Application No.
PA-16-12-24-LS
(Large Scale Text Amendment)

Applicant
Tern Bay CDD Acquisitions, LLC / Amending the Tern Bay DRI

Legislative

Commission District II
DATE: December 23, 2016

TO: Honorable Board of County Commissioners
Planning and Zoning Board

FROM: Jie Shao, Planner, Principal

RE: A Large Scale Text Amendment Petition Number PA-16-12-24-LS

Requested Action(s):
A privately initiated request to amend Future Land Use (FLU) Appendix VI: Developments of Regional Impact by amending the Tern Bay Development of Regional Impact (DRI) development rights to 1) reduce the residential dwelling units from 1,800 to 1,315 units; 2) reduce the office space from 30,000 to 20,000 gross square feet; 3) reduce the retail space from 140,000 to 111,500 gross square feet; and 4) reduce the hotel rooms from 250 to 150 rooms.

Staff Recommendation:
Approve transmittal of Petition No. PA-16-12-24-LS to the Department of Economic Opportunity (DEO) and other State Review agencies for review and comment, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated December 23, 2016 and any evidence presented at the public hearing.

The Planning and Zoning Board proposed recommendations:
Motion to forward application No. PA-16-12-24-LS to the Board of County Commissioners with a recommendation of Approval/Denial of transmittal of PA-16-12-24-LS to the Department of Economic Opportunity (DEO) and other State review agencies for review and comment, based on the findings and analysis in the Comprehensive Planning staff memorandum dated December 23, 2016, and the evidence presented at the public hearing.

Applicant:
Tern Bay CDD Acquisitions, LLC
5020 N. Linebaugh Avenue, Suite 250
Tampa, Florida 33624
**Data and Analysis:**

The applicant, Tern Bay CDD Acquisitions, LLC, is requesting a text amendment to amend the County’s Comprehensive Plan, Future Land Use (FLU) Appendix VI: Developments of Regional Impact, to update the listed development rights by:

1) Reducing the residential dwelling units from 1,800 to 1,315 units;
2) Reducing the office space from 30,000 to 20,000 gross square feet;
3) Reducing the retail space from 140,000 to 111,500 gross square feet; and
4) Reducing the hotel rooms from 250 to 150 rooms.

In 2013, the applicant submitted a Notice of Proposed Change (NOPC) to amend the Development Order (DO) for the Tern Bay Development of Regional Impact (DRI). The application was revised and resubmitted in April 2016. The request is to:

- extend the buildout date to December 31, 2024;
- reduce the residential dwelling units from 1,800 to 1,315 units;
- reduce the office space from 30,000 to 20,000 gross square feet;
- reduce the retail space from 140,000 to 111,500 gross square feet;
- reduce the hotel rooms from 250 to 150 rooms;
- update requirements to make the development order more reflective of current conditions within the region; and
- revise Map H to be more flexible.

County staff reviewed this NOPC application, determined that the proposal was not a substantial deviation and is consistent with goals, objectives, and policies set forth in the County’s Comprehensive Plan, and recommended approval. On December 12, 2016, the Planning and Zoning Board also recommended approval of this NOPC application. All development rights within DRIs in Charlotte County are adopted in the County Comprehensive Plan; therefore, the applicant must apply for a text amendment to incorporate all proposed revisions to development rights within the Tern Bay DRI into FLU Appendix VI: Development of Regional Impact.

The applicant’s requested text amendment is to update the listed development rights within the Tern Bay DRI. The proposed text amendment does not create any negative impacts on the County’s infrastructure such as roadways, preservation areas or open space, and it is also consistent with the goals, objectives, and policies of the County’s Comprehensive Plan.

