

#14

ORDINANCE
NUMBER 2011 - 022

AN ORDINANCE PURSUANT TO SECTION 163.3184, FLORIDA STATUTES, ADOPTING A LARGE SCALE FUTURE LAND USE MAP AMENDMENT TO THE CHARLOTTE COUNTY FLUM SERIES MAP #1 2030 FUTURE LAND USE FROM AGRICULTURE (AG) TO LOW DENSITY RESIDENTIAL (LDR), AND ADDING AN ANNOTATION TO THE 2030 FUTURE LAND USE MAP LIMITING RESIDENTIAL DENSITY TO TWO UNITS PER ACRE, FOR PROPERTY LOCATED NORTH OF SOUTH JONES LOOP ROAD, SOUTH OF AND ADJACENT TO ALLIGATOR CREEK, EAST OF TAYLOR ROAD, AND WEST OF I-75, IN THE SOUTH COUNTY AREA, COMMISSION DISTRICT II, CHARLOTTE COUNTY, FLORIDA, CONTAINING 42.59 ACRES MORE OR LESS;; PETITION PA-10-11-32-LS, APPLICANT, KB HOME FORT MYERS LLC, C/O KB HOME ORLANDO LLC; PROVIDING AN EFFECTIVE DATE.

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT
OR BOOK 3585, PGS 1165-1170 6 pg(s)
INSTR # 2031638
Doc Type GOV, Recorded 07/21/2011 at 09:17 AM
Rec. Fee: \$52.50
Cashiered By: MARGEC Doc. # 2

RECITALS

WHEREAS, in a public hearing held on Tuesday, June 21, 2011, the Board of County Commissioners of Charlotte County ("Board") reviewed land use amendment Petition PA-10-11-32-LS, which is a large scale plan amendment to the Charlotte County FLUM Series Map #1 2030 Future Land Use, and which includes an annotation to the 2030 Future Land Use Map limiting residential density to two units per acre; and

WHEREAS, KB Home Fort Myers LLC c/o KB Home Orlando LLC, whose address is 9102 South Park Center Loop, Suite 100, Orlando, Florida 32819 ("Applicant"), has filed Petition PA-10-11-32-LS seeking a large scale plan amendment to the Charlotte County FLUM Series Map #1 2030 Future Land Use from Agriculture (AG) to Low Density Residential (LDR), and adding an annotation to the 2030 Future Land Use Map limiting residential density to two units per acre, for property containing 42.59 acres more or less,

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1 which is owned by the Applicant, and described as property located North of South Jones
2 Loop Road, South of and adjacent to Alligator Creek, East of Taylor Road, and West of
3 I-75, in the South County area, Commission District II, Charlotte County, Florida, and more
4 particularly described in Exhibit "A" attached hereto and by this reference provided herein;
5 and

6 WHEREAS, on January 10, 2011, Petition PA-10-11-32-LS was heard before
7 the Charlotte County Planning and Zoning Board ("P&Z Board") and, based on the findings
8 and analysis presented in the Planning and Zoning Division Staff Report regarding the
9 proposed Petition PA-10-11-32-LS and the evidence presented to the P&Z Board, the
10 proposed amendment was found to be consistent with the Smart Charlotte 2050
11 Comprehensive Plan and the P&Z Board recommended approval of transmittal of Petition
12 PA-10-11-32-LS to the Department of Community Affairs ("DCA") for an Objections,
13 Recommendations, and Comments report; and

14 WHEREAS, on February 15, 2011, Petition PA-10-11-32-LS was heard by
15 the Board of County Commissioners of Charlotte County, Florida, and, with an annotation
16 to the 2030 Future Land Use Map limiting residential density to two units per acre, was
17 approved for transmittal to DCA for an Objections, Recommendations, and Comments
18 report; and

19 WHEREAS, on May 6, 2011, DCA issued an Objections, Recommendations,
20 and Comments report which is provided in the Planning Division Staff Report dated
21 May 20, 2011 ("Staff Report"); and

22 WHEREAS, after due consideration, and based on the findings and analysis
23 presented in the Staff Report regarding Petition PA-10-11-32-LS and the evidence

1 presented to the Board, the Board has found that the requirements and conditions of
2 Chapter 163, Florida Statutes, as they relate to this Petition, have been met, and that it is
3 in the best interests of the County to approve Petition PA-10-11-32-LS with an annotation
4 to the 2030 Future Land Use Map limiting residential density to two units per acre.

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

7 Section 1. Approval. The following petition for amendment to the Charlotte
8 County FLUM Series Map #1 2030 Future Land Use be and hereby is approved with an
9 annotation to Charlotte County's 2030 Future Land Use Map limiting residential density to
10 two units per acre:

11 Petition PA-10-11-32-LS requesting a large scale amendment
12 to the Charlotte County FLUM Series Map #1 2030 Future
13 Land Use from Agriculture (AG) to Low Density Residential
14 (LDR), for property located North of South Jones Loop Road,
15 South of and adjacent to Alligator Creek, East of Taylor Road,
16 and West of I-75, in the South County area, containing 42.59
17 acres more or less, in Commission District II, Charlotte County,
18 Florida, and more particularly described in Exhibit "A" attached
19 hereto and by this reference provided herein.
20

21 Section 2. Effective date. The effective date of this plan amendment shall
22 be the date a final order is issued by the Department of Community Affairs or the
23 Administration Commission finding the adopted amendment to be in compliance with
24 Section 163.3184, Florida Statutes, whichever occurs earlier; provided this ordinance has
25 been filed in the Office of the Secretary of State, State of Florida. No development orders,
26 development permits, or land uses dependent on this amendment may be issued or
27 commenced before it has become effective.

