CHG BCC #14

FILED WITH THE DEPARTMENT OF STATE: January 28, 2016

ORDINANCE
NUMBER 2016-007

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, PURSUANT TO SECTION 163.3184(3), FLORIDA STATUTES, AMENDING THE NATURAL RESOURCES (ENV) ELEMENT OF CHARLOTTE COUNTY'S COMPREHESIVE PLAN BY REVISING SOME POLICIES UNDER ENV GOAL 1 AND ENV GOAL 2; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on July 20, 2010, the Board of County Commissioners of Charlotte County, Florida ("Board"), in a public hearing, adopted the Smart Charlotte 2050 Comprehensive Plan ("Smart Charlotte Plan"), which became effective on June 15, 2011; and

WHEREAS, during the implementation of the Smart Charlotte Plan, it became apparent that some policies needed to be revised in order to fulfill the vision that was established in the Smart Charlotte Plan, exercise the "Home Rule" authority in the County's Charter, and better guide redevelopment and future development within the County; and

WHEREAS, at the Board's direction, County Staff worked on revisions to the Goals, Objectives and Policies of the Future Land Use (FLU) Element, FLU Appendix I: Land Use Guide, FLU Appendix III: Definitions, the Natural Resources (ENV) Element, and Coastal Planning (CST) Policy 3.2.5; and

WHEREAS, on September 23, 2014, the Board adopted five ordinances to accomplish these revisions; however, on July 14, 2015, the Board rescinded these five

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT
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ordinances and requested County Staff to work on revisions to these previously adopted ordinances to Charlotte County's Comprehensive Plan; and

WHEREAS, in order to address concerns and move forward with the revisions to Charlotte County's Comprehensive Plan, County Staff has divided the revisions into two parts; and

WHEREAS, County Staff has been working on part I of the revisions which includes eight different areas of changes; and

WHEREAS, on October 12, 2015, Petition PA-15-07-08-LS, specifically amending the Natural Resources (ENV) Element by revising some policies under ENV Goal 1 and ENV Goal 2, was heard by the Planning and Zoning Board ("P&Z Board") and, based on the findings and analysis provided by County Staff and the evidence presented to it, the P&Z Board made a recommendation to the Board to transmit the revisions to the Department of Economic Opportunity ("DEO") for review and comments; and

WHEREAS, on November 24, 2015, Petition PA-15-07-08-LS, specifically amending the Natural Resources (ENV) Element by revising some policies under ENV Goal 1 and ENV Goal 2, was heard by the Board and was approved for transmittal to DEO for review and comments; and

WHEREAS, on December 29, 2015, DEO issued a letter stating that it had no comments regarding Petition PA-15-07-08-LS, specifically amending the Natural Resources (ENV) Element by revising some policies under ENV Goal 1 and ENV Goal 2; and

WHEREAS, other relevant state agencies also reviewed the revisions and had no comments; and

WHEREAS, after due consideration regarding PA-15-07-08-LS, specifically amending the Natural Resources (ENV) Element by revising some policies under ENV Goal 1 and ENV Goal 2, and, based on the analysis and evidence presented to the Board, the Board has found the proposed revisions are in the best interests of the health, safety, and welfare of the County and the future the County envisions and desires for itself.

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

Section 1. Adoption. The policies under ENV Goal 1 and ENV Goal 2 of the Natural Resources (ENV) Element of Charlotte County's Comprehensive Plan, are hereby amended by adding the underlined language and by ~~deleting the stricken language~~ to provide as shown in Exhibit "A" which is attached hereto and provided herein.

Section 2. Severability. If any section, subsection, clause, phrase, or provision of this ordinance or its accompanying Charlotte County Comprehensive Plan element is for any reason held invalid or unconstitutional by any court or body of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance or its accompanying Charlotte County Comprehensive Plan element invalid or unconstitutional.

Section 3. Effective Date. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this

adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

[SIGNATURE PAGE FOLLOWS]

PASSED AND DULY ADOPTED this 26th day of January, 2016.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: William G. Truex
William G. Truex, Chairman

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

By: Michelle D. Berardino
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney
LR2015-3562

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LR2015-3562
1/7/2016

NATURAL RESOURCES - GOALS, OBJECTIVES AND POLICIES

ENV Policy 1.1.3: Green Building Techniques
The County shall promote ~~and enforce~~ green, sustainable~~,~~ building practices for public and private buildings by utilizing and promoting the Leadership in Energy and Environmental Design (LEED) certification and other similar programs.

ENV Policy 1.1.4: Green Landscaping and Low Impact Techniques
The County shall promote ~~and, as applicable, enforce~~ landscaping techniques that reduce water and fertilizer usage, require low maintenance, and eliminate or reduce the need for herbicide and pesticide usage, such as encouraged by the Florida Native Plant Society, the University of Florida IFAS Extension and other similar groups. Incorporation of landscaping into Low Impact Development design of stormwater systems is encouraged.