Based on the above reasons, staff recommends approval of this text amendment.
FLU APPENDIX VI: DEVELOPMENTS OF REGIONAL IMPACT

Tern Bay

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Development Right</th>
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<tbody>
<tr>
<td>Residential</td>
<td>1,315 Units</td>
</tr>
<tr>
<td>Commercial</td>
<td>11,500 Gross Square Feet</td>
</tr>
<tr>
<td></td>
<td>710 parking spaces</td>
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<td>Office</td>
<td>20,000 Gross Square Feet</td>
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<tr>
<td>Hotel</td>
<td>150 Rooms</td>
</tr>
<tr>
<td>Golf Clubhouse</td>
<td>20,000 Gross Square Feet *</td>
</tr>
<tr>
<td>Tennis Clubhouse</td>
<td>7,500 Gross Square Feet **</td>
</tr>
<tr>
<td>Community Center</td>
<td>5,000 Gross Square Feet ***</td>
</tr>
<tr>
<td>Impervious Surfaces</td>
<td>295 Acre</td>
</tr>
</tbody>
</table>

Notes:
* Includes three 9-hole golf courses, restaurants, exercise area and 150 parking spaces.
** Tennis clubhouse, fitness center & spa, 8 tennis courts, swimming pools, bike and walk trails, small fishing pier, canoe launch and docks, look-out tower, and approved governmental uses
*** A sales and Community Development District administration center
RESOLUTION
2016-______

A RESOLUTION AMENDING RESOLUTION 2006-043, THE TERN BAY DEVELOPMENT OF REGIONAL IMPACT (DRI) DEVELOPMENT ORDER (DO) TO AMEND AND RESTATE THE DO; FINDING THAT THIS AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on February 18, 1992, pursuant to Section 380.06 Florida Statutes, the Board of County Commissioners of Charlotte County, Florida ("Board") approved and adopted Resolution 92-29, constituting the Caliente Springs Development of Regional Impact Development Order, now known as the Tern Bay DRI; and

WHEREAS, on April 3, 1992, the State of Florida Department of Community Affairs ("DCA"), now known as the Department of Economic Opportunity ("DEO") filed an appeal of the Development Order reflected in Resolution 92-29; and

WHEREAS, the Board considered the reports and recommendations of the Southwest Florida Regional Planning Council, Charlotte County staff, the Planning and Zoning Board, and the Department of Community Affairs, and in order to reconcile the appeal, certain changes were made to Resolution 92-29 and pursuant to a Settlement Agreement, the Board adopted Resolution 93-244 on August 17, 1993, that was executed on December 14, 1993 ("the Development Order"); and

WHEREAS, the Board adopted additional amendments to the Development Order pursuant to the following Resolutions: 98-0370A0, on April 7, 1998 further amending Resolution 92-29, as amended by Resolution 93-244, to reflect the tolling of time during the pendency of the administrative proceedings; and
WHEREAS, the Board adopted Resolution 98-0372A0 on May 25, 1999, further amending Resolution 92-29, as amended by Resolution 93-244 and Resolution 93-0370A0, to extend the buildout dates for the Development Order by four years and three hundred sixty-four (364) days; and

WHEREAS, Resolution 92-29, as amended, required, prior to any onsite development, clearing of land or the receiving of any building permits for Phase I development within the Development of Regional Impact ("DRI"), demonstrations addressing potential impacts in the areas of drainage/water quality, hurricane evacuation, wastewater management, water supply, wetlands/vegetation and wildlife which demonstrations were to be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation; and

WHEREAS, Resolution 2004-050, adopted on March 9, 2004 amended the Development Order addressing the potential impacts to drainage/water quality, hurricane evacuation, wastewater management, water supply, wetlands/vegetation and wildlife, adopting a revised Map H, changing the peak hour peak season traffic analysis methodology to 100th hour methodology in order to be consistent with Charlotte County concurrency management procedures, modifying the phasing schedule and extending the development time frames by two (2) years; and

WHEREAS, the Board adopted Resolution 2006-009, and 2006-043, 2006-194, on January 17, 2006 amending Resolution 2004-050 to incorporate the terms of a Local Government Development Agreement pursuant to Florida Statutes Section 163.3220, setting forth the commitments by and between Tern Bay Development Co., LLC, a Florida limited liability company, and Charlotte County, a political subdivision of the State of Florida ("County") to provide the necessary improvements which ensures concurrency on all significantly impacted regional roads and intersections as identified in the Development Order; and Resolution 2011-023, 2012-024, 2013-033, and 2016-034; and
WHEREAS, Tern Bay CDD Acquisitions, LLC is the successor to Tern Bay Development Co., LLC; and

