Revitalizing  
19 Neighborhood; to amend FLU Appendix I: Land Use Guide, by deleting Charlotte Harbor  
20 Tourist and Charlotte Harbor Neighborhood Business/Residential Future Land Use (FLUM)  
21 categories and revising Charlotte Harbor Mixed Use FLUM category; to amend FLU  
22 Appendix II: Future Land Use Map Series, by adding FLUM Series Map #1A: Charlotte

1 Harbor 2030 FLU - Detail Map, FLUM Series Map #26: Community Redevelopment Areas,  
2 and FLUM Series Map #26A: Charlotte Harbor Community Redevelopment Area; and to  
3 amend FLU Appendix IV: Revitalization Plans to create the Charlotte Harbor Community  
4 Revitalization Plan; and

5 WHEREAS, the proposed revisions to the Future Land Use Element is hereby  
6 amended by adding the underlined language and by ~~deleting the stricken language~~ to  
7 provide as shown in Exhibit "A" which is attached hereto and by this reference provided  
8 herein; and

9 WHEREAS, the proposed revisions to the FLU Appendix I: Land Use Guide is  
10 hereby amended by adding the underlined language and by ~~deleting the stricken language~~  
11 to provide as shown in Exhibit "B" which is attached hereto and by this reference provided  
12 herein; and

13 WHEREAS, the proposed revisions to the FLU Appendix II: Future Land Use Map  
14 Series by adding FLUM Series Map #1A: Charlotte Harbor 2030 FLU - Detail Map are  
15 provided in Exhibit "C" and Exhibit "C-1" which are attached hereto and by this reference  
16 provided herein; and

17 WHEREAS, the proposed revisions to the FLU Appendix II: Future Land Use Map  
18 Series by adding FLUM Series Map #26: Community Redevelopment Areas are provided in  
19 Exhibit "D" which is attached hereto and by this reference provided herein; and

20 WHEREAS, the proposed revisions to the FLU Appendix II: Future Land use Map  
21 Series by adding FLUM Series Map #26A: Charlotte Harbor Community Redevelopment

1 Area are provided in Exhibit "E" which is attached hereto and by this reference provided  
2 herein; and

3 WHEREAS, the proposed CHCRP is attached as Exhibit "F" which is attached  
4 hereto and by this reference provided herein; and

5 WHEREAS, on January 12, 2015, Petition PA-14-11-17-LS was heard before the  
6 Charlotte County Planning and Zoning Board ("P&Z Board") and, based on the findings  
7 and analysis provided by County Staff regarding the proposed amendment and the  
8 evidence presented to the P&Z Board, Petition PA-14-11-17-LS was found to be consistent  
9 with the Comprehensive Plan and the P&Z Board recommended approval for transmittal of  
10 Petition PA-14-11-17-LS to the Department of Economic Opportunity ("DEO") for review  
11 and comments; and

12 WHEREAS, in a public hearing held on Tuesday, February 24, 2015, the Board  
13 reviewed plan amendment Petition PA-14-11-17-LS and, based on the findings and  
14 analysis provided by County Staff and the evidence presented to it, approved transmittal of  
15 Petition PA-14-11-17-LS to the DEO for review and comments; and

16 WHEREAS, on April 8, 2015, the DEO issued a letter stating that it had no  
17 comments regarding Petition PA-14-11-17-LS; and

18 WHEREAS, other relevant state agencies also reviewed Petition PA-14-11-17-LS  
19 and had no comments with the exception of the Florida Department of Transportation  
20 ("FDOT") expressing concerns with certain concurrency issues; and

21 WHEREAS, County Staff addressed FDOT's comments by adding a policy to FLU  
22 Appendix IV, within the Charlotte Harbor Community Revitalization Plan, stating that all

1 development and redevelopment within the Charlotte Harbor Community must maintain  
2 concurrency for all public infrastructure; and

3 WHEREAS, after due consideration, and based on the findings and analysis  
4 provided by County Staff regarding Petition PA-14-11-17-LS and the evidence presented to  
5 the Board, the Board has determined that the proposed changes will promote development  
6 and redevelopment within the Charlotte Harbor CRA, will implement the vision established  
7 in the Charlotte Harbor CRA Redevelopment Plan, that the requirements and conditions of  
8 Chapter 163, Florida Statutes, as they relate to this Petition, have been met, and that it is  
9 in the best interests of the County to approve Petition PA-14-11-17-LS.

10 NOW, THEREFORE, BE IT ORDAINED by the Board of County  
11 Commissioners of Charlotte County, Florida:

12 Section 1. Approval. The following petition for amendment to the Charlotte  
13 County Comprehensive Plan is hereby approved:

14 Petition PA-14-11-17-LS requesting a large scale plan  
15 amendment to amend the Future Land Use (FLU) Element by  
16 revising policies specifically related to Charlotte Harbor  
17 Redevelopment Area and Revitalizing Neighborhood; to  
18 amend FLU Appendix I: Land Use Guide, by deleting  
19 Charlotte Harbor Tourist and Charlotte Harbor Neighborhood  
20 Business/Residential Future Land Use (FLUM) categories and  
21 revising Charlotte Harbor Mixed Use FLUM category; to amend  
22 FLU Appendix II: Future Land Use Map Series, by adding  
23 FLUM Series Map #1A: Charlotte Harbor 2030 FLU - Detail  
24 Map, FLUM Series Map #26: Community Redevelopment  
25 Areas, and FLUM Series Map #26A: Charlotte Harbor  
26 Community Redevelopment Area; and to amend FLU  
27 Appendix IV: Revitalization Plans to create the Charlotte  
28 Harbor Community Revitalization Plan; and more particularly  
29 described in Exhibits "A" through "F" attached hereto and by  
30 this reference provided herein.

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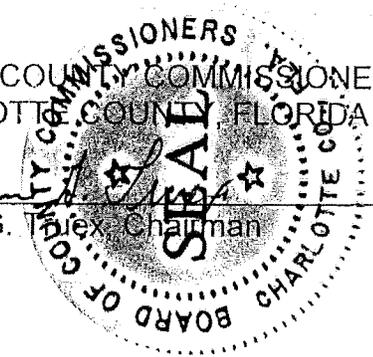
1           Section 2. Severability. If any section, subsection, clause, phrase, or  
2 provision of this ordinance is for any reason held invalid or unconstitutional by any court or  
3 body of competent jurisdiction, such holding shall not be construed to render the remaining  
4 provisions of this ordinance invalid or unconstitutional.

5           Section 3. Effective date. The effective date of this plan amendment, if the  
6 amendment is not timely challenged, shall be 31 days after the state land planning agency  
7 notifies the local government that the plan amendment package is complete. If timely  
8 challenged, this amendment shall become effective on the date the state land planning  
9 agency or the Administration Commission enters a final order determining this adopted  
10 amendment to be in compliance. No development orders, development permits, or land  
11 uses dependent on this amendment may be issued or commence before it has become  
12 effective. If a final order of noncompliance is issued by the Administration Commission,  
13 this amendment may nevertheless be made effective by adoption of a resolution affirming  
14 its effective status, a copy of which resolution shall be sent to the state land planning  
15 agency.

16           Section 4. Adoption. County staff is hereby directed to forward a copy of  
17 this ordinance and its attachments to the Department of Economic Opportunity, 107 East  
18 Madison Street, Tallahassee, FL 32399-4120, and to the Executive Director, Southwest  
19 Florida Regional Planning Council, 1926 Victoria Avenue, Fort Myers, FL 33901.

PASSED AND DULY ADOPTED this 23<sup>rd</sup> day of June, 2015.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA  
By: William G. Jones  
William G. Jones, Chairman



ATTEST:  
Barbara T. Scott, Clerk of Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By: Michelle D. Buardino  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: Janette S. Knowlton  
Janette S. Knowlton, County Attorney  
LR2015-3243

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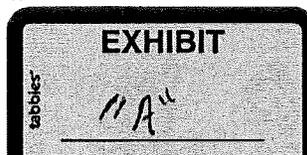
**FUTURE LAND USE - GOALS, OBJECTIVES AND POLICIES**

Revisions under Goal 1, Objective 1.2

**FLU Policy 1.2.1: Adopted Future Land Use Map Series (FLUM Series) and Planning Horizon**

The FLUM Series embodies strategies designed to build long-term community value, discourage urban sprawl and ensure that public facilities and services are provided in the most cost-effective and efficient manner. Charlotte County provides appropriate goals, objectives, policies, data and analysis for a future land use, long-range planning horizon through the year 2030, but provides for a vision horizon through the year 2050. The County adopts the FLUM Series as depicted in FLU Appendix II: Future Land Use Map Series, and listed below, and uses the Future Land Use Categories as defined and adopted in FLU Appendix I: Land Use Guide:

- Map #1: 2030 Future Land Use
- Map #1A: Detail Map of Charlotte Harbor 2030 FLU
- Map #2: 2050 Framework
- Map #3: 2030 Service Area Delineation
- Map #4: Watershed Overlay District
- Map #5: Surface Water Protection Overlay District
- Map #6: Prime Aquifer Recharge Area
- Map #7: Public Water System Wellhead Protection Areas
- Map #8: Special Area Overlay Districts
- Map #9: Barrier Island Overlay District
- Map #10: Community Planning Areas
- Map #11: Special Area Plans
- Map #12: Historic Sites
- Map #13: Coastal Planning Area
- Map #14: Coastal High Hazard Areas and Evacuation Routes
- Map #15: Sea Level Rise
- Map #16: Rivers and Lakes
- Map #17: Floodplains
- Map #18: Wetlands
- Map #19: Soils
- Map #20: Topography
- Map #21: Transfer of Density Waivers
- Map #22: Critical Wildlife Corridors
- Map #23: Rural Community Potential Locations
- Map #24: MRE Prohibited Areas
- Map #25: Developments of Regional Impact



Map #26: Community Redevelopment Areas

Map #26A: Charlotte Harbor Community Redevelopment Area

Revisions under Goal 4, Objective 4.2

FLU Policy 4.2.4: Charlotte Harbor Community Revitalizing Neighborhood

The County shall designate the Charlotte Harbor Community Redevelopment Area, as depicted on FLUM Series Map #26: Community Redevelopment Areas, as a Revitalizing Neighborhood as defined in FLU Policy 4.1.1: 2050 Framework – Neighborhoods. The Charlotte Harbor Community Revitalizing Neighborhood shall also be divided into sub-districts as depicted on FLUM Series Map #26A: Charlotte Harbor Community Redevelopment Area.

FLU Policy 4.2.5: Charlotte Harbor Community Revitalization Plan (CHCRP)

The County shall support the revitalization of the Charlotte Harbor Community through the implementation of the CHCRP, adopted within FLU Appendix IV. The Objectives and Policies of the CHCRP are linked to distinct sub-districts illustrated within FLUM Series Map #26A: Charlotte Harbor Community Redevelopment Area. The County shall also continue to utilize unique Future Land Use Map categories, found in FLU Appendix I: Land Use Guide, and unique Zoning districts and other land development regulations to implement the Charlotte Harbor CRA Redevelopment Plan and the Charlotte Harbor Community Revitalization Plan.

Revisions under Goal 5, Objective 5.3

FLU Policy 5.3.3: Charlotte Harbor Rezoning Petition Review

The Charlotte Harbor Community Redevelopment Agency Advisory Committee (CHCRAAC) shall review proposed comprehensive plan amendments and rezoning petitions for consistency with this Plan, the Charlotte Harbor Community Development Code, and Charlotte County Code of Laws and Ordinances, and will issue a recommendation to the local planning agency and Board of County Commissioners.

FLU Policy 5.3.4: Charlotte Harbor Prohibited Land Use

In order to protect the public safety, the County prohibits new mobile homes to be installed within the CHCRA, which is located within the Coastal High Hazard Area.