ENV Policy 1.4.1: Water Quality Standards
The County shall not allow the quality of Charlotte County's groundwater and surface water resources to be degraded~~, either directly or indirectly by human influences,~~ below the minimum criteria for water quality provided in Chapter 62 FAC, the Clean Water Act, 3 USC 1251, or by adopted Site Specific Alternative Criteria (62-302.800 FAC), and shall ensure that it is maintained or, as necessary, improved to ensure the availability of this resource for present and future generations.

ENV Policy 1.4.3: Protection Guidelines
The County shall implement of the following standards and guidelines to protect its surface waters:

1. The discharge of runoff, wastewater, or other potential sources of contamination into surface waters resulting in a degradation of the quality is prohibited and shall be enforced.
2. The most current B~~b~~est M~~m~~anagement P~~p~~ractices which control erosion and limit the amount of sediment reaching surface waters shall be applied to all activities.
3. Removal or control of submerged, emergent, or floating vegetation through non-chemical means shall be prioritized. Removal shall be limited to that necessary to allow reasonable access to water resources except for the removal of invasive, exotic species such as hydrilla, water hyacinth, or water lettuce.
4. Non-chemical means, where feasible, and B~~b~~est M~~m~~anagement P~~p~~ractices shall be used as alternatives to insecticides and herbicides for the control of mosquitoes.

EXHIBIT
"A"

ENV Policy 1.4.4: Interagency and Intergovernmental Cooperation
The County shall pursue interagency and intergovernmental cooperation to ensure that the County's surface and ground waters are protected. The County shall require protection of the Charlotte Harbor estuarine system, which supports a multi-billion dollar tourism industry that relies on a productive aquatic ecosystem, by continuing to monitor and object to any activities within and without the County that may negatively impact the quality, quantity, and timing of freshwater flows from entering the County's ~~surface waters and groundwater recharge area~~ water resources.

ENV Policy 1.4.9: Watershed Overlay District (WOD)
The County shall establish the Watershed Overlay District as illustrated on FLUM Series Map # 4. The intent of the WOD is to protect the quantity and quality of water within the Hendrickson Dam Reservoir, which is the City of Punta Gorda's potable water supply. Since all overground and underground waters within the watersheds of Shell Creek and Prairie Creek drain into the reservoir, those watershed perimeters shall constitute the boundary of the of the Overlay. The creek system is delineated along with the boundaries of two significant water sources, Long Island Marsh and Tippen Bay.

1. The following shall apply throughout the entire Overlay:
    a. By right uses shall be those allowed by the comprehensive plan.
    b. All agricultural and resource conservation uses are encouraged to utilize Best Management Practices as created by the Florida Department of Environmental Protection, The Florida Department of Agriculture and Consumer Services, and the Florida Department of Forestry, as applicable. The County shall support and assist, as possible, in the Facilitating Agricultural Resource Management Systems (FARMS) projects and the Federal Environmental Quality Incentives Program (EQIP).
    c. The generation or continuous transmission of petroleum products or other hazardous substances is prohibited. ~~The storage and use of such products as incidental to a permitted use are allowed (the exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances). An exemption may also be made for biofuel generation manufacturing operations when in conjunction with an agricultural operation that utilizes Best Management Practices.~~
2. The following shall apply within one-half mile of the creek system and within Long Island Marsh or Tippen Bay:
    a. There shall be no increases in intensity. This does not apply to changes in agricultural uses.
    b. Density is restricted to the maximum density allowed at time of adoption of this comprehensive plan. There shall be no increases

in density except in connection with establishment of conservation subdivision.

c. New Group III excavations are prohibited.

d. Implementation of Agricultural Best Management Practices as~~are~~ required by permits issued by State agencies.

e. Biofuel ~~generation~~ manufacturing operations are prohibited, except when ancillary to a~~n~~ bona fide agricultural operation that utilizes Best Management Practices.

f. Prohibited uses may be allowed on a case by case basis by the Board of County Commissioners if it can be demonstrated through generally accepted, science-based analysis that the proposed use will have no negative affect on the quality or quantity of water within the Hendrickson Dam Reservoir. In no case shall prohibited uses be allowed within one-quarter mile of the shoreline of the creeks or creeks' tributaries.

~~f.~~g. When incidental to a permitted use, the bulk storage associated with bona fide agricultural uses and use of such products are allowed. This exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances.

3. The following are prohibited within 200 feet of the mean high water mark of the creeks and creeks' tributaries:
   a. All septic systems (including all components of those systems), and
   b. The storage or use of any hazardous substances, except when such storage or use is in compliance with applicable State and Federal regulations.
4. For residential properties adjacent to the creek system, the County shall require adherence to the standard outlined within 40D-40.301(2)(f), Southwest Florida Water Management District Rules.