WHEREAS, Tern Bay CDD Acquisitions, LLC is the successor in interest to Tern Bay LLC, and is referenced and recognized herein as the "Developer" of the Tern Bay DRI ("Developer"); and

WHEREAS, on January 27, 2004, the Board unanimously approved and adopted Resolution 2004-017 that recommended to the State of Florida ("State") approval of the Tern Bay Community Development District ("CDD"); and

WHEREAS, the CDD was established on September 15, 2004 which provides a financing entity for improvements that serve the Tern Bay DRI; and

WHEREAS, the Development Order provides for two (2) phases of development; and

WHEREAS, the conditions that must be met prior to the start of Phase II can be adequately addressed without the need to phase development within the DRI; and

WHEREAS, Developer submitted a Notice of Proposed Change ("NOPC") in April 2013 which was substantially revised in January 2016 to reduce the amount of authorized development within the DRI and revise the transportation mitigation requirements accordingly; and eliminating phasing and establishing conditions triggered by specifically identified development thresholds; and

WHEREAS, the Southwest Florida Regional Planning Council determined that the elimination of phasing does not appear to create a reasonable likelihood of additional regional impacts on regional resources or facilities; and

WHEREAS, the Charlotte County Planning and Zoning Board made a finding that eliminating phasing does not constitute a substantial deviation; and

WHEREAS, the Board has reviewed and considered the specifics of the phasing elimination changes proposed in the NOPC, finds it consistent with the Charlotte County
Comprehensive Plan and consistent with the previously approved Development Orders for the Tern
Bay DRI; and

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

1.______Finding of Fact/Conclusion of Law of Resolution 93-244, as it amends

2.1._____Resolution 92-29, and as it has itself been amended by Resolutions 98-0370A0, 98-0372A0, 2004-050 and 2006-009

The Development Order shall be amended to read as follows (additions are shown as underlined, deletions are shown as stricken through,):

FINDING OF FACT/CONCLUSION OF LAW

A. The development is a mixed-use project with 1,810 residential dwelling units, 302,000 gross square feet of office space on 5 acres, 140,000 gross square feet of retail space on 15.7 acres with 710 parking spaces, a 250-room hotel, 865 acres of wetland preservation areas, a minimum of 205 acres of upland preservation areas and buffer areas subject to further additions, a project total of 295.0 acres of impervious surfaces leaving a project total of 1,483 acres of open space (all natural pervious and all vegetated pervious surfaces), and a sales and Community Development District (CDD) administration center and other amenities on 1,778 acres located in Southern Charlotte County between Burnt Store Road and Charlotte Harbor approximately three miles north of the Lee County line. The site will contain three nine hole golf courses on 215 acres, a maximum 20,000 gross square foot golf clubhouse with restaurants, an exercise area and 150 parking spaces, a maximum 7,500 gross square foot building(s) for a tennis clubhouse, fitness center and spa, eight tennis courts, swimming pools, bike and walk trails, a small fishing pier, canoe launch and docks, lookout tower and approved governmental uses. Exhibit "A", revised and dated October 2003 November 2016 is a copy of the approved and Revised Master Concept Plan, depicting all the above approved land uses (“Revised Map H”).

B. The legal description of the property is described in Exhibit "B" which is attached hereto and made a part of this development order.

C. Approximately 865+/- acres of the site adjacent to Charlotte Harbor are considered saltwater wetlands and will be placed under a permanent conservation easement or else conveyed to the State of Florida. The development consists of approximately 205 acres of upland preservation areas in the form of buffers, wetland tributaries (2) and golf course roughs and a minimum of 105 acres of lakes for water management.

D. Water and wastewater services are proposed to be provided by Charlotte County Utilities (CCU) or its successors and assigns. This utility currently has available permitted and planned
additional capacity to serve the entire Tern Bay DRI development. The project is planned in one phase, with buildout of December 31, 2012. This date represents an extension to those dates reviewed in the ADA together with the time tolled during the pendency of administrative hearings (a period of 24 months and 18 days) and an extension of six (6) years and three hundred sixty-four (364) days granted for economic reasons and shall be considered cumulatively against any future proposed phase or project buildout date extensions for the purpose of calculating whether the statutory time frames are met or exceeded in paragraph. This extension shall not be considered to cause a substantial deviation due to economic downturn and the time the project was held in abeyance due to the foreclosure on the property as provided in 380.06(19)(c)(1), F.S., and the Board specifically finds the presumption of a substantial deviation has been rebutted by clear and convincing evidence. The revised phasing development schedule dated January 2006, is attached as Exhibit "C".