FLU Policy 5.3.5: Charlotte Harbor Density Calculation

Within the CHCRA, where single family residential lots are platted at greater than three and one half dwelling units per acre, residential densities may be

~~developed at one single family dwelling unit per platted lot. In cases where the fraction of the maximum number of developable dwelling units is greater than 50 percent, the landowner is permitted to build one additional dwelling unit if permitted within the applicable zoning district.~~

~~**FLU Policy 5.3.6: Charlotte Harbor Land Acquisition**~~

~~The County shall develop any land acquisition sites within the CHCRA as parks or use them to implement redevelopment projects as identified in the Charlotte Harbor Community Redevelopment Plan.~~

~~**FLU Policy 5.3.7: Leveraging Funds within Charlotte Harbor**~~

~~The County shall continue to seek additional funding sources in order to leverage tax increment revenues to complete identified infrastructure needs within the CHCRA.~~

~~**FLU Policy 5.3.83: Murdock Village Partnership**~~

~~The County shall consider partnerships with the private sector and other governmental entities to facilitate redevelopment initiatives by leveraging County assets to improve the overall economic and physical condition of the MVCRA.~~

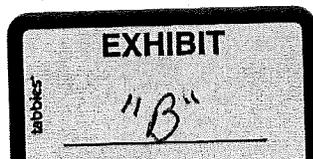
~~**FLU Policy 5.3.94: Murdock Village Zoning Regulations**~~

~~To implement the Redevelopment Plan, the County shall adopt a specific mixed use zoning district. This district shall include design and development standards as well as specific Floor Area Ratios (FARs) for the land use relationships established in the Redevelopment Plan. The standards shall include design and maintenance criteria for new and redeveloped properties, streets, pedestrian and bicycle facilities, signage, and public areas within the development. The standards will address the incorporation of human-scale aesthetics into street and building design. Building design and location shall reinforce a pedestrian-oriented character including linkages between land uses through a functional bicycle-pedestrian system. Public gathering places shall be incorporated within each distinct land use area.~~

**FLU APPENDIX I: LAND USE GUIDE**

Revisions under Section 3, General Application

FLU Table A-1: Future Land Use Designations		
*Future Land Use Map Category	Abbrev.	Location Permitted
<b>Resource Protection Land Uses</b>		
Preservation	PR	County-wide
Resource Conservation	RC	County-wide
Parks & Recreation	PKR	County-wide
<b>Rural Land Uses</b>		
Agriculture	AG	Rural Service Area
Burnt Store Limited Development	BSLD	Burnt Store Overlay District (BSOD) Urban or Rural Service Area
Mineral Resource Extraction	MRE	Rural Service Area
Rural Community Mixed Use (to review description, see Mixed Use Land Use Categories)	RCMU	Rural Service Area
<b>Urban Residential Land Uses</b>		
Low Density Residential	LDR	Urban Service Area
Medium Density Residential	MDR	Urban Service Area
High Density Residential	HDR	Urban Service Area
Charlotte Harbor Coastal Residential	CHCR	Charlotte Harbor Community Redevelopment Area (CHCRA)
<b>Non-Residential Land Uses</b>		
Commercial	COM	Urban Service Area
Office and Institutional	OI	Urban Service Area
Charlotte Harbor Commercial	CHC	CHCRA
Enterprise Charlotte Airport Park	ECAP	Enterprise Charlotte Airport Park Overlay District
Low Intensity Industrial	LII	Urban Service Area
High Intensity Industrial	HI	Urban Service Area
<b>Mixed Use Land Uses</b>		
Compact Growth Mixed Use	CGMU	Urban Service Area
DRI Mixed Use	DRI	Urban Service Area
Burnt Store Village Residential	BSVR	BSOD Urban Service Area
Rural Community Mixed Use	RCMU	Rural Service Area
U.S. 41 Mixed Use	41MU	Urban Service Area
Charlotte Harbor Tourist	CHT	CHCRA
Charlotte Harbor Mixed Use	CHMU	CHCRA
Charlotte Harbor Neighborhood Business/Residential	CHNBR	CHCRA
Murdock Village Mixed Use	MVMU	Murdock Village Community Redevelopment Area
Babcock Mixed Use	BMU	Babcock Ranch Overlay District
<b>Other</b>		
Public Lands & Facilities	PL	County-wide



FLU Table A-1: Future Land Use Designations		
*Future Land Use Map Category	Abbrev.	Location Permitted
<b>Inactive Land Uses</b>		
Rural Estate Residential	RER	County-wide
Charlotte Harbor Industrial	CHI	CHCRA
RV Park	RVP	Urban Service Area
Coastal Residential	CR	Rural Service Area – Bridgeless Barrier Islands

Revisions under Section 3, Definitions of Future Land Use Map Categories

MIXED USE LAND USES

- Compact Growth Mixed Use*
- DRI Mixed Use*
- Burnt Store Village Residential*
- Rural Community Mixed Use*
- U.S. 41 Mixed Use*
- Charlotte Harbor Tourist*
- Charlotte Harbor Mixed Use*
- Charlotte Harbor Business/Residential*
- Murdock Village Mixed Use*
- Babcock Mixed Use*

***CHARLOTTE HARBOR TOURIST (CHT)***

The Charlotte Harbor Tourist category allows for tourist accommodations and services, as well as recreational activities. These areas are located adjacent to or near an attractor of tourism, such as Charlotte Harbor frontage with its recreational and scenic resources.

**General Range of Uses**

Residential and commercial uses; commercial uses allowed within Charlotte Harbor Tourist lands include motels, restaurants, general retail stores, and professional services and public services and facilities.

**Maximum Density/Intensity**

*Density:* Maximum density is 15 dwelling units per acre.

*Intensity:* Maximum FAR is 2.5.

**Special Provision**

Multi-use developments on the same site must be compatible with the surrounding land uses and may be developed only as part of a Planned Development (PD).

***CHARLOTTE HARBOR MIXED USE (CHMU)***

The Charlotte Harbor Mixed Use category is intended for activities located within the Charlotte Harbor CRA and allows for a combination of single- and multi-family residential, commercial, and professional office uses, within the CHCRA and essential and emergency services. Neither commercial uses nor residential uses shall exceed 80 percent of the total area designated as Charlotte Harbor Mixed Use. Properties are not required to be developed with more than one use.

**Permitted Uses**

Single- and multi-family residential; personal and business services; commercial uses; tourism establishments; and public services and facilities.

**Maximum Density/Intensity**

Density: Maximum density is 24 dwelling units per acre in the Riverwalk Sub-District and 15 dwelling units per acre in other Planning Sub-Districts (FLUM Series Map #6A: Charlotte Harbor Community Revitalization Area).

Intensity: Maximum FAR is 2.5.

**Consistent Zoning Districts:**

Charlotte Harbor Riverwalk, Charlotte Harbor Mixed Use, Charlotte Harbor Neighborhood Business Residential, Planned Development

**Special Provisions**

- ~~1. Multi Use Developments: Multi-use developments must be compatible with the surrounding land uses and may be developed only as part of a Planned Development (PD);~~
- ~~2. Commercial Intensive Uses: Commercial intensive uses, such as automobile and heavy machinery sales and repairs, are prohibited from Mixed Use areas;~~
- ~~3. Residential Development: Residential development shall comply with the following:
 
  - ~~a. Development may be either single or multi-family residential;~~
  - ~~b. Single family residential may be developed up to three and one half dwelling units per acre, or one dwelling unit per platted lot for existing subdivisions if platted at a density greater than three and one half units per acre;~~
  - ~~c. Multi-family residential may be developed up to 15 dwelling units per acre; and~~~~
- ~~4. Low intensity recreational activities are permitted as part of an approved Planned Development (PD).~~
- ~~5. Commercial and Professional Office Development: Development shall comply with the following:
 
  - ~~a. Development is limited to personal and business services, general retail and neighborhood stores, tourism establishments and restaurants.~~
  - ~~b. Maximum FAR is 2.5.~~~~
- ~~6. Mixed Development: Mixed development of Residential and Commercial/Professional Office uses shall comply with the following:~~

- a. Provide for a combination of residential and low-intensity commercial or professional office uses on the same parcel site;
- b. Maximum residential density is 15 dwelling units per acre;
- c. Residential development must be located on a separate floor from commercial or office uses; and
- d. Maximum FAR is 2.5.

***CHARLOTTE HARBOR NEIGHBORHOOD BUSINESS/RESIDENTIAL (CHNBR)***

The Charlotte Harbor Neighborhood Business/Residential category provides for daily convenience goods, professional, personal and business services, and allows for residential development.

***General Range of Uses***

Residential and commercial uses; commercial uses allowed within this category may include small restaurants, drug stores, specialty retail shops, professional offices and public services and facilities.

***Maximum Density/Intensity***

*Density:* Maximum density is ten dwelling units per acre.

*Intensity:* Maximum FAR is 2.5.

***Special Provisions***

1. For non-residential structures that exceed 3,000 square feet of gross leasable area, a mix of residential and commercial uses must be provided.
2. Developments planned for greater than 3,000 square feet of non-residential uses shall be approved through the Special Exception process and no one use (commercial or residential) shall exceed 80% of the total development.



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**FLU APPENDIX II: FUTURE LAND USE MAP SERIES, "FLUM Series"**

**INDEX OF MAPS**

**MAP 1: 2030 Future Land Use**

**MAP 1A: Charlotte Harbor 2030 FLU – Detail Map**

**MAP 2: 2050 Framework**

**MAP 3: 2030 Service Area Delineation**

**MAP 4: Watershed Overlay District**

**MAP 5: Surface Water Protection Overlay District**

**MAP 6: Prime Aquifer Recharge Area**

**MAP 7: Public Water System Wellhead Protection Areas**

**MAP 8: Special Area Overlay Districts**

**MAP 9: Barrier Island Overlay District**

**MAP 10: Community Planning Areas**

**MAP 11: Special Area Plans**

**MAP 12: FMSF Historic Sites**

**MAP 13: Coastal Planning Area**

**MAP 14: Coastal High Hazard Areas and Evacuation Routes**

**MAP 15: Sea Level Rise**

**MAP 16: Rivers and Lakes**

**MAP 17: Floodplains**

**MAP 18: Wetlands**

**MAP 19: Soils**

**MAP 20: Topography**

**MAP 21: Transfer of Density Waivers**

**MAP 22: Critical Wildlife Corridors**

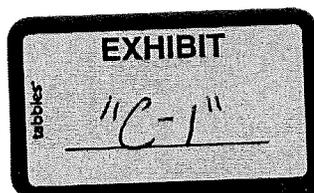
**MAP 23: Rural Community Potential Locations**

