

October 15, 2002

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BARBARA T. SCOTT, CLERK, CHARLOTTE CO
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ORDINANCE
NUMBER 2002-046

AN ORDINANCE APPROVING AN AMENDMENT TO THE CHARLOTTE COUNTY ZONING ATLAS FOR NB/85 ASSOCIATES, C/O BENDERSON DEVELOPMENT COMPANY, INC., REZONING 72.52 ACRES MORE OR LESS FROM MOBILE HOME PARK (MHP) TO PLANNED DEVELOPMENT (PD), PETITION #Z-02-1-1; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on Tuesday, October 8, 2002, the Board of County Commissioners in a public hearing reviewed Petition Z-02-1-1 which requested a rezoning of 72.52 acres more or less from Mobile Home Park (MHP) to Planned Development (PD) on property owned by NB/85 Associates, c/o Benderson Development Company, Inc., 8441 Cooper Creek Boulevard, University Park, Florida 34201, located in Section 18, Township 40 South, Range 23 East, Country Charm Estates Subdivision, Victoria Estates Development of Regional Impact, Charlotte County, Florida, described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the applicant, NB/85 Associates, c/o Benderson Development Company, Inc., seeks a rezoning to create a housing development with lots of a total square footage below that allowed by the residential zoning code, thereby allowing maximization of open, natural areas and aesthetic waterfront amenities; and

WHEREAS, after due consideration, the Board of County Commissioners has found that the request is consistent with the Charlotte County Comprehensive Plan and has determined it to be in the best interest of the public to rezone this site from MHP to PD.

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

SECTION 1. That the following petition for a zoning amendment to the Charlotte County Zoning Atlas is hereby approved, subject to the conditions contained in this ordinance:

Petition Z-02-1-1 for a rezoning of 72.52 acres more or less of property from Mobile Home Park (MHP) to Planned Development (PD) on property owned by NB/85 Associates, c/o Benderson Development Company, Inc., 8441 Cooper Creek Boulevard, University Park, Florida 34201, described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "the Property").

SECTION 2. The Planned Development zoning approved by this ordinance shall be subject to the following conditions:

A. The development of the Property shall consist of 205 conventionally constructed single family residences and a recreation/open space area, as indicated on the preliminary concept plan, developed as a single phase.

B. The Property shall be developed at no more than 205 units of density.

C. The Property shall contain a recreation/open space area as indicated on the preliminary concept plan.

D. The homes constructed on the Property shall consist of conventionally constructed homes only.

E. The maximum building lot coverage shall not exceed fifty-five percent (55%)

- F. The development standards for the site shall be as follows:
- | | |
|-----------------------------------|-------------------|
| Minimum lot size | 6,600 square feet |
| Minimum corner lot size | 7,100 square feet |
| Minimum lot width | 60 feet |
| Minimum front yard setback | 20 feet |
| Minimum rear yard setback | 15 feet |
| Minimum side yard abutting a lot | 5 feet |
| Minimum side yard abutting a road | 10 feet |
| Minimum setback to water | 20 feet |
| Maximum building height | 35 feet |

G. All lighting utilized on the Property will be directional, shielded, placed or otherwise installed so as to ensure that light associated with any development on the Property does not illuminate any property outside the boundaries of the Property.

H. Prior to either final site plan approval, any development on the Property, or the issuance of any permits (whichever comes first), the Property must be surveyed for all listed flora and fauna species. A copy of all approvals and permits relating to any development on the Property must be provided to the Natural Resources Planning Section of the County's Community Development Department ("NRPS") prior to final site plan approval. If any listed species are found, a map indicating the location of the species will be supplied to the NRPS. The NRPS may require management of the species beyond what is required by any State or Federal permits. In addition, the applicant must provide the NRPS with documentation that shows that the development is outside the primary and secondary bald eagle nesting zones.

I. In the event that any prickly pear, coontie, or other listed flora species are located on the Property, an area or areas will be set aside to allow for the preservation of these species. The NRPS will have final approval of the location(s) and size(s) of the preservation area(s).