E. The Tern Bay Site is located within the Urban Service Area (USA). Existing water and sewer lines serve adjacent properties and can be easily extended to serve Tern Bay. Tern Bay will provide a variety of housing types, commercial/retail space, activities and recreation opportunities commencing at the onset of development that will make the USA a more self-reliant and successful USA.

3.2. Resolution 93-244, as it amends Resolution 92-29, and as it has itself been amended by Resolutions 98-0370A0, 98-0372A0, 2004-050 and 2006-009. The Development Order shall be amended to read as follows (additions are shown as underlined, deletions are shown as stricken through, the exhibits and some formal and formatting editions shown without indication of additions or deletions):

**SPECIFIC CONDITIONS**

1. **DRAINAGE/WATER QUALITY**

   a. Prior to any onsite development, clearing of land, or the receiving of any building permits for development, the applicant shall confirm, to the satisfaction of all Federal, State, and local review agencies, and the Southwest Florida Water Management District through the required permitting processes that the proposed water management system will not adversely impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.

2. **HOUSING**
Either the applicant or owners of the commercial area shall undertake an affordable housing survey based on the methodology supplied by DCA (DEO) and the SWFRPC when the project has reached a significant non-residential buildout. That threshold is defined as the time when building permits have been issued for the 80 thousand square foot of non-residential construction, excluding the golf course, clubhouse and related amenities. The survey shall be conducted on or before January 17, 2007 or before any commercial development is initiated other than the golf course, clubhouse and related amenities. Should the project contain at least 10 percent of the total residential number of units as workforce or affordable housing units prior to the time the study is required, then no study shall be required. Affordable housing is defined where monthly rents or mortgage payments for housing, including taxes, insurance and utilities do not exceed thirty (30%) percent of the gross annual income of the development’s very low, low, and moderate income households as defined in Rule 73-C40.048(e), F.A.C. Workforce housing is defined in Chapter 420.5095(3)(a), F.S. F.S.

3. HURRICANE EVACUATION PREPAREDNESS

e. When construction plan approval is granted by Charlotte County for more than 993 residential units, a hurricane shelter mitigation plan, consistent with the provision of 91-2.0256(5)(a)1., shall be required. The proposed mitigation plan shall be reviewed and approved by the Charlotte County Office of Emergency Management, the SWFRPC and the State Division of Emergency Management.

a. Midrise condominiums within the 100-year floodplain shall be constructed on pilings and with parking beneath and shall be hardened in accordance with the Florida Building Code for Charlotte County.

b. Garden condominium and single family residences within the 100-year floodplain shall be constructed with reinforced stem-wall foundations which shall be resistant to flood erosion and shall be hardened in accordance with the Florida Building Code for Charlotte County.

c. The Tern Bay Community Development District ("CDD") shall develop a hurricane preparation and shelter information program for the residents of the Tern Bay project which will include annual awareness communications to residents. The appropriate departments dealing with emergency preparedness will cooperate with and assist the CDD in the development of the program. A copy of the program shall be provided to County prior to the issuance of the 100th residential C.O.

d. The clubhouse shall be built to hurricane building standards per American Red Cross publication #4496 and said building will be equipped with emergency generators. The clubhouse will be made available for use as a post-storm hurricane refuge to the proposed neighborhood following a natural disaster. It is understood that the clubhouse will not be able to accommodate all residents of the community.
h. As mitigation for hurricane shelter impacts, Tern Bay shall establish a community hurricane refuge for minimal category hurricanes at the on-site clubhouse and CDD administration building. A generator shall be installed to provide an alternative source of power at each of these on-site facilities. These generators shall be acquired prior to issuance of any construction permits for the clubhouse and CDD administration building.