**MAP 24: MRE Prohibited Locations**

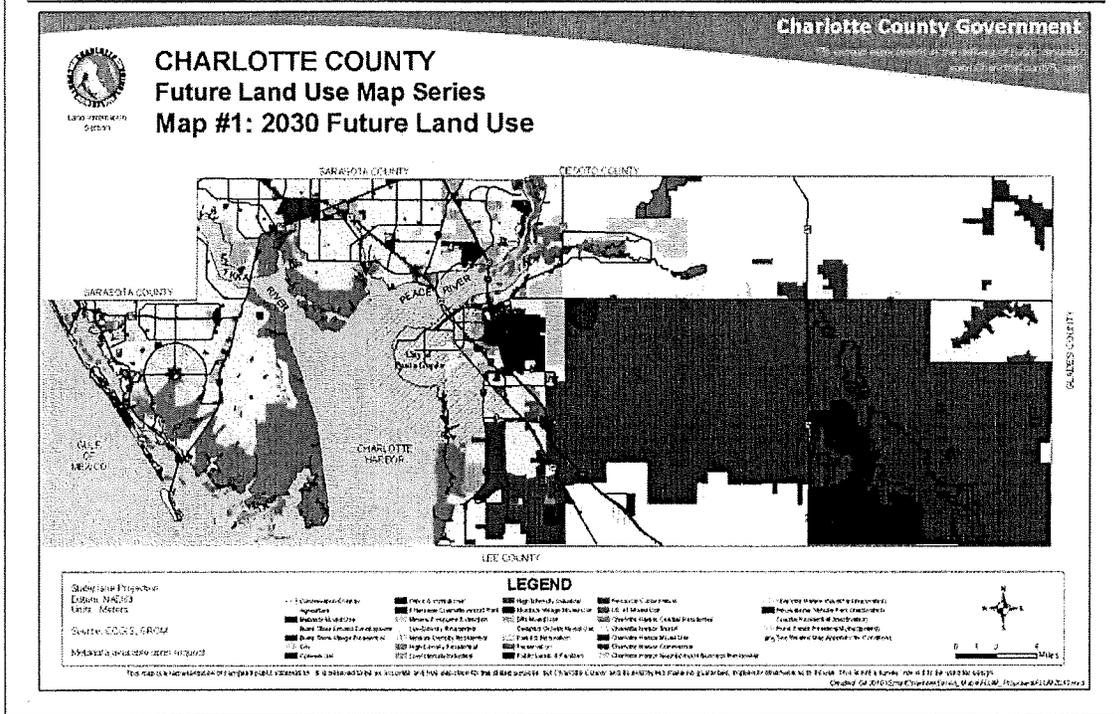
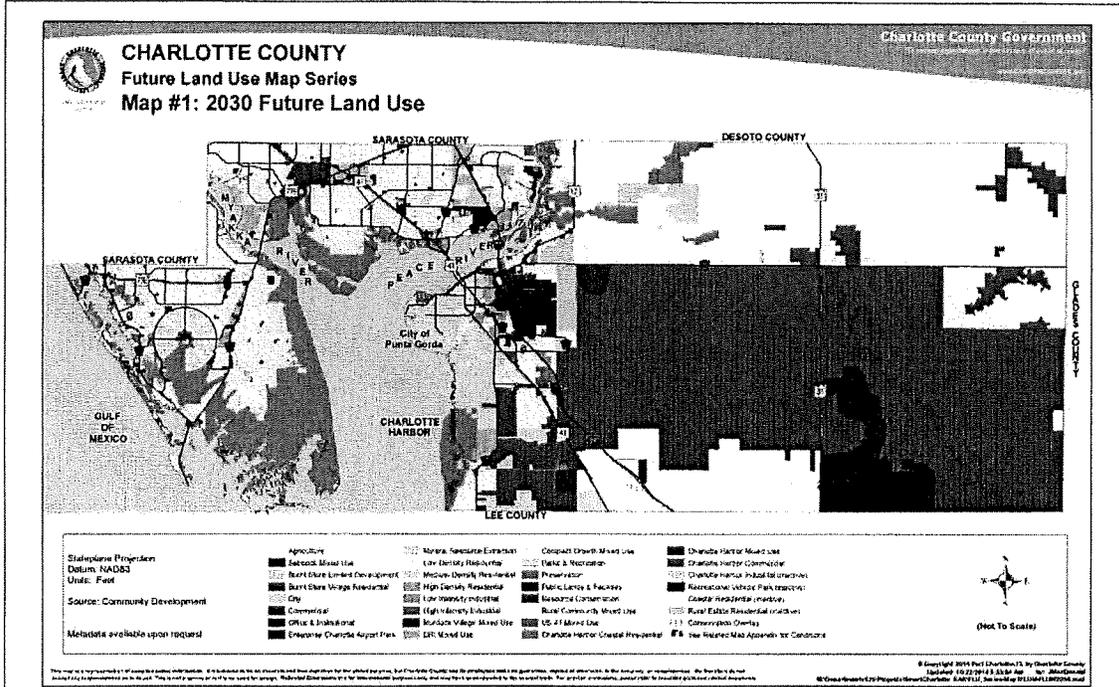
**MAP 25: Developments of Regional Impact**

**MAP 26: Community Redevelopment Areas**

**Map 26A: Charlotte Harbor Community Redevelopment Area**



MAP 1: 2030 Future Land Use



JPG File Type\*

PDF File Type\*

\* Links only work on Web.

Parcel Based Future Land Use Map Annotations (Numbers visible on full sized map.)

1. The 36.34 acre portion of the Essex Cape Cod, LLC development, as depicted on Exhibit A of Ordinance 2008-016, which carries the commercial center designation on the FLU map, shall permit a maximum of 508,000 sq. ft. of commercial retail development consistent with the commercial center land use designation.

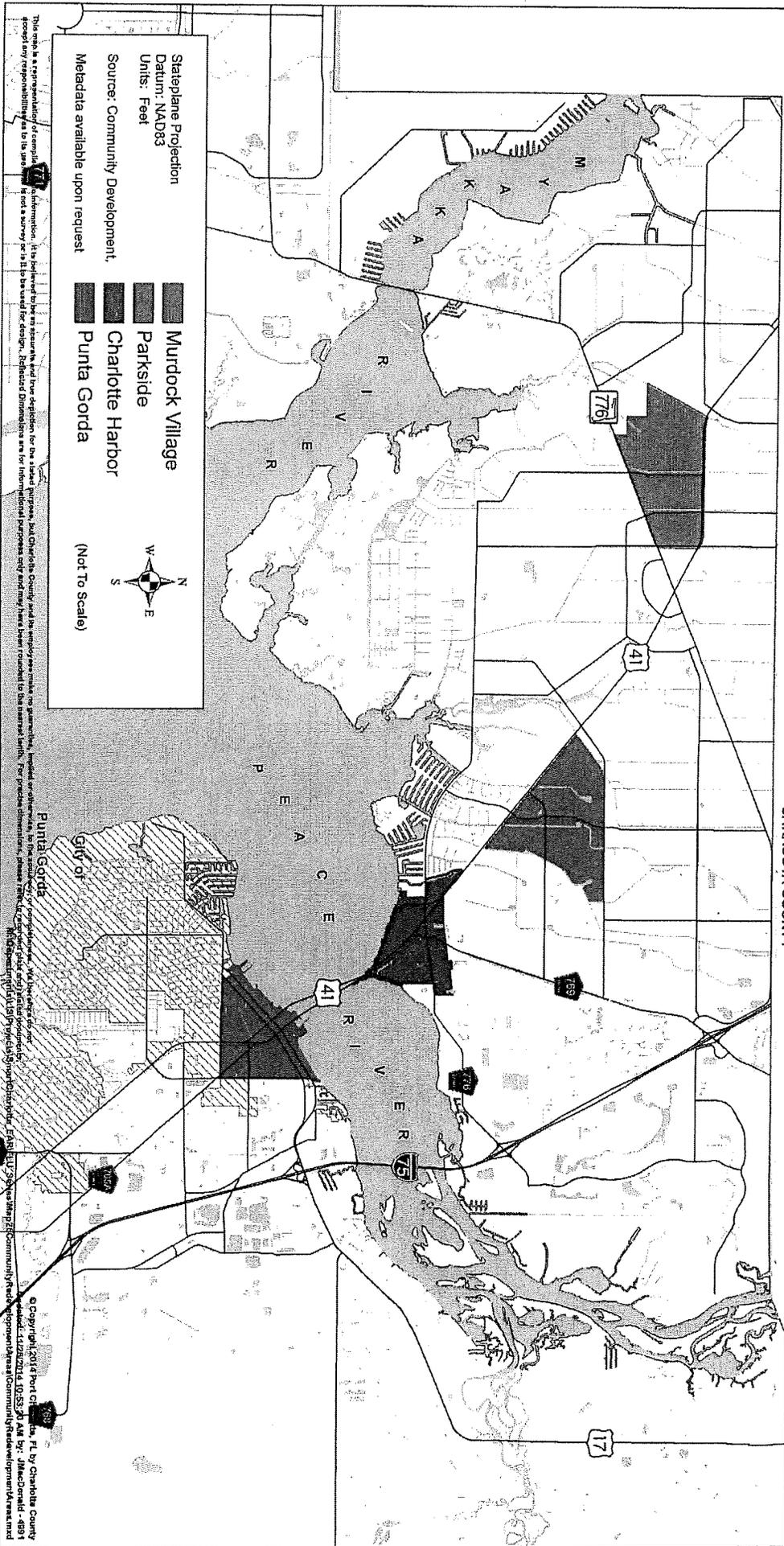
2. The 40.55-acre site, which carries the Enterprise Charlotte Airport Park FLUM) designation and is described in Exhibit A of Ordinance 2008-017, may develop all uses permitted in the Enterprise Charlotte Airport Park FLUM designation. However, development shall be limited to a maximum FAR of 0.5, except that, if any commercial retail development is proposed on the site, then in that case a maximum FAR of 0.4 shall apply to all uses.
3. The 70.77 acre site, which carries the Commercial Center FLUM designation and is described in Ordinance 2008-072, development shall be limited to 444,000 square feet.
4. Limiting commercial & industrial intensity of the subject site to 525,000 sq ft & requiring the property to be rezoned as a PD.
5. The 170 acres +/- of property that is the subject of Petition PA-05-11-76-LS and Ordinance 2007-026, which carries the Low Density Residential designation on the FLUM, shall maintain a maximum of 400 units of density, and the portion of the property that is located within the Coastal High Hazard Area shall be limited to 3.5 units per acre.
6. Limit commercial intensity of the subject site to 135,254 sq ft.
7. Limit the base density to 1 unit per 10 acres.
8. Development within the 65.8 acre Coastal High Hazard Area ("CHHA") incorporated into the Harborview Development of Regional Impact ("DRI") by Resolution 2006-093 and which carries the Mixed Use designation on the Future Land Use Map, shall allow a maximum of 157 residential dwelling units.
9. Limit the residential density to 2 units per acre which carries the Low Density Residential FLUM designation and is the subject of PA-10-11-32-LS, as described in Ordinance #2011-022.
10. Limit the base density to 0 units per acre unless density is transferred to the site.
11. Limit the base density to 15 units per acre unless density is transferred to the site.
12. Limit the base density to 3.5 units per acre unless density is transferred to the site.
- 8-13. Limit the base density to 10 units per acre unless density is transferred to the site.



Land Information  
Section

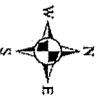
# CHARLOTTE COUNTY Future Land Use Map Series Map #26: Community Redevelopment Areas

SARASOTA COUNTY



Stateplane Projection  
Datum: NAD83  
Units: Feet  
Source: Community Development,  
Metadata available upon request

- Murdock Village
- Parkside
- Charlotte Harbor
- Punta Gorda



(Not To Scale)

This map is a representation of a computer-generated map. It is not a survey or a legal document. It is not to be used for design. Indicated dimensions are for informational purposes only and may have been rounded to the nearest inch. For precise dimensions, please refer to the original map. Information, it is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guarantee, implied or otherwise, with respect to the accuracy of the information. It is not a survey or a legal document. It is not to be used for design. Indicated dimensions are for informational purposes only and may have been rounded to the nearest inch. For precise dimensions, please refer to the original map. Copyright 2014 Port Charlotte, FL by Charlotte County. Metadata: 4/25/2014 10:55:26 AM by: UMacDonald - 4991

Charlotte County Government  
To obtain a copy of this map, please contact the County of Public Services  
www.CharlotteCounty.org

EXHIBIT

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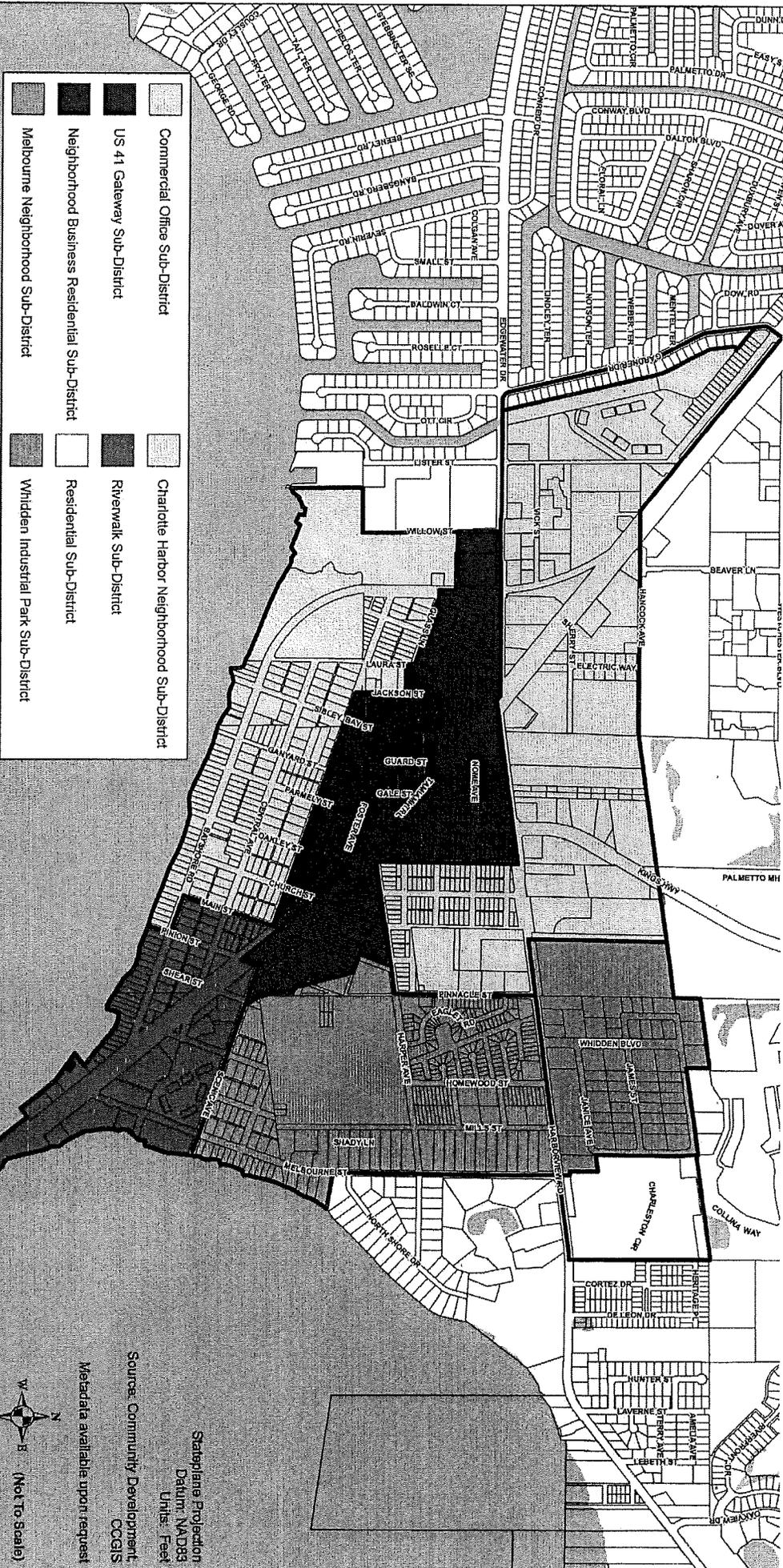