J. At a minimum, the buffer requirements of Article XXII, Chapter 3-5, Code of Laws and Ordinances of Charlotte County ("the Landscape Code") (such Code of Laws and Ordinances of Charlotte County shall herein be referred to as "the County Code") will be utilized for the 25 foot buffer zone required for planned development zoning in Section 3-9-49 of the Code. Except as otherwise provided herein, areas within the 25 foot buffer required in Section 3-9-49 of the Code shall contain no structures other than that of a wall, fence, berm or gate, and no native plants shall be removed from the buffer areas unless such removal is necessary for the placement of the above mentioned structures and is approved by the NRPS.

In addition to the requirements contained in the preceding two sentences, the following buffer requirements shall apply:

(i) a type B buffer, as described in the Landscape Buffer Code, with an opaque structure as allowed by the Landscape Buffer Code (wall, fence or berm), will be placed along the west border of the Property.

(ii) a type B buffer, as described in the Landscape Buffer Code, will be placed along the north border of the Property and no opaque structure will be allowed along this border except as may be required to provide ingress and egress to the site.

(iii) a type B buffer will be placed along the south border of the Property.

K. At the time of application for final site plan approval, the applicant shall provide the NRPS with four (4) copies of a landscape plan that complies with Article XVIII, Chapter 3-5, of the County Code, for all required parking. In order to reduce the use of water, fertilizer, and maintenance, landscaping of common areas will exclusively utilize drought tolerant vegetation and native shade trees approved by the NRPS. Also, native shade trees shall be planted or existing trees retained at each residential unit. At a minimum, all trees that are removed or preserved must satisfy Article IX, Chapter 3-2, of the County Code, however, the NRPS will have final approval of the removal of any native trees or shrubs. Preservation of trees beyond the County Code requirements may be required at final detail plan approval. All Brazilian pepper, melaleuca, and Australian pines must be removed according to Section 3-5-403 of the County Code.

L. Non-potable water will be utilized for all landscaping within common areas of the Project.

M. Exterior signage for the development on the Property will be limited to one landscaped, monument style sign. Exterior lighting will be allowed on such sign. There will be no commercial advertisement of any kind placed along the perimeter of the Property. There will be no neon signs allowed.

N. Prior to issuance of a building permit for any structure (other than buffer walls) on the Property, a right-turn deceleration lane for ingress to the Property must be provided on Suncoast Boulevard. Additional improvements to Suncoast Boulevard may be required prior to any development on the Property in order to ensure that Suncoast Boulevard can adequately support the development on the Property, and/or in order to comply with Section 4a, Exhibit 3 of the Victoria Estates Development of Regional Impact Development Order, adopted by Resolution 89-141, as amended by Resolutions 94-111 and 2002-109 (such development order shall herein be referred to as "the Victoria Estates DO").

O. The Property must be included in the MSBU that funds roadway and drainage maintenance for Suncoast Boulevard.

P. A stormwater drainage easement must be provided over the existing drainage ditch that accommodates offsite runoff.

Q. A 10' wide utility roadway easement must be provided along the Suncoast Boulevard frontage.

R. Prior to final detail plan approval, applicant must acquire an amendment to the Victoria Estates DO to allow conventional dwelling units on the Property, and to reflect any changes to the acreage or location of any recreation or open space areas on the Property.

S. At the time of application for final detail plan approval, the applicant shall provide a narrative which substantiates that the proposed development of the Property complies with all provisions of the Victoria Estates DO. Prior to final site plan approval, the applicant must provide the NRPS with information that specifically addresses conditions contained in Sections 1a through 1k, Exhibit 3, Drainage/Water Quality of the Victoria Estates DO.

T. At the time of application for final detail plan approval, the applicant shall provide a narrative describing the drainage patterns of the areas within which the Property is located. The stormwater management plan for the Property must not increase flooding of adjacent properties due to any development within the boundaries of the Property.

U. Prior to issuance of a building permit for any structure (other than buffer walls) on the Property, a sidewalk must be constructed along Suncoast Boulevard along the boundary of the Property. The County's Public Work's Department shall determine the exact location of the sidewalk.