4. TRANSPORTATION

a. Developer's total proportionate share obligation from Tern Bay's anticipated traffic impacts based on the development parameters set forth in the Development Order is $5,650,000,000.00 shall be calculated based upon the methodology set forth in s. 163.3180(5), Florida Statutes ("total proportionate share" herein). 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, wildlife crossings, utility relocation, improvement relocations on other private lands (e.g., mail boxes, driveways and trees), landscaping and other urban design elements.

Developer is obligated to pay Charlotte County road impact fees that offset the total proportionate share at the time building permits are issued in accordance with Section 3-3.5 of the Charlotte County Code of Ordinances, as may be amended. To the extent that building permits are issued for uses as described in the Development Order, the road impact fees shall serve as a credit toward the total proportionate share for Tern Bay.

Developer shall fulfill its total proportionate share payment to Charlotte County through the payment of impact fees and land dedication for the widening of Burnt Store Road, in accordance with Local Government Development Agreement Resolution No. 2005-005 ("Development Agreement" herein). Specifics of the Development Agreement are provided below:

1. The Burnt Store Road frontage between the northern and southern boundaries of Tern Bay of approximately 9,145 feet shall be improved as described herein. The Burnt Store Road frontage includes 5,250 feet along the northern road frontage of the Tern Bay development ("Tern Bay Northern Road Frontage" herein) and 1,385 feet along the southern road frontage of the Tern Bay development ("Tern Bay Southern Road Frontage" herein.) The remaining Burnt Store Road frontage of 2,510 feet consists of outparcels not owned by Tern Bay ("Outparcel Frontage" herein). Developer shall cooperate and assist Charlotte County in acquiring right-of-way for Outparcel Frontage consistent with the Development Agreement.

Developer will submit to Charlotte County design plans for a 60-foot two-lane road right-of-way along the Tern Bay Northern Road Frontage, Tern Bay Southern Road Frontage and the Outparcel Frontage (as defined herein as "Road Improvements").
The two new lanes will generally be constructed within the 60 feet of additional right-of-way dedicated to Charlotte County by Tern Bay (hereinafter the “Dedicated Right-of-Way”) and shall become part of a four lane divided right-of-way within Burnt Store Road. The Road Improvements shall include adequate turn lanes for the two principal Tern Bay entrances and appropriate four lane to two-lane temporary transitions within the Dedicated Right-of-Way to the existing Burnt Store Road north and south of the Road Improvements. The design plans shall be consistent with Charlotte County standards for a rural four-lane arterial and are subject to review and approval by the Charlotte County Public Works Division. All design costs will be paid by Developer.

3. Developer will prepare, submit and process all necessary permits for the Road Improvements. Developer will be identified as the applicant for all permits. All permit fees, application fees and other expenses will be paid for by Developer.

4. Upon completion of the Road Improvements, Developer will dedicate to Charlotte County 60 feet of right-of-way (width) along the Tern Bay Northern Road Frontage and the Tern Bay Southern Road Frontage, for a total area of approximately 9.14 acres (the “Dedicated Right-of-Way”). The value of the Dedicated Right-of-Way will be based on fair market value as described in the Development Agreement.

5. Construction of the Road Improvements shall proceed in phases. Commencement of the Road Improvements along the Tern Bay Northern Road Frontage shall be within 12 months of receipt of all necessary permits for the Road Improvements or upon initiation of Tern Bay Phase I development, as such phase is defined in the Development Order, whichever is later. Commencement of the Road Improvements along the Tern Bay Southern Road Frontage and the Outparcel Frontage shall be on or before January 17, 2007 and subject to the acquisition by Charlotte County of sufficient right-of-way along the Outparcel Frontage. Developer shall pay all construction costs.

Based on the staff transportation assessment of significant project impacts, construction of the following transportation improvements shall be needed prior to, or coincident with, development of the Tern Bay DRI, if peak hour (100th hour) level of service “C” and “D” conditions are to be maintained through buildout (January 17, 2012) on regional road segments and intersections.