Land Information  
Section

# CHARLOTTE COUNTY

## Future Land Use Map Series

### Map #26A: Charlotte Harbor Community Redevelopment Area



- Commercial Office Sub-District
- US 41 Gateway Sub-District
- Neighborhood Business Residential Sub-District
- Melbourne Neighborhood Sub-District
- Charlotte Harbor Neighborhood Sub-District
- Riverwalk Sub-District
- Residential Sub-District
- Whidden Industrial Park Sub-District

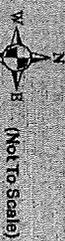
This map is a representation of completed public information. It is intended to be used as a guide and not a contract. The user is responsible for verifying the accuracy of the information shown on this map. The user is advised to consult with the appropriate authorities for more information. The user is advised to consult with the appropriate authorities for more information.

tabbles  
**EXHIBIT**  
11E11

Charlotte County Government

The official website of the County of public services

www.CharlotteCountyFL.gov



(Not To Scale)

Source: Community Development  
CCGIS  
Metadata available upon request

Copyright 2014, Fort Lauderdale, FL by Charlotte County  
Under contract 172820741 03/14/14 AM by A. Bledsoe - 4982

**FLU APPENDIX IV: REVITALIZATION PLANS**

There are no plans adopted at this time.

**Charlotte Harbor Community Revitalization Plan**

**FLU App IV Goal 1: Revitalization of the Charlotte Harbor Community (CHC)**

Establish an integrated strategy that promotes positive forms of new development and redevelopment; identifies and includes the completion and upgrade of infrastructure to meet current standards; rewards the creation and retention of value-added jobs; attracts targeted businesses; increases the non-residential tax-base; enhances and preserves existing residential neighborhoods; enhances the aesthetic appearance of the community; and fosters a diverse employment base within the Charlotte Harbor Community (CHC).

**FLU App IV Objective 1.1: CHC Inclusive Policies**

To provide general processes, standards, and guidelines applicable throughout the community.

**FLU App IV Policy 1.1.1: Leveraging Funds within the CHC**

The County shall utilize TIF funds, grants, public-private partnerships, private contributions, and other funding opportunities to provide for infrastructure improvements, corridor beautification, and the development of other projects identified in the Charlotte Harbor CRA Redevelopment Plan to improve the quality of life and eliminate the blighted conditions identified in the community.

**FLU App IV Policy 1.1.2: CHC Land Acquisition**

The County shall develop any land acquisition sites as parks or use them to implement redevelopment projects identified in the Charlotte Harbor CRA Redevelopment Plan.

**FLU App IV Policy 1.1.3: Bayshore Live Oak Park**

The County shall employ Bayshore Live Oak Park as a community focal point to promote community spirit and pride in the CHC.

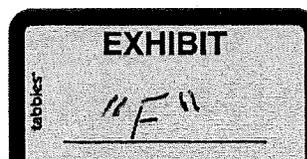
**FLU App IV Policy 1.1.4: Pedestrian- and Bicycle-Friendly Development in the CHC**

The County shall create a recreational trail incentive program to utilize the CHC's proximity to the riverfront and tidal creeks, and shall link this trail system to the Sidewalk Master Plan to access internal locations within the community. Private development shall be encouraged to contribute to this trail system and the Sidewalk Master Plan.

**FLU App IV Policy 1.1.5: Collaboration for Revitalization in the CHC**

The County shall work together with the Punta Gorda Community Redevelopment Agency, other agencies, and non-profits to coordinate and promote events that offer mutual exposure and benefit.

**FLU App IV Policy 1.1.6: CHC Petition Review**



The Charlotte Harbor Community Redevelopment Agency Advisory Committee (CHCRAAC) shall review petitions regarding comprehensive plan amendments, rezonings, special exceptions, and variances for consistency with this Plan, the Charlotte Harbor Community Development Code, and Charlotte County Code of Laws and Ordinances, and will issue a recommendation to the Planning and Zoning Board and Board of County Commissioners or Board of Zoning Appeals, as applicable.

**FLU App IV Policy 1.1.7: CHC Prohibited Land Use**

The County shall prohibit the installation of manufactured homes (HUD approved) within the Charlotte Harbor Community Redevelopment Area (CHCRA).

**FLU App IV Policy 1.1.8: CHC Non-conforming Residential Lots**

The County shall allow single-family lots platted at greater than the allowed density to be developed with one single-family dwelling unit per platted lot. This policy only applies to lots platted in legal conformance with the zoning district requirements at the time the plat was approved.

**FLU App IV Policy 1.1.9: CHC Density Calculation**

In cases where a fraction of a dwelling unit exists and that fraction is greater than 0.50, the County shall round that number up to the nearest whole number.

**FLU App IV Policy 1.1.10: CHC Concurrency**

All development and redevelopment shall ensure that concurrency for all public infrastructure shall be maintained.

**FLU App IV Objective 1.2: CHC Riverwalk Sub-District**

To encourage a mix of residential, retail, and tourist-related uses that offers pedestrian-oriented public access along the Peace River shoreline for residents and tourists, enhances the connection to downtown Punta Gorda, and promotes the heritage of the area identified as the Riverwalk Sub-District on FLUM Series Map #26A: Charlotte Harbor Community Revitalizing Neighborhood.

**FLU App IV Policy 1.2.1: Height in the CHC Riverwalk**

The County shall allow developments within the Riverwalk Sub-District to increase height up to 90 feet if the development complies with specific performance standards, as established in the Charlotte Harbor Zoning Overlay District.

**FLU App IV Policy 1.2.2: Density Increases in the CHC Riverwalk**

The County will allocate Revitalizing Area Plan Incentive Density (RAPID) to properties within the Riverwalk Sub-District that follow the requirements outlined in the following policies in order to receive RAPID. A developer of a site may choose to purchase density and not be required to meet these requirements.

**FLU App IV Policy 1.2.3: CHC Riverwalk Density Caps**

The maximum density allowed within the Riverwalk Sub-District is 24 units per acre. The use of RAPID or purchased density does not allow a site to exceed the maximum allowed density.

**FLU App IV Policy 1.2.4: RAPID Restrictions in the CHC Riverwalk**

A developer is required to get final site plan approval within two years of being granted RAPID. Construction on the development shall begin within the first half of the third year after receiving the density. Site preparation and infrastructure improvements shall be substantially completed on the property by the end of the third year. If the permit expires or the development is deemed abandoned by the County, the County shall consider the transfer of density to be voided. One year extensions to the deadline for use of the density may be granted by the Board of County Commissioners.

**FLU App IV Policy 1.2.5: CHC Riverwalk Enhancement Exchange – Required**

The following contribution is required from any developer utilizing RAPID.

1. Developers of waterfront property shall provide a 12-foot wide Riverwalk Easement, defined in the Charlotte Harbor Zoning Overlay District, for public access to the waterfront.
2. Developers of non-waterfront property shall augment the Charlotte Harbor CRA Sidewalk Master Plan by providing pedestrian connections from all commercial buildings on the lot to any future, or existing, sidewalk locations. Pedestrian connections will be built using the design standards described in the Trails and Wayfinding Project and to the County's construction standards.

**FLU App IV Policy 1.2.6: CHC Riverwalk Enhancement Exchange - Options**

The following options are made available to a developer wishing to receive RAPID.

1. Size of a Development Site.
  - a. Development site size of up to 1.0 acres will result in four units per acre.
  - b. Development site size of 1.1 to 2.0 acres will result in eight units per acre.
  - c. Development site size of 2.1 to 4.0 acres will result in 12 units per acre.
  - d. Development site size of 4.1 to 9.0 acres will result in 16 units per acre.
  - e. Development site size of over 9.0 acres will result in 24 units per acre.
2. Construct a commercial and residential mixed-use development with at least one commercial use allowing open public access, such as experienced with a restaurant or retail establishment. This amenity will result in six units per acre. If the commercial use ceases to allow open public access, the owner is required to pay the County fair market value for the density received.
3. Pledge to incorporate certified energy efficiency and other green building measures. The development would be entitled to receive the following bonuses:
  - a. LEED Silver Certification will result in three units per acre.
  - b. LEED Gold Certification will result in four units per acre.
  - c. LEED Platinum Certification will result in six units per acre.
  - d. Florida Green Building Certification will result in three units per acre.
  - e. Green Globes Certification will result in three units per acre.

If the certification is not attained within two years of a first Certificate of Occupancy (CO) being received, the owner is required to pay the County fair market value for the density received.
4. Pledge to incorporate non-certified energy efficiency and other green building measures. This may not be used in conjunction with item #3 above unless the following items are not part of green building certification of the development.
  - a. Rain gardens or other Low Impact Development strategies and practices for stormwater treatment shall result in two units per acre.
  - b. Alternative energy sources that power at least 50 percent of the energy needs of the building shall result in two units per acre.

If the item has not been incorporated by the time a first CO has been received, the owner is required to pay the County fair market value for the density received.

5. Parking agreement with the County to provide parking above what is required by their development that will be useable by citizens wanting to access public spaces and attend festivals and other events. This option shall result in two units per acre. If the item has not been incorporated by the time a first CO has been received, the owner is required to pay the County fair market value for the density received.

**FLU App IV Objective 1.3: CHC U.S. 41 Gateway Sub-District**

To encourage a mix of residential, office, and commercial uses along the U.S. 41 corridor in the area identified as the U.S. 41 Gateway Sub-District on FLUM Series Map #26A: Charlotte Harbor Community Revitalizing Neighborhood.

**FLU App Policy 1.3.1: Height in the U.S. 41 Gateway Sub-District**

The County shall allow developments within the U.S. 41 Gateway Sub-District to increase height up to 90 feet if the development complies with specific performance standards, as established in the Charlotte Harbor Zoning Overlay District.

**FLU App IV Objective 1.4: CHC Neighborhood Business Residential Sub-District**

To promote a mix of residential and neighborhood-friendly commercial uses in the area identified as the Neighborhood Business Residential Sub-District on FLUM Series Map #26A: Charlotte Harbor Community Revitalization Area. The commercial uses are encouraged to provide pedestrian-oriented amenities.

**FLU App IV Policy 1.4.1: Density Increase in the CHC NBR**

The County will allocate RAPID to properties within the NBR Sub-District that follow the requirements outlined in the following policies in order to receive RAPID. A developer of a site may choose to purchase density and not be required to meet these requirements.

**FLU App IV Policy 1.4.2: CHC NBR Density Caps**

The maximum density allowed within the Neighborhood Business Residential Sub-District is ten units per acre. The use of RAPID or purchased density does not allow a developer to exceed the maximum allowed density.