V. At the time of application for final detail plan approval, the applicant shall provide an original boundary and topographic survey with a raised seal and original signature by the surveyor of record.

W. Development of the Property shall meet all conditions and requirements of the Victoria Estates DO.

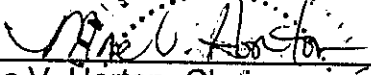
X. The subdivision proposed for the Property must be platted in accordance with Chapter 177, Florida Statutes, and the platting and subdivision regulations contained in Chapters 3-5 and 3-7 of the County Code, and all other applicable land development regulations.

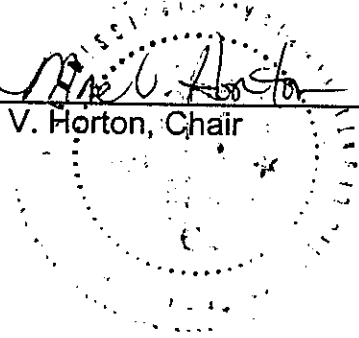
SECTION 3. That the zoning for this site shall run with the land and shall apply to any subsequent owners, heirs and assigns.

SECTION 4. This ordinance shall take effect upon filing in the Office of the Secretary of State, State of Florida.

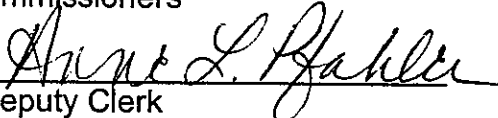
PASSED AND DULY ADOPTED this 8 day of October, 2002.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By 
Mac V. Horton, Chair



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:



Renee Francis Lee, County Attorney *ADD*

Exhibit "A"

SURVEYOR'S DESCRIPTION:

A tract of land lying in Section 18, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

COMMENCING at the southwest corner of said Section 18, said point also being on the easterly Right-of-Way line of Loveland Boulevard, as shown on the plat of PORT CHARLOTTE SUBDIVISION SECTION TWENTY, as recorded in Plat Book 5, Pages 10-A through 10-F, of the Public Records of Charlotte County, Florida; thence S.89°02'42"E. (assumed bearing basis), along the southerly line of said Section 18, a distance of 1,287.83 feet to the POINT OF BEGINNING;

Thence N.00°09'35"E., a distance of 1,998.01 feet to the southerly Right-of-Way line of Suncoast Boulevard, as recorded in Official Records Book 754, Pages 2177 through 2179, of the Public Records of Charlotte County, Florida;

Thence S.89°09'34"E., along said southerly Right-of-Way line, a distance of 1,370.27 feet to the northwesterly corner of COUNTRY CHARM ESTATES, a Subdivision according to the plat thereof, as recorded in Plat 16, Page 24, of the Public Records of Charlotte County, Florida;

Thence S.89°19'31"E., continuing along the southerly Right-of-way line of said Suncoast Boulevard and along the northerly line of said COUNTRY CHARM ESTATES, a distance of 629.32 feet to the northeasterly corner of Lot 4, of said COUNTRY CHARM ESTATES;

Thence S.00°04'29"W., leaving said southerly Right-of-Way line and along the easterly lines of Lot 4, Lot 3 and an extension of Lot 3, all of said COUNTRY CHARM ESTATES, a distance of 667.55 feet to a point on the southerly line of Lot 8, COUNTRY CHARM ESTATES, said point also being on the southerly line of said COUNTRY CHARM ESTATES;

Thence N.89°17'02"W., along said southerly line, a distance of 622.83 feet to the southwesterly corner of said Lot 8, said point also being on the easterly line of the southwest ¼ of said Section 18;

Thence S.00°07'04"W., along said easterly line, a distance of 1,333.64 feet to the southeast corner of the southwest ¼ of said Section 18;

Thence N.89°02'42"W., along the southerly line of said Section 18, a distance of 1,371.77 feet to the Point of Beginning, containing 72.5153 acres, more or less.

Said lands being subject to all restrictions, reservations and easements of record.