- Burnt Store Road
- Notre Dame Boulevard to the project entrance
- Project entrance to Zemel Rd — Widen to 4 lanes

Zemel Road to the Burnt Store Marina entrance — Widen to 4 lanes
- Burnt Store Marina entrance to SR 78*
5. **WETLANDS/VEGETATION AND WILDLIFE**

a. The Coastal Conservation Area shall be considered as in perpetuity preservation areas and their development uses shall be restricted by a conservation easement to be conveyed to the State of Florida Department of Environmental Protection (herein "the State of Florida"). All remaining on-site wetland systems, other conservation and listed species preservation tracts, and mitigation areas shall be considered as in perpetuity preservation areas and their developmental uses shall be restricted by conservation easements to be conveyed to Charlotte County, the State of Florida, the Southwest Florida Water Management District or a qualified non-profit conservation organization (herein "grantee") that has both the dedication to conservation, and the resources to enforce the restrictions of the conservation easement. The conservation easements shall clearly designate the onsite preservation area as a perpetual easement area to be managed and retained in a natural state for the continued protection and sustainability of the species or natural or archaeological resources requiring preservation; shall prohibit all development and all activities inconsistent with the purpose of which the land is being preserved; shall name the State of Florida or grantee as a benefiting party; shall allow it or any of its designees access to the site upon request; shall provide the State of Florida or grantee with the right to require restoration and the right of enforcement; and shall be duly recorded in the Official Records of Charlotte County, Florida prior to any site clearing and prior to any construction permit issuance for the on-site development of the Tern Bay DRI.

Further, the Coastal Conservation Area, consisting of approximately 865 acres, shall be conveyed in fee simple ownership to the State of Florida for preservation as a park in perpetuity and consistent with the restrictions contained in Chapter 704.06, Florida Statutes, as may be amended. The State of Florida shall become the successor in interest of any recorded conservation easement on the subject lands and shall be responsible for performing all required maintenance at no cost to the Applicant or the Tern Bay Community Development District (CDD). The conveyance to the State of Florida shall occur not later than December 31, 2024. All accrued mitigation and any other credits granted either through agency action or interlocal agreement shall be retained by the Applicant. The Applicant or CDD, as appropriate, shall retain easements to ensure in perpetuity (1) access from Charlotte Harbor to the Tern Bay development, and (2) utilization of all permitted structures including but not limited to, canoe landings, picnic areas, nature and directional signage, and boardwalks, by Tern Bay residents and guests for recreational and environmental purposes. Further, the Applicant or CDD,
as appropriate, shall impose a deed restriction requiring absolute, total and unchanged preservation of the viewshed from the Tern Bay development to Charlotte Harbor. This conveyance to the State of Florida shall be duly recorded in the Official Records of Charlotte County, Florida.

12. CONCEPT PLAN

g. No certificates of occupancy shall be issued for greater than 993 residential units until at least 70,000 square feet of Commercial use is constructed within the Tern Bay DRI.

6. GENERAL CONSIDERATIONS

a. Buildout will be January 17, 2012 December 31, 2024; This date represents a two-year extension to those dates reviewed in the ADA, together with the time tolled during the pendency of administrative hearings (24 months and 18 days), and a combined extension of the buildout dates by six (6) years and three hundred sixty-four (364) days, and shall be considered cumulatively against any future proposed phase or project buildout date extension for the purposes of calculating whether the statutory timeframes are met or exceeded in paragraph 38006(19)(e), F.S. The expiration date of the project shall be December 31, 2029, and the project shall not be subject to downzoning, unit density reduction, or intensity reduction, unless it is demonstrated by the County that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by the county to be essential to the public health, safety, or welfare. If development order conditions and applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impacts, are not carried out as indicated to the extent or in accord with the timing schedules specified within the development order, then this shall be presumed to be a substantial deviation for the affected regional issue.

13. FURTHER RESOLUTIONS

3. This development order shall remain in effect until January 1, 2013. In the event that significant physical development has not commenced by January 1, 2008, development approval will terminate and this development order shall no longer be effective. For purposes of this requirement, "significant physical development" does not include roads, drainage or landscaping but does include Certificate of Occupancy of buildings or installation of utilities and facilities such as sewer and water lines to and within the project.
1. Exhibit "C", entitled "Tern Bay DRI Revised Estimated Land Use Distribution" of Resolution 93-244, as it amends Resolution 92-29, and as it has itself been amended by Resolutions 98-0370A0, 98-0372A0, 2004-050 and 2006-009 is hereby deleted in its entirety and replaced by the Exhibit "C" attached hereto and incorporated herein by this reference.

b. The amendments incorporated herein do not constitute a substantial deviation to the conditions of the Development Order.