**FLU App IV Policy 1.4.3: RAPID Restrictions in the CHC NBR**

A developer is required to get final site plan approval within two years of being granted RAPID. Construction on the development shall begin within the first half of the third year after receiving the density and site preparation and infrastructure improvements shall be substantially completed on the property by the end of the third year. If the permit expires or the development is deemed abandoned by the County, the County shall consider the transfer of density to be voided. One year extensions to the deadline for use of the density may be granted by the Board of County Commissioners.

**FLU App IV Policy 1.4.4: CHC NBR Enhancement Exchange - Options**

The following options are made available to a developer wishing to receive RAPID.

1. Contribute to the development of the Charlotte Harbor CRA Sidewalk Master Plan by constructing sidewalk and installing street lights along the local roads which provide access to the development site. If sidewalks already exist, or if the developer does not wish to construct the sidewalk, the developer may contribute the equivalent funds to the Charlotte Harbor Enhancement Fund, which will be used to fund construction of a Trails and Wayfinding Project. This will result in four units per acre. If the pedestrian amenities are not completed or funds are not deposited at the same time a first CO is issued, the owner is required to pay the County fair market value for the density received.
2. Construct a commercial and residential mixed-use development with at least one commercial use allowing open public access, such as experienced with a restaurant or retail establishment. This amenity will result in six units per acre. If the commercial use ceases to allow open public access, the owner is required to pay the County fair market value for the density received.
3. Pledge to incorporate certified energy efficiency and other green building measures. The development would be entitled to receive the following bonuses:
  - a. LEED Silver Certification will result in three units per acre; or
  - b. LEED Gold Certification will result in four units per acre; or
  - c. LEED Platinum Certification will result in six units per acre; or
  - d. Florida Green Building Certification will result in three units per acre; or
  - e. Green Globes Certification will result in three units per acre.If the certification is not attained within two years of a first CO being received, the owner is required to pay the County fair market value for the density received.
4. Pledge to incorporate non-certified energy efficiency and other green building measures. This may not be used in conjunction with item #3 above unless the following items are not part of green building certification of the development.
  - a. Rain gardens or other Low Impact Development strategies and practices for stormwater treatment shall result in two units per acre.
  - b. Alternative energy sources that power at least 50 percent of the energy needs of the building shall result in two units per acre.If the item has not been incorporated by the time a first CO has been received, the owner is required to pay the County fair market value for the density received.
5. Parking agreement with the County to provide parking above what is required by their development that will be useable by citizens wanting to access public spaces and attend festivals and other events. This shall result in two units per acre. If the item has not been incorporated by the time a first CO has been received, the owner is required to pay the County fair market value for the density received.

# **Attachment 12: CSZ-016, Resolution Number 2006-078**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

by  
BCC #14

RESOLUTION  
NUMBER 2006- 078

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, APPROVING A PETITION FOR CERTIFICATION OF A SENDING ZONE; FOR CALCULATION AND SEVERANCE OF DENSITY UNITS; PETITION CSZ-06-04-09, IN ACCORDANCE WITH CHAPTER 3-5, ARTICLE XX, CODE OF LAWS AND ORDINANCES, CHARLOTTE COUNTY, FLORIDA; APPROVING AND ACCEPTING A DECLARATION OF RESTRICTIVE COVENANT; PROVIDING AN EFFECTIVE DATE.

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY  
OR BOOK 2970, PGS 1241-1249 9 pg(s)  
INSTR # 1553192  
Doc Type GOV, Recorded 05/22/2006 at 09:24 AM  
Rec. Fee: \$78.00  
Cashiered By: MARGEC Doc. #:1

RECITALS

WHEREAS, Chapter 3-5, Article XX, Code of Laws and Ordinances, Charlotte County, Florida (hereinafter "TDU Code"), establishes processes and requirements for approval of petitions for transfers of density units; and

WHEREAS, Section 3-5-436 of the TDU Code provides the procedures for a severance of density involving a Sending Zone, or SZ (as that term is defined in the TDU Code) without a designated Receiving Zone, or RZ (as that term is defined in the TDU Code); and

WHEREAS, applicant LO Land Assets LP, a Florida partnership ("Applicant"), submitted a Petition CSZ 06-04-09 for a Certification of a Sending Zone ("CSZ Petition") and for approval by the Board of County Commissioners of Charlotte County ("Board") to sever Seven Hundred and Ninety-Five (795) units of density from an available total of One Thousand and Five Hundred (1,500), from the property described in Exhibit "A" ("Sending



Zone” or “SZ”) which exhibit is attached hereto and incorporated herein by reference, in accordance with the provisions of the TDU Code; and

WHEREAS, the Applicant has submitted all of the information and documentation required for the approval of the CSZ Petition pursuant to Section 3-5-440 of the TDU Code, including a Declaration of Restrictive Covenant, attached hereto as Exhibit “B”, granting certain property rights for the Sending Zone from the SZ owner to Charlotte County;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Petition CSZ-06-04-09 submitted by the Applicant requesting the severance of Seven Hundred and Ninety-Five (795) units of density from an available total of One Thousand and Five Hundred (1,500), from the property described in Exhibit “A”, which exhibit is attached hereto and incorporated herein by reference, is hereby approved.

2. The Declaration of Restrictive Covenant attached hereto as Exhibit “B” provided by the Applicant, granting certain property rights from the SZ owner to Charlotte County, is hereby approved and accepted by the Board.

3. The effective date of this Resolution shall be the date this Resolution and the documents required by Section 3-5-440 of the TDU Code are recorded and upon the Applicant’s compliance with all requirements of Section 3-5-437.

PASSED AND DULY ADOPTED this 16 day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: Thomas G. Moore  
Thomas G. Moore, Chairman

ATTEST:  
Barbara T. Scott, Clerk of Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By: Anne L. Pfahler  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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

RB  
LR 2005-492

### Exhibit "A" Attachment

Lot 13, Less and Except those certain lands more particularly described as follows:

A tract of land 210 feet square out of the Northwest Corner of said Lot 13, Section 8, Township 41 South, Range 23 East, Charlotte County, Florida.

Lots 14, 15, 16, 17, 18, 19, 20, 31, 32, 33, 34, 46, 47, 48, Less and Except that portion of Lot 48 conveyed to Charlotte County as described in Deed recorded in Official Records Book 1151, page 1434;

That portion of Lot 49, more particularly described as follows:

A parcel of land lying in the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 8, Township 41 South, Range 23 East, also being part of Lot 49 of Clays Subdivision as recorded in Plat Book 1, page 14 of the Official Records of Charlotte County, Florida, being more particularly described as follows:

Beginning at the NW corner of the E  $\frac{1}{2}$  of the SE  $\frac{1}{4}$ , of the SE  $\frac{1}{4}$ ; thence in an easterly direction along the north line of said E  $\frac{1}{2}$ , 302.04 feet, to the center line of a creek; thence in a southwesterly direction along the center line of a meandering creek plus or minus 484 feet to the west line of said E  $\frac{1}{2}$ ; thence in a northerly direction along said west line 374 feet to the Point of Beginning.

Less the westerly 15 feet of said property, dedicated as streets in Clays Subdivision.

Lots 50, 51, 52 and Lots 61 and 62, less and except the Southerly 50 feet and road right of way as more particularly described in Official Records Book 64, page 282.

All of Clay's Subdivision, Section 8, Township 41 South, Range 23 East, according to the Plat as recorded in Plat Book 1, page 14, Charlotte County, Florida.

This instrument prepared by and return to:  
Geri L. Waksler  
Moore and Waksler, P.L.  
1107 W. Marion Avenue, Ste. 112  
Punta Gorda, FL 33950

## DECLARATION OF RESTRICTIVE COVENANT

<sup>300</sup>  
6 This Declaration of Restrictive Covenant is made this 2nd day of May,  
200~~8~~ by LO Land Assets, LP hereinafter referred to as "Owner."

WHEREAS, Owner is the fee title owner of that certain real property located in Charlotte County, Florida, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Owner hereby declares that Owner is lawfully seized of said Property in fee simple; that the property is free and clear of all encumbrances that are inconsistent with the terms of this Declaration; that Owner has good right and lawful authority to make this Declaration; and that Owner agrees to fully warrant and defend this Declaration against the claims of all persons whomsoever; and

WHEREAS, except as otherwise provided herein, Owner intends to sever the Density Units allocated to the Property pursuant to Section 3-5-431, et seq. of the Charlotte Code (hereinafter referred to as "TDU Ordinance"); and

WHEREAS, as defined by TDU Ordinance, a Density Unit is a development right which equals one increment of housing designed and intended for residential use by one (1) family, whether a single family residence, mobile home or as a part of a duplex, apartment or condominium project; and

WHEREAS, Owner intends to retain seven hundred five (705) Density Units on the property; and

WHEREAS, Owner has applied to Charlotte County for severance of all but seven hundred five (705) of the Density Units allocated to the Property; and

WHEREAS, pursuant to Section 3-5-443 of the TDU Ordinance, a condition of the severance of Density Units is that Owner must provide a restrictive covenant imposing certain limitations upon the Property; and

EXHIBIT "B"

WHEREAS, Owner, in fulfillment of that obligation, hereby places the following restrictive covenant on the use of the Property.

NOW THEREFORE:

1. The recitals set forth above are true and correct and are incorporated into this restrictive covenant.

2. Owner hereby declares that the Property shall be held, maintained, transferred, sold, conveyed and owned subject to the following Restrictive Covenants:

(1) Owner hereby agrees that seven hundred five (705) Density Units shall be retained on the Property. Any future residential development on the Property shall be restricted by the provisions herein and the Density, as such term is defined by Charlotte County Code, shall be limited to seven hundred five (705) units.

3. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with any County rule or criteria or with the intent and purposes of this Restrictive Covenant. Specifically, Grantor reserves the right to build a maximum of seven hundred five (705) residential units on the Property.

4. Except for the restrictive covenant described herein, Owner retains all zoning and land uses rights afforded Owner pursuant to the Charlotte County Code, the Charlotte County Future Land Use Map and the Charlotte County Comprehensive Plan, as the same exist as of the date of the recording of this instrument.

5. This Declaration of Restrictive Covenant shall be recorded in the Public Records of Charlotte County, Florida, and shall run with the Property, and be binding upon Owner and its heirs, successors and assigns.

6. Charlotte County, through its Board of County Commissioners, its successors and assigns, is the beneficiary of this restrictive covenant and Charlotte County may enforce this restrictive covenant by action at law or in equity against any person or persons, entity or entities violating or attempting to violate the terms of this restrictive covenant.

7. This Declaration of Restrictive Covenant shall only be amended with the consent of Charlotte County through its Board of County Commissioners.

8. Any failure of Charlotte County to enforce this restrictive covenant shall not be deemed a waiver of the right to do so thereafter.

9. This Declaration of Restrictive Covenant shall be recorded in the Public Records of Charlotte County, Florida, and shall become effective upon recordation.

IN WITNESS WHEREOF, Owner has executed this Declaration of Restrictive Covenant on the date first above written.

Witnesses:

LO LAND ASSETS, LP, a Delaware limited partnership

Katie Tran  
Print Name Katie Tran

By: LE LAND ASSETS, LLC, a Delaware limited liability company, its General Partner

Jaime Lawrence  
Print Name Jaime Lawrence

By: Susan D. Vavak  
Name: Susan D. Vavak  
Title: Vice President

County of \_\_\_\_\_  
State of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_ as \_\_\_\_\_ of LE LAND ASSETS, LLC as General Partner of LO LAND ASSETS, LP, on behalf of the partnership, who is [ ] personally known to me or [ ] produced identification. Type of identification produced \_\_\_\_\_.

(Seal)

NOTARY PUBLIC

*Please note attached notary block*

Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



EXHIBIT A

LOT 13, LESS AND EXCEPT THOSE CERTAIN LANDS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TRACT OF LAND 210 FEET SQUARE OUT OF THE NORTHWEST CORNER OF SAID LOT 13, SECTION 8, TOWNSHIP 41 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA.