~~ENV Policy 2.2.9: Critical Wildlife Corridors Map~~

~~FLUM Series Map #22 shall depict lands identified as Critical Wildlife Corridor Linkages in the Rural Service Area east of Charlotte Harbor. Critical Wildlife Corridor Linkages may develop as Conservation Subdivisions under the Agriculture FLUM category as a means to help preserve, in perpetuity, land consisting of riparian corridors, wetlands, and listed species habitat. These Linkages may also be developed as Rural Communities if the property is not within a prohibited area as identified on FLUM Series Map #23: Rural Community Potential Locations.~~

ENV Policy 2.3.1: ~~Monitoring~~ Reviewing Development Activities

The County shall review development activities for compliance with local environmental regulations ~~assist in the application of, and compliance with, all State and Federal regulations regarding listed species through monitoring of development activities~~ and staff will ~~providing~~ provide information regarding listed

species on properties ~~undergoing development review~~consistent with all State and Federal regulations.

ENV Policy 2.3.2: Listed Species Surveys

When it is determined that properties undergoing development review contain habitat that may be utilized or is utilized by listed species, the County shall require surveys per the methods set by FFWCC or USFWS. ~~Charlotte County shall withhold development approval for properties until all applicable State and Federal permits pertaining to such listed species have been obtained and copies provided to Charlotte County.~~

ENV Policy 2.3.5: Scrub-jay Habitat Conservation Plan

The County shall administer the adopted species specific Florida scrub-jay (*Aphelocoma coerulescens*) HCP.~~, which was developed for four Capital Improvement Projects, when approved by the USFWS. The County supports the effort to create a County-wide scrub-jay Habitat Conservation Plan.~~

ENV Policy 2.3.6: Exotic Plant Removal

The County shall continue to enforce the removal of invasive exotic plants. The County shall also prohibit the planting of species listed as noxious weeds by 5B-57.007, Florida Administrative Code, and listed as invasive species on the Florida Exotic Pest Plant Council Invasive Plant Category I Lists. The County shall discourage the planting of species listed as invasive species on the Florida Exotic Pest Plat Council Invasive Plant Category II List.

ENV Policy 2.4.3: Soil Stabilization

Best M~~m~~anagement P~~p~~ractices, including sodding, seeding, mulching, and preservation and maintenance of vegetation, shall be utilized throughout and following development activities in order to reduce the erosion of soil by wind and water and to conserve the functions of natural systems.

FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 29, 2015

Clerk of the Circuit Court
Charlotte County
18500 Murdock Circle, Room 416
Port Charlotte, Florida 33948

Attention: Ms. Michelle DiBerardino

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2016-007, which was filed in this office on January 28, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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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:

January 11, 2016

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)

Sworn and subscribed before me this 11th day of January, 2016.

(Signature of Notary Public)

PHYLIS MOLL
MY COMMISSION # FF 48827
EXPIRES August 27, 2017
(407) 398-0153 FloridaNotaryService.com

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, **JANUARY 26, 2016, 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: **www.charlottecountyfl.gov/Pages/BBC-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-15-07-08-LS **Legislative** **County-wide**

Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment; the two-part request is to amend several elements of the County's Comprehensive Plan. Part I is specifically to amend: 1) Future Land Use (FLU) Element by amending FLU Goal 1, FLU Goal 2, FLU Goal 3, FLU Goal 4, and FLU Goal 5, and some objectives and policies under FLU Goal 1, FLU Goal 2, FLU Goal 3, FLU Goal 4, FLU Goal 5, and FLU Goal 6; amending the Babcock related policies; amending FLU Policy 6.2.11: Natural Resource Connections item 3a., FLU Policy 6.3.1: Interconnection, FLU Policy 6.3.11: Established Flowways, and FLU Policy 6.3.12: Greenways Plan; 2) FLU Appendix I: Land Use Guide by amending the plan amendment standards of review; adding sub-neighborhood commercial to the Low Density Residential (LDR), Medium Density Residential (MDR) and High Density Residential (HDR) land use categories with specific development standards; replacing "recreational vehicle" with "recreational vehicle park" within the LDR, MDR and HDR land use categories; redefining general range of uses, removing Special Provision item 3., and deleting sub-category within the Commercial land use category; amending Special Provisions within the Office and Institutional (OI) land use category; and amending U.S. 41 Mixed Use (41MU) and Babcock Mixed Use (BMU) land use categories; 3) FLU Appendix III, Definitions by deleting the definition of "Smart Growth" and amending the definitions of "Strip Commercial" and "Urban Sprawl" 4) Natural Resources (ENV) Element by amending some policies under ENV Goal 1 and ENV Goal 2; 5) Coastal Planning (CST) Policy 3.2.5: Development Requiring Special Needs Assistance; and rename the County's Comprehensive Plan to Charlotte 2050; Petition No. PA-15-07-08-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date. Part II will follow in the near future.

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. FM Sound Enhancement Units for the Hearing Impaired are available at the Front Security Desk, Building A of the Murdock Administration Complex. Anyone needing other reasonable accommodation or auxiliary aids and services please contact our office at 941-743-1381, TDD/TTY 941-743-1234, or by email to: terri.hendriks@charlottefl.com

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