2: b. All other terms and conditions of the Development Order, not affected by this resolution, shall remain unchanged and in full force and effect.

c. The Clerk of the Circuit Court is hereby directed to forward a certified copy of this resolution and its attachments to the Florida Department of Community Affairs of Economic Opportunity, Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, 107 East Madison Street, Caldwell Building, Tallahassee Florida 32399-4120, DRI Coordinator, Southwest Florida Regional Planning Council, 1926 Victoria Avenue, 1400 Colonial Boulevard, Suite 1, Fort Myers, Florida 33901-33907 and to DRI Coordinator, 18500 Murdock Circle, Port Charlotte, Florida 33948.

e. d. Any exhibit attached to Resolution 2004-050, recorded at OR Book 02420, Page 0889, which is not specifically amended herein, shall remain in full force.
PASSED AND DULY ADOPTED this _____ of ____________, 2017.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By:________________________

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:________________________
County Attorney
## Tern Bay DRI
Revised and Updated Land Use Distribution, Dated January 2006

### Land Use Type
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<th>Land Use Type</th>
<th>Buildout Total</th>
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<tr>
<td>Single-Family Residential</td>
<td>712,475 units</td>
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<tr>
<td>Multi-family Residential</td>
<td>1,098,840 units</td>
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<td>Commercial</td>
<td>140,000, 90,000, 111,500 square feet</td>
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<td>Office</td>
<td>30,000, 15,000, 20,000 square feet</td>
</tr>
<tr>
<td>Hotel</td>
<td>250, 150 rooms</td>
</tr>
<tr>
<td>Golf Course</td>
<td>27 holes</td>
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<tr>
<td>Country Club</td>
<td>20,000 square feet</td>
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<tr>
<td>Spa and Tennis Club</td>
<td>7,500 square feet</td>
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<tr>
<td>Tennis Courts</td>
<td>8 courts</td>
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<tr>
<td>Welcome Center/Community Building</td>
<td>5,000 square feet</td>
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TERN BAY DRI (fka CALIENTE SPRINGS) NOTICE OF PROPOSED CHANGE IN CHARLOTTE COUNTY

Background

The Tern Bay Development of Regional Impact (DRI) is located in southern Charlotte County on Charlotte Harbor on 1,778 acres (Attachment I). The Charlotte County Board of County Commissioners approved the original Development Order (DO) (Resolution 92-29) for the Caliente Springs DRI on February 18, 1992. However, the Department of Community Affairs (DCA) (now Department of Economic Development (DEO)) appealed the DO, which required the County to amend the DO. The amended DO was adopted on December 14, 1993.

According to Charlotte County Resolution 2006-043, the DRI currently has approval for is a mixed-use project with 1,810 residential dwelling units, for 30,000 gross square feet of office space on 5 acres, 140,000 gross square feet of retail space on 15.7 acres with 710 parking spaces, a 250-room hotel, 865 acres of wetland preservation areas, a minimum of 205 acres of upland preservation areas and buffer areas subject to further additions, a project total of 295.0 acres of impervious surfaces leaving a project total of 1,483 acres of open space (all natural pervious and all vegetated pervious surfaces), and a sales and Community Development District (CDD) administration center and other amenities on 1,778 acres located in Southern Charlotte County between Burnt Store Road and Charlotte Harbor approximately three miles north of the Lee County line. The site will contain three nine-hole golf courses on 215 acres, a maximum 20,000 gross square foot golf clubhouse with restaurants, an exercise area and 150 parking spaces, a maximum 7,500 gross square foot building(s) for a tennis clubhouse, fitness center and spa, eight tennis courts, swimming pools, bike and walk trails, a small fishing pier, canoe launch and docks, lookout tower and approved governmental uses. Based more recent amendments, the current buildout date is May 14, 2020.