LOTS 14, 15, 16, 17, 18, 19, 20, 31, 32, 33, 34, 46, 47, 48, LESS AND EXCEPT THAT PORTION OF LOT 48 CONVEYED TO CHARLOTTE COUNTY AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1151, PAGE 1434;

THAT PORTION OF LOT 49, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN THE SE $\frac{1}{4}$  OF THE SE $\frac{1}{4}$  OF SECTION 8, TOWNSHIP 41 SOUTH, RANGE 23 EAST, ALSO BEING PART OF LOT 49 OF CLAYS SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 14 OF THE OFFICIAL RECORDS OF CHARLOTTE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE E $\frac{1}{2}$  OF THE SE $\frac{1}{4}$ , SE $\frac{1}{4}$ ; THENCE IN AN EASTERLY DIRECTION ALONG THE NORTH LINE OF SAID E $\frac{1}{2}$ , 302.04 FEET, TO THE CENTER LINE OF A CREEK; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE CENTER LINE OF A MEANDERING CREEK PLUS OR MINUS 484 FEET TO THE WEST LINE OF SAID E $\frac{1}{2}$ ; THENCE IN A NORTHERLY DIRECTION ALONG SAID WEST LINE 374 FEET TO THE POINT OF BEGINNING.

LESS THE WESTERLY 15 FEET OF SAID PROPERTY, DEDICATED AS STREETS IN CLAYS SUBDIVISION.

LOTS 50, 51, 52 AND LOTS 61 AND 62, LESS AND EXCEPT THE SOUTHERLY 50 FEET AND ROAD RIGHT OF WAY AS MORE PARTICULARLY DESCRIBED IN OFFICIAL RECORDS BOOK 64, PAGE 282.

ALL OF CLAY'S SUBDIVISION, ACCORDING TO THE PLAT AS RECORDED IN PLAT BOOK 1, PAGE 14, CHARLOTTE COUNTY, FLORIDA.

# **Attachment 13: CSZ-036, Resolution Number 2007-067**

**COMMUNITY DEVELOPMENT DEPARTMENT**

18500 Murdock Circle

Port Charlotte, FL 33948

Phone: 941.764.4909 | Fax: 941.764-4108

REC #14 D.

COMMISSION MINUTES  
CLERK'S OFFICE  
MURDOCK ANNEX



RESOLUTION  
NUMBER 2007 - 067

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, APPROVING A PETITION FOR CERTIFICATION OF A SENDING ZONE; FOR CALCULATION AND SEVERANCE OF DENSITY UNITS; PETITION CSZ-07-01-02, IN ACCORDANCE WITH CHAPTER 3-5, ARTICLE XX, CODE OF LAWS AND ORDINANCES, CHARLOTTE COUNTY, FLORIDA; APPROVING AND ACCEPTING A DECLARATION OF RESTRICTIVE COVENANT AND CONSENT AND JOINDER TO DECLARATION OF RESTRICTIVE COVENANT; PROVIDING AN EFFECTIVE DATE.

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY  
OR BOOK 3157, PGS 53-62, 10 pg(s)  
INSTR # 1667091  
Doc Type GOV, Recorded 05/11/2007 at 11:27 AM  
Rec. Fee: \$86.50  
Cashiered By: MARIANNE Doc. #1

RECITALS

WHEREAS, Chapter 3-5, Article XX, Code of Laws and Ordinances, Charlotte County, Florida (hereinafter "the TDU Code"), establishes processes and requirements for approval of petitions for transfers of density units; and

WHEREAS, Section 3-5-436 of the TDU Code provides the procedures for a severance of density involving a Sending Zone, or SZ (as that term is defined in the TDU Code) without a designated Receiving Zone, or RZ (as that term is defined in the TDU Code); and

WHEREAS, applicant, The Hammocks Cape Haze, LLC ("Applicant"), submitted a Petition CSZ-07-01-02 for a Certification of a Sending Zone ("CSZ Petition") and for approval by the Board of County Commissioners of Charlotte County ("Board") to sever Two Hundred and Twenty-Seven (227) units of density from an available total of Four Hundred and Sixty-One (461), from the property described in Exhibit "A" ("Sending

10  
MARIANNE

Zone" or "SZ") which exhibit is attached hereto and incorporated herein by reference, in accordance with the provisions of the TDU Code; and

WHEREAS, the Applicant has submitted all of the information and documentation required for the approval of the CSZ Petition pursuant to Section 3-5-440 of the TDU Code, including a Declaration of Restrictive Covenant and Consent and Joinder to Declaration of Restrictive Covenant, attached hereto as Exhibit "B", granting certain property rights for the Sending Zone from the SZ owner to Charlotte County;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Petition CSZ-07-01-02 submitted by the Applicant requesting the severance of Two Hundred and Twenty-Seven (227) units of density from an available total of Four Hundred and Sixty-One (461), from the property described in Exhibit "A", which exhibit is attached hereto and incorporated herein by reference, is hereby approved.

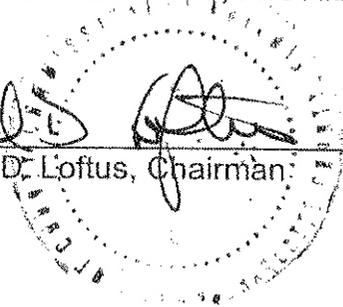
2. The Declaration of Restrictive Covenant and Consent and Joinder to Declaration of Restrictive Covenant attached hereto as Exhibit "B" provided by the Applicant, granting certain property rights from the SZ owner to Charlotte County, is hereby approved and accepted by the Board.

3. The effective date of this Resolution shall be the date this Resolution and the documents required by Section 3-5-440 of the TDU Code are recorded and upon the Applicant's compliance with all requirements of Section 3-5-437.

PASSED AND DULY ADOPTED this 8 day of May, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By:   
Richard D. Loftus, Chairman

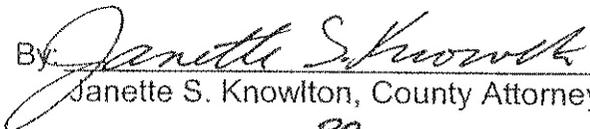


ATTEST:

Barbara T. Scott, Clerk of Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By:   
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By:   
Janette S. Knowlton, County Attorney

RB  
LR2007-278

EXHIBIT - A

Parcel 1

Gasparilla Pines-Tract No. 7

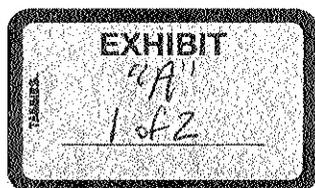
A parcel of land lying and being in SECTIONS 27 & 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, Charlotte County, Florida, described as follows:

Commence at the Southwest corner of SECTION 27, TOWNSHIP 41 SOUTH, RANGE 20 EAST; thence North  $0^{\circ} 02' 07''$  East, along the West line of said Section 27, for a distance of 341.60 feet for a Point of Beginning; thence North  $89^{\circ} 56' 01''$  West, along the South line of the North  $\frac{1}{4}$  of Tracts 30 and 31, "TEN ACRE FARMS OF THE GROVE CITY LAND COMPANY'S SUBDIVISION OF SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST", recorded in Plat Book 1, Page 19 of the Public Records of Charlotte County, Florida, for a distance of 1346.58 feet to the Easterly Right of Way of State Road No. 775 (100 foot Right of Way); thence North  $0^{\circ} 55' 00''$  East, along said Easterly Right of Way of State Road No. 775 for a distance of 737.84 feet; thence South  $89^{\circ} 56' 15''$  East, along the North line of Tract 27, per said Plat of "TEN ACRE FARMS", 902.54 feet, more or less, to the Waters of Lemon Creek; thence continue South  $89^{\circ} 56' 15''$  East, 127 feet, more or less, to the centerline of said Lemon Creek; thence Southeasterly meandering said centerline of Lemon Creek 350 feet, more or less, to a point on the East line of said Section 28, which lies North  $0^{\circ} 02' 07''$  East, 557 feet, more or less, from the Point of Beginning; thence North  $0^{\circ} 02' 07''$  East, along said East line of Section 28, for a distance of 181 feet, more or less, to a point being the intersection of the North line of said Tract 27 extended Easterly and the East line of said Section 28; thence continue North  $0^{\circ} 02' 07''$  East, along the East line of Section 28 for a distance of 275.89 feet; thence North  $67^{\circ} 00' 00''$  East, 217.83 feet; thence South  $0^{\circ} 02' 07''$  West and parallel with the East line of Section 28 for a distance of 1099.09 feet; thence North  $89^{\circ} 56' 01''$  West, 200.46 feet to the Point of Beginning.

LESS:

A portion of Tract 7, GASPARILLA PINES, as recorded in O.R. Book 614, page 4, of the Public Records of Charlotte County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 27, Township 41 South, Range 20 East; thence N  $00^{\circ} 02' 07''$  E along the West line of said Section 27, for a distance of 715.42 feet for a Point of Beginning; thence continue along the West line of said Section 27 N  $00^{\circ} 02' 08''$  E, 298.32 feet; thence leaving the West line of said Section 27, N  $67^{\circ} 00' 00''$  E, 217.83 feet; thence S  $00^{\circ} 02' 07''$  W 403.39 feet; thence N  $90^{\circ} 00' 00''$  W 46.04 feet; thence S  $24^{\circ} 57' 47''$  W 22.71 feet; thence S  $57^{\circ} 17' 31''$  W 23.39 feet; thence N  $86^{\circ} 40' 46''$  W, 31.80 feet; thence N  $87^{\circ} 38' 49''$  W, 24.99 feet; thence N  $30^{\circ} 22' 53''$  W, 30.94 feet; thence N  $38^{\circ} 39' 36''$  W, 34.23 feet; thence N  $88^{\circ} 03' 38''$  W 24.44 feet; thence S  $60^{\circ} 34' 50''$  W, Returning to the West line of said Section 27, a distance of 8.00 feet to the Point of Beginning.



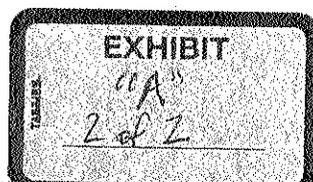
Parcel 2

A parcel of land lying and being in SECTION 27, TOWNSHIP 41 SOUTH, RANGE 20 EAST, Charlotte County, Florida, more particularly described as follows:

Begin at the Southwest corner of SECTION 27, TOWNSHIP 41 SOUTH, RANGE 20 EAST; thence North  $0^{\circ} 02' 07''$  East, along the West line of said Section 27 for a distance of 341.61 feet; thence South  $89^{\circ} 56' 01''$  East, 200.46 feet to a point on a curve concave to the Northeasterly which has a radius of 500.00 feet, a central angle of  $25^{\circ} 30' 00''$  and a chord bearing of South  $12^{\circ} 42' 53''$  East; thence Southeasterly along arc of said curve 267.04 feet to the point of tangency; thence South  $25^{\circ} 27' 53''$  East 87.39 feet to the South line of said Section 27; thence West along said Section line 296.49 feet to the Point of Beginning.

Parcel 3

The South  $\frac{1}{4}$  of Lots 30 and 31, TEN ACRE FARMS OF GROVE CITY LAND COMPANY'S SUBDIVISION, of SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, and all that part of Lot 29, TEN ACRE FARMS OF GROVE CITY LAND COMPANY'S SUBDIVISION, of SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, lying East of the right-of-way of State Road 775, according to the plat thereof recorded in Plat Book 1, Page 19, of the Public Records of Charlotte County, Florida.



Document prepared by:  
Robert H. Bertsson  
McKinley, Itersagen, Gunderson & Bertsson, P.A.  
18501 Murdock Circle, Suite 101  
Port Charlotte, Florida 33948

### DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant is made this 27<sup>th</sup> day of March, 2007, by THE HAMMOCKS CAPE HAZE, LLC, a Florida Limited Liability Company hereinafter referred to as "Owner."

WHEREAS, Owner is the fee title owner of that certain real property located in Charlotte County, Florida, and more particularly described as:

#### SEE ATTACHED EXHIBIT "A"

WHEREAS, Owner hereby declares that Owner is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances, except as described herein; that Owner has good right and lawful authority to make this Declaration; and that Owner agrees to fully warrant and defend this Declaration against the claims of all persons whomsoever; and

WHEREAS, pursuant to Section 3-5-431, *et. seq.*, of the Charlotte County Code (hereinafter referred to as the "TDU Ordinance"), a "Density Unit" is development right which equals one increment of housing designed and intended for residential use by one (1) family, whether a single family residence, mobile home or as part of a duplex, apartment or condominium project.