Previous Changes

There have been 9 previous changes to the Tern Bay DO. These changes are as follows:

1. On August 17, 1993, the Charlotte County Board of County Commissioners (BOCC) approved Resolution 93-244, which reflected the settlement agreement that resulted from the Department of Community Affair’s appeal.

2. On April 7, 1998, the BOCC approved Resolution 98-0370A0, which granted an extension to the buildout and commencement dates of development based on the tolling of time during the pendency of the DCA appeal.

3. On May 25, 1999, the BOCC approved Resolution 98-0372A0, which granted an extension to buildout and commencement date of development by four years and 365 days. The buildout date being January 17, 2010.
1. PARTIES TO THE APPLICATION

Name of Applicant: Tern Bay CDD Acquisitions, LLC
Mailing Address: 5020 N. Linebaugh Avenue, Suite 250
City: Tampa State: FL Zip Code: 33624
Phone Number: 813-915-3449 Fax Number:
Email Address: mdady@lerneradvisors.com

Name of Agent: Robert H. Berntsson
Mailing Address: 18401 Murdock Circle, Suite C
City: Port Charlotte State: FL Zip Code: 33948
Phone Number: 941-627-1000 Fax Number: 941-255-0684
Email Address: rberntsson@bigwlaw.com

2. APPLICANT'S ATTACHMENTS
   a. Submit a strikethrough/underline version of the proposed changes.
   b. Describe the purpose/rationale for the proposed change.

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.
   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.
   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.
APPLICANT AUTHORIZATION TO AGENT

I, the undersigned, being first duly sworn, depose and say that I am the applicant for this PLAN AMENDMENT.
I give authorization for Robert H. Berntsson to be my agent for this application.

STATE OF Florida, COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 30 day of November, 2016, by

Harry Leuser

who is personally known to me or has/have produced
as identification and who did/did not take an oath.

David Jae
Notary Public Signature

Signature of Applicant

David Jae
Notary Printed Signature

Printed Signature of Applicant

Notary Public state of Florida

5020 N. Linebaugh Avenue, Suite 250
Title
Address

FF924293
Commission Code

Tampa, Florida 33624
City, State, Zip

813-915-3449
Telephone Number

David Jae
NOTARY PUBLIC
STATE OF FLORIDA
Comm#FF924293
Expires 10/5/2019
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 Hillsborough

The foregoing instrument was acknowledged before me this 29 day of November, 2016, by

[Signature]

who is personally known to me or has/have produced

as identification and who did/did not take an oath.

[Signature]

Notary Public Signature | Signature of Applicant or Agent

[Signature]

Notary Printed Signature | Printed Signature of Applicant or Agent

Title

5020 N. Linebaugh Avenue, Suite 250

Address

FF924293

Commission Code | Tampa, Florida 33624

City, State, Zip

813-915-3449

Telephone Number

[Notary Seal]

David Jae

Notary Public State of Florida

State of Florida

Commission FF924293

Expires 10/5/2019
**FLU APPENDIX VI: DEVELOPMENTS OF REGIONAL IMPACT**

**Tern Bay**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Development Right</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>4,849,1315 Units</td>
</tr>
<tr>
<td>Commercial</td>
<td>140,000111,500 Gross Square Feet</td>
</tr>
<tr>
<td></td>
<td>710 parking spaces</td>
</tr>
<tr>
<td>Office</td>
<td>30,00020,000 Gross Square Feet</td>
</tr>
<tr>
<td>Hotel</td>
<td>250–150 Rooms</td>
</tr>
<tr>
<td>Golf Clubhouse</td>
<td>20,000 Gross Square Feet *</td>
</tr>
<tr>
<td>Tennis Clubhouse</td>
<td>7,500 Gross Square Feet **</td>
</tr>
<tr>
<td>Community Center</td>
<td>5,000 Gross Square Feet ***</td>
</tr>
<tr>
<td>Impervious Surfaces</td>
<td>295 Acre</td>
</tr>
</tbody>
</table>

Notes:
- * Includes three 9-hole golf courses, restaurants, exercise area and 150 parking spaces.
- ** Tennis clubhouse, fitness center & spa, 8 tennis courts, swimming pools, bike and walk trails, small fishing pier, canoe launch and docks, look-out tower, and approved governmental uses
- *** A sales and Community Development District administration center