WHEREAS, pursuant to an Appeal to the TDU Ordinance, approved January 16, 2007 by the Board of County Commissioners, the Property contains four hundred sixty-one (461) Density Units; and

WHEREAS, Owner has applied to Charlotte County for severance of two hundred twenty-seven (227) of the Density Units allocated to the Property; and

WHEREAS, pursuant to Section 3-5-443 of the TDU Ordinance, a condition of the severance of Density Units is that Owner must provide a covenant imposing certain limitations upon the Property; and

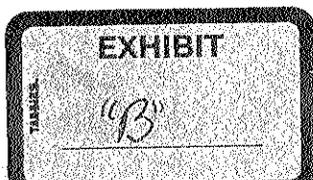
WHEREAS, Owner, in fulfillment of that obligation, hereby places the restrictive covenant described herein on the use of the Property; and

WHEREAS, COLONIAL BANK, N.A. holds that certain Mortgage, Security Agreement, and Assignment of Rents, dated January 15, 2004 and recorded January 22, 2004 in Official Records Book 2386, Page 488 of the Public Record of Charlotte County, Florida which encumbers the Property; and

WHEREAS, Colonial Bank, N.A. joins and consents to the restrictive covenant on the use of the Property.

NOW, THEREFORE:

1. The recitals set forth above are true and correct and are incorporated into this restrictive covenant.



2. Owner hereby declares that the Property shall be held, maintained, transferred, sold, conveyed and owned subject to the following restrictive covenant:

**Owner hereby agrees that the Property shall be limited to two hundred thirty-four (234) Density Units.**

3. Except for the restrictive covenant described herein, Owner retains all zoning and land use rights afforded Owner pursuant to the Charlotte County Code, the Charlotte County Future Land Use Map and the Charlotte County Comprehensive Plan, as the same may exist from time to time.

4. This Declaration of Restrictive Covenant shall be recorded in the Public Records of Charlotte County, Florida, shall become effective upon recordation, and shall run with the Property and be binding upon Owner and its heirs, successors and assigns.

5. Charlotte County, through its Board of County Commissioners, its successors and assigns, is the beneficiary of this restrictive covenant and Charlotte County may enforce this restrictive covenant by action at law or in equity against any person or persons, entity or entities, violating or attempting to violate the terms of this restrictive covenant. Any failure of Charlotte County to enforce this restrictive covenant shall not be deemed a waiver of the right to do so thereafter.

6. This Declaration of Restrictive Covenant shall only be amended with the consent of Charlotte County, through its Board of County Commissioners.

7. Owner shall convey, within 6 months of the recording date of this covenant, either fee simple title or a Maintenance Easement over that portion of Owner's non-contiguous property lying north of Lemon Lake. Said parcel is contiguous to County owned environmental lands.

IN WITNESS WHEREOF, Owner has executed this Declaration of Restrictive Covenant as follows:

Witnesses:

THE HAMMOCKS CAPE HAZE, LLC a Florida Limited Liability Company

Cynthia A. Leon  
(Signature)  
Print name: Cynthia A. Leon

Randolph S. Merrill  
Randolph S. Merrill, Manager

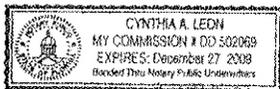
John F. Kravec  
(Signature)  
Print name: John F. Kravec

STATE OF FLORIDA )  
COUNTY OF Hillsborough )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March, 2007, by Randolph S. Merrill, Manager of The Hammocks Cape Haze, LLC, a Florida Limited Liability Company,  who is personally known to me, or [ ] who produced \_\_\_\_\_ as identification, and who acknowledged before me that he executed said instrument on behalf of the Company, after being duly authorized to do so, for the purposes set forth therein, and who did not take an oath.

(Seal)

NOTARY PUBLIC:



Cynthia A. Leon  
Print name: Cynthia A. Leon  
My commission expires: 12-27-09

CONSENT AND JOINDER TO DECLARATION OF RESTRICTIVE COVENANTS

THE UNDERSIGNED, COLONIAL BANK, N.A., holder of that certain Mortgage, Security Agreement, and Assignment of Rents, dated January 15, 2004 and recorded January 22, 2004 in Official Records Book 2386, Page 488 of the Public Record of Charlotte County, Florida, encumbering the property described as:

SEE ATTACHED EXHIBIT "A"

Hereby consents to and joins in the foregoing Declaration of Restrictive Covenants.

COLONIAL BANK, N.A.

Barbara Celler  
Witness  
Printed Name: Barbara Celler

Sign: [Signature]

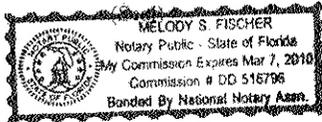
Melody Fischer  
Witness  
Printed Name: Melody Fischer

Print: JOE TAGGART

Title: VP

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of MARCH, 2007 by JOSEPH TAGGART, as VICE PRESIDENT of COLONIAL BANK, N.A., [ X ] who is personally known to me, or [ ] who produced \_\_\_\_\_ as identification, and who acknowledged before me that he executed said instrument on behalf of the Company, after being duly authorized to do so, for the purposes set forth therein, and who did not take an oath.



NOTARY PUBLIC: Melody Fischer  
Print name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

EXHIBIT A

Parcel 1

Gasparilla Pines-Tract No. 7

A parcel of land lying and being in SECTIONS 27 & 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, Charlotte County, Florida, described as follows:

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LESS:

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Commence at the Southwest corner of Section 27, Township 41 South, Range 20 East; thence N 00°02'07" E along the West line of said Section 27, for a distance of 715.42 feet for a Point of Beginning; thence continue along the West line of said Section 27 N 00°02'08" E, 298.32 feet; thence leaving the West line of said Section 27, N 67°00'00" E, 217.83 feet; thence S 00°02'07" W 403.39 feet; thence N 90°00'00" W 46.04 feet; thence S 24°57'47" W 22.71 feet; thence S 57°17'31" W 23.39 feet; thence N 86°40'46" W, 31.80 feet; thence N 87°38'49" W, 24.99 feet; thence N 30°22'53" W, 30.94 feet; thence N 38°39'36" W, 34.23 feet; thence N 88°03'38" W 24.44 feet; thence S 60°34'50" W, Returning to the West line of said Section 27, a distance of 8.00 feet to the Point of Beginning.

Parcel 2

A parcel of land lying and being in SECTION 27, TOWNSHIP 41 SOUTH, RANGE 20 EAST, Charlotte County, Florida, more particularly described as follows:

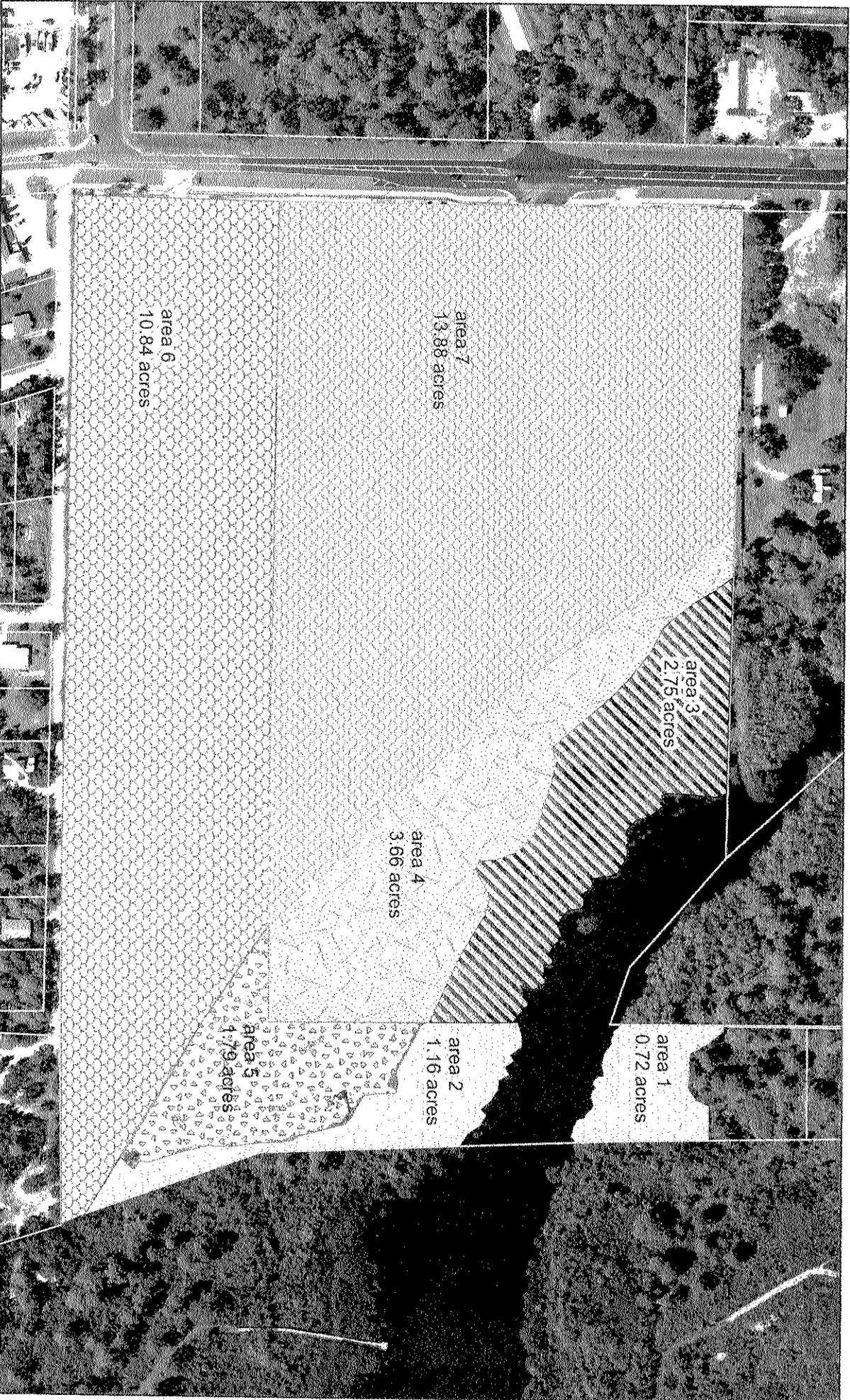
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Parcel 3

The South  $\frac{1}{2}$  of Lots 30 and 31, TEN ACRE FARMS OF GROVE CITY LAND COMPANY'S SUBDIVISION, of SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, and all that part of Lot 29, TEN ACRE FARMS OF GROVE CITY LAND COMPANY'S SUBDIVISION, of SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST, lying East of the right-of-way of State Road 775, according to the plat thereof recorded in Plat Book 1, Page 19, of the Public Records of Charlotte County, Florida.



# The Hammocks





CHARLOTTE COUNTY  
 COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for  
 LARGE SCALE PLAN AMENDMENT (TEXT)

Date Received:	Time Received:
Date of Log-in:	Petition #:PA-15-10-14-LS Accela #:
Receipt #:	Amount Paid:

**1. PARTIES TO THE APPLICATION**

**Name of Applicant: Charlotte County Board of County Commissioners**

Mailing Address: 18500 Murdock Circle

City: Port Charlotte

State: FL

Zip Code: 33948

Phone Number:

Fax Number:

Email Address:

**Name of Agent: Charlotte County Community Development Department**

Mailing Address: 18400 Murdock Circle

City: Port Charlotte

State: FL

Zip Code: 33948

Phone Number:

Fax Number:

Email Address:

**2. APPLICANT'S ATTACHMENTS**

- a. Submit a strikethrough/underline version of the proposed changes.
- b. Describe the purpose of/reason for the proposed change. Revisions to Future Land Use (FLU) Policy 1.2.7 (The old number is FLU Policy 1.2.6): Transfer of Density Units (TDU) Program Intent, FLU Policy 1.2.8 (The old number is FLU Policy 1.2.7: TDU Applicability): TDU Program, FLU Policy 1.2.9 (The old number is FLU Policy 1.2.8): TDU Sending Zones, FLU Policy 1.2.10: TDU Receiving Zones, FLU Policy 1.2.11: Prohibited Receiving Zones, FLU Policy 1.2.14: TDU Waivers, and FLU Policy 1.2.15: Revitalizing Neighborhood Incentive Density; and delete old FLU Policy 1.2.9: Restrictions on Sending Zones to be consistent with the overall intent and vision set forth in the County's Comprehensive Plan.

**3. ADDITIONAL REQUIREMENTS**

- a. *Traffic Impact Study*: If the proposed change could influence traffic patterns, supply a study that identifies the impacts that could occur through adoption of the proposed change. N/A
- b. *Environmental Impact Assessment*: If the proposed change could have an impact on

environmental resources, supply a narrative discussing what those impacts could be and how they will be mitigated. N/A

- c. *Public Infrastructure and Service Impact Assessment:* If the proposed change could have an impact on infrastructure or services, supply a narrative discussing what those impacts could be and how they will be mitigated or addressed. N/A

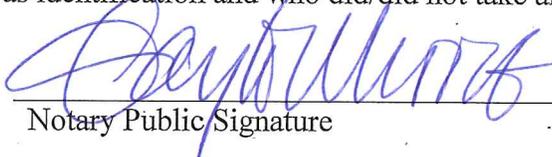
### AFFIDAVIT

I, the undersigned, being first duly sworn, depose and say that all data and other supplementary matter attached to and made a part of the application and staff report are honest and true to the best of my knowledge and belief.

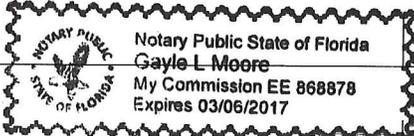
STATE OF FLORIDA, COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of DECEMBER, 2015, by JIE SHAO who is personally known to me or has/have produced

as identification and who did/did not take an oath.

	<u>Jie Shao</u>
Notary Public Signature	Signature of Applicant or Agent

	<u>Jie Shao</u>
Notary Printed Signature	Printed Signature of Applicant or Agent

Title		Address	Charlotte County Community Development Department - Comprehensive Planning 18500 Murdock Circle, B-205 Port Charlotte, FL 33948
Commission Code		City, State, Zip	

Telephone Number

## FUTURE LAND USE - GOALS, OBJECTIVES AND POLICIES

### **FLU Policy 1.2.67: Transfer of Density Units (TDU) Program Intent**

The County shall employ a transfer of density units (TDU) program whereby the development rights of property may be severed in perpetuity and transferred to designated locations that are more appropriate for development. The TDU program identifies sending and receiving zones. The intent is to create a TDU process that will:

1. Assist and encourage the removal of old, outdated, platted lots and subdivisions throughout the County.
2. Assist and encourage the replacement of an unsustainable and inefficient form of development with compact, higher density, mixed use development that is more sustainable and efficiently utilizes resources.
3. Incentivize the retention of long-term agricultural activities and the clustering of rural development densities to promote the reduction of as an alternative to rural large lot sprawl in order to reduce the premature conversion of rural lands and preserve rural character and viewsheds.
4. Incentivize the voluntary preservation of environmentally sensitive lands.
5. Help preserve archeological and historic sites.
6. Prevent density increases within the Coastal High Hazard Area. (CHHA) while permitting reduction or redistribution of density within CHHA.

### **FLU Policy 1.2.78: TDU Applicability Program**

~~The TDU program shall be used during the review and approval process for all plan amendments and rezonings that propose to increase the base density on land and street vacations that would result in an accumulation of acreage allowing development of new units of density; this requirement shall continue to apply to lands within the County, including the lands that have been annexed by the City of Punta Gorda. Density units shall only be severed in whole units; a fractional unit shall not entitle an applicant to an additional unit. All density transfers shall be on a one-for-one basis.~~

The following are descriptions of those situations wherein transfers of density will not be required by the County:

1. When developed consistent with a Revitalization Plan approved in accordance with FLU Policy 4.2.1 and 4.2.2, properties located in a Revitalizing Neighborhood may rezone to the maximum density allowed by their existing Future Land Use Map category. Density for this increase ~~shall~~ may be granted by the County from RAPID density, described in FLU Policy 1.2.15. ~~Further instances of density transfers being granted by the County~~

~~in Revitalizing Neighborhoods may be explored through the creation of a neighborhood's Revitalization Plan. Density granted for increases in a Coastal High Hazard Area (CHHA) in accordance with a Revitalization Plan shall only be allowed when the RAPID density also comes from a CHHA. Notwithstanding the foregoing, any addition of density to the Placida Revitalizing Neighborhood may be implemented only through the transfer of density units (TDU Program). The boundaries of the Placida Revitalizing Neighborhood are shown on SPAM Series Map #96.~~

2. Any other specifically recognized area under FLU Policy 1.2.14 of this Comprehensive Plan.

**FLU Policy 1.2.89: TDU Sending Zones**

The following sending zones are recognized by the County:

1. ~~Lands within~~ Managed Neighborhoods (FLUM Series Map #2). Excluding the Babcock Ranch Overlay District (BROD), excess non-RAPID density units may be removed from residentially zoned properties. One unit of density may be retained on the subject parcel. Such excess density may only be transferred, consistent with FLU Policy 1.2.7 through FLU Policy 1.2.15, to an area located in the Urban Service Area that is currently served by water and sewer or which will be served by water and sewer prior to issuance of a Certificate of Occupancy.
2. ~~Lands within the~~ Rural Service Area (FLUM Series Map #3) properties retaining a bona fide agricultural use or consisting of substandard platted lots.
3. ~~Lands within the~~ Resource Conservation and Preservation FLUM categories.
4. ~~Land within t~~The Coastal High Hazard Area (FLUM Series Map #14).
5. Any ~~land~~ properties containing historical or archeological resources, or land deemed to contain environmentally sensitive resources.
6. ~~Lands within t~~The Prime Aquifer Recharge Area (FLUM Series Map #6).
7. ~~Lands~~ Properties within the one-half mile setback of the Watershed Overlay District and Tippen Bay and Long Island Marsh (FLUM Series Map #4).
8. ~~Land within a~~ Public Water System Wellhead Protection Area (FLUM Series Map #7).
9. ~~Land designated as a~~ Wildlife Corridor Critical Linkages (FLUM Series Map #22). These lands properties may sever density at one unit per five acres, gross, if designated as Agriculture or Burnt Store Limited Development on the FLUM, and two units per five acres if designated Rural Estate Residential on the FLUM.
10. Property located in the Urban Service Area for which a building permit has been issued, or will be issued subsequent to December 3, 2007, to develop

a school, house of worship, park, cemetery or mausoleum, or a residential use at a density below the Base Density. The excess density on these properties may only be transferred consistent with FLU Policy 1.2.7 through FLU Policy 1.2.15 to an area located in the Urban Service Area that is currently served by water and sewer or which will be served by water and sewer prior to issuance of a Certificate of Occupancy.

9. \_\_\_\_\_

**FLU Policy 1.2.9: Restrictions on Sending Zones**

The County shall apply the following restrictions to sending zone sites:

- ~~1. Once density is removed from a sending zone it shall not be restored to that site unless such area becomes targeted as a growth area through an amendment to this Plan.~~
- ~~2. Sending zone sites qualifying under item 1 of FLU Policy 1.2.8 shall be placed under a conservation easement and all density severed except that owners of contiguous lots may retain one unit of density per each contiguous acre.~~
- ~~3. Sending Zone sites qualifying under item 2 and 9 of FLU Policy 1.2.8 shall be placed under a conservation easement if environmentally sensitive land or agricultural easement if under active agricultural use and the intent is to continue that use.
 
  - ~~a. For sending zones that qualify under item 2, if under active agricultural use, density may be retained for use by the property owner, family members of the property owner, and a land manager at one unit per 30 acres of active agricultural use, up to a maximum of 5 units.~~
  - ~~b. For sending zones that qualify under item 9 that contain an active agricultural use, one unit of density may be retained and active agricultural uses may continue but not be intensified or expanded. If the property owner does not choose to manage the land for wildlife, the County or appropriate State or non-profit agency will be given rights to manage any non-agricultural and non-residential portions of the property for wildlife usage.~~~~
- ~~4. Sending zone sites qualifying under items 3, 4, 5, 6, 7, and 8 of FLU Policy 1.2.8 shall be placed under a conservation easement and no density shall be retained.~~
- ~~5. The more restrictive of the sending zone qualifications shall apply.~~

**FLU Policy 1.2.10: TDU Receiving Zones**

Receiving zones inside the Urban Service Area include lands within the following designations of FLUM Series Map #2: 2050 Framework:

1. Emerging Neighborhoods.
2. Maturing Neighborhoods.
3. Economic Corridors and Centers.
4. CRAs
5. Revitalizing Neighborhoods prior to adoption of a Revitalization Plan and also what may be required in accordance with a Revitalization Plan.
- ~~5-6. The Rural Settlement Area Overlay District.~~

Receiving Zones within the Rural Service Area include lands within:

1. Rural Community Mixed Use areas.
- ~~2. The Rural Settlement Area Overlay District.~~

**FLU Policy 1.2.11: Prohibited Receiving Zones**

Density shall not be transferred into:

- ~~1. Lands within Managed Neighborhoods (FLUM Series Map #2).~~
- ~~2. Lands within the Resource Conservation and Preservation FLUM categories.~~
- ~~3. Land Properties containing historical or archeological resources, or land deemed to contain environmentally sensitive resources; except that when a portion of a property contains these resources, that area deemed not to contain resources may receive density if it meets one of the criteria of a receiving zone, a conservation easement will be required over the resource along with an undeveloped buffer of at least 100 feet. An historical structure or archeological resource that is to be integrated into a development will not need to be buffered. When a portion of the property contains environmentally sensitive resources, the area containing environmentally sensitive resources may receive density if impacts have been approved through an environmental resource permit or applicable State or Federal permit, or may have the required 100-foot buffer reduced if approved through an environmental resource permit or applicable State or Federal permit.~~
- ~~4. Lands within ~~t~~The Prime Aquifer Recharge Area (FLUM Series Map #6).~~
- ~~5. Lands Properties within the one-half mile setback of the Watershed Overlay District and Tippen Bay and Long Island Marsh (FLUM Series Map #4).~~
- ~~6. Land within a Public Water System Wellhead Protection Area (FLUM Series Map #7).~~
- ~~7. Land on a ~~b~~Barrier islands, except that density may be transferred within Manasota Key or Sandpiper Key.~~

**FLU Policy 1.2.12: Rural Receiving Zones**

Receiving zones in the Rural Service Area may only receive density units from sending zones in the Rural Service Area.

**FLU Policy 1.2.13: Possible TDU Bonus Programs**

The County shall explore the feasibility of utilizing a bonus for removing density from Managed Neighborhoods and from lands that have been enhanced by landowners for habitat management or ecosystem services. The County shall include policies within this element to identify any bonus density applied to sending zones.

**FLU Policy 1.2.14: TDU Waivers**

The following are waivers, ~~depicted on FLUM Series Map #21,~~ from the requirement to transfer density to a Receiving Zone:

1. Development within the Babcock Ranch Overlay District (BROD) is exempt from any Transfer of Density Units policies in the Comprehensive Plan and from the Transfer of Density Units requirements of the Land Development Regulations, depicted on FLUM Series Map #21.
- 4-2. Development entitlement amendments pursuant to an adopted equivalency matrix or conversion table, provided such property is located outside of the Coastal High Hazard Area. Any conversion to residential dwelling units above the maximum approved by the Comprehensive Plan or DRI development orders shall be subject to FLU Policy 1.2.7 through FLU Policy 1.2.15.

**FLU Policy 1.2.15: Revitalizing Neighborhoods Incentive Density**

FLUM Series Map #2: 2050 Framework illustrates those lands within the County that are now designated as Managed Neighborhoods. FLU Policy 4.5.1, #3, states that no increases of density or intensity are allowed in these Neighborhoods. By removing the ability of these lands to increase in density, the County has removed 13,092 units of potential density from underneath the Future Land Use Map. The County shall hold this potential density, to be known as Revitalizing Area Plan Incentive Density (RAPID), and utilize it to incentivize redevelopment efforts consistent with FLU Policy 4.2.1. For all Revitalization Neighborhoods with plans created and adopted consistent with FLU 4.2.1, ~~all~~ density increases above base density ~~shall~~ may be granted by the County through utilization of the RAPID from Managed Neighborhoods. The County shall maintain a record of all density transferred into Revitalizing Neighborhoods under this policy, which shall be no greater than the total amount of RAPID.