1 Section 3. Transmittal. County staff is hereby directed to forward a copy of
2 this ordinance and its attachments to the Florida Department of Community Affairs, 2555
3 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, and to the Executive Director,
4 Southwest Florida Regional Planning Council, 4980 Bayline Drive, 4th Floor, North Fort
5 Myers, FL 33918-3909.

6
7 PASSED AND DULY ADOPTED this 21 day of June, 2011.

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

12 By: Robert J. Starr
13 Robert J. Starr, Chairman

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

18
19 By: Joanne Lansing
20 Deputy Clerk

21
22 APPROVED AS TO FORM
23 AND LEGAL SUFFICIENCY:

24
25 By: Janette S. Knowlton
26 Janette S. Knowlton, County Attorney
27 LR2010-1230

(AS PER ATTORNEYS' TITLE INSURANCE FUND, INC. NO. CF 7090040)

A PORTION OF SECTION 27, TOWNSHIP 41 SOUTH, RANGE 23 EAST AND SECTION 22, TOWNSHIP 41 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 27, TOWNSHIP 41 SOUTH RANGE 23 EAST WITH THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 768 (SOUTH JONES LOOP ROAD); THENCE RUN SOUTH 85°59'02" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1674.63 FEET; THENCE NORTH 04°00'58" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET; THENCE SOUTH 85°59'02" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 19.41 FEET TO THE CENTERLINE OF AN EXISTING DRAINAGE DITCH; THENCE NORTHERLY MEANDERING THE SINUOSITIES OF SAID DRAINAGE DITCH THRU THE FOLLOWING COURSES: NORTH 00°11'50" EAST, A DISTANCE OF 88.91 FEET; THENCE NORTH 10°52'34" EAST, A DISTANCE OF 80.08 FEET; THENCE NORTH 24°40'55" EAST, A DISTANCE OF 66.31 FEET; THENCE NORTH 20°28'15" EAST, A DISTANCE OF 94.48 FEET; THENCE NORTH 04°00'53" WEST, A DISTANCE OF 101.98 FEET; THENCE NORTH 00°08'01" WEST, A DISTANCE OF 103.02 FEET; THENCE NORTH 02°23'11" EAST, A DISTANCE OF 59.21 FEET TO THE CENTERLINE OF ALLIGATOR CREEK; THENCE EASTERLY MEANDERING THE SINUOSITIES OF SAID ALLIGATOR CREEK THRU THE FOLLOWING COURSES: SOUTH 51°20'31" EAST, A DISTANCE OF 100.37 FEET; THENCE SOUTH 67°36'54" EAST, A DISTANCE OF 68.22 FEET; THENCE NORTH 64°54'50" EAST, A DISTANCE OF 69.13 FEET; THENCE NORTH 09°31'07" EAST, A DISTANCE OF 63.93 FEET; THENCE NORTH 10°25'41" WEST, A DISTANCE OF 93.24 FEET; THENCE NORTH 15°04'47" EAST, A DISTANCE OF 70.39 FEET; THENCE NORTH 03°29'55" EAST, A DISTANCE OF 93.22 FEET; THENCE NORTH 44°29'52" EAST, A DISTANCE OF 182.74 FEET; THENCE NORTH 76°13'23" EAST, A DISTANCE OF 41.72 FEET; THENCE NORTH 80°42'39" EAST, A DISTANCE OF 56.03 FEET; THENCE NORTH 75°35'35" EAST, A DISTANCE OF 83.62 FEET; THENCE NORTH 75°42'47" EAST, A DISTANCE OF 83.95 FEET; THENCE NORTH 72°45'29" EAST, A DISTANCE OF 101.09 FEET; THENCE NORTH 67°30'53" EAST, A DISTANCE OF 73.82 FEET; THENCE NORTH 58°16'06" EAST, A DISTANCE OF 67.10 FEET; THENCE NORTH 43°59'17" EAST, A DISTANCE OF 74.66 FEET; THENCE NORTH 38°34'12" EAST, A DISTANCE OF 70.27 FEET; THENCE NORTH 26°30'50" EAST, A DISTANCE OF 59.89 FEET; THENCE NORTH 18°55'13" EAST, A DISTANCE OF 54.70 FEET; THENCE NORTH 21°02'19" WEST, A DISTANCE OF 50.95 FEET AND ENTERING SAID SECTION 22; THENCE NORTH 21°57'32" WEST, A DISTANCE OF 69.67 FEET; THENCE NORTH 34°43'45" WEST, A DISTANCE OF 68.94 FEET; THENCE NORTH 42°13'26" WEST, A DISTANCE OF 110.59 FEET; THENCE NORTH 06°56'37" WEST, A DISTANCE OF 52.27 FEET; THENCE NORTH 41°51'32" EAST, A DISTANCE OF 111.52 FEET; THENCE SOUTH 86°32'46" EAST, A DISTANCE OF 165.21 FEET; THENCE SOUTH 73°46'49" EAST, A DISTANCE OF 65.20 FEET; THENCE SOUTH 50°51'51" EAST, A DISTANCE OF 72.91 FEET; THENCE SOUTH 48°28'20" EAST, A DISTANCE OF 72.50 FEET; THENCE SOUTH 85°58'37" EAST, A DISTANCE OF 59.53 FEET; THENCE NORTH 44°39'54" EAST, A DISTANCE OF 77.93 FEET; THENCE SOUTH 00°00'00" WEST, LEAVING SAID CENTERLINE, A DISTANCE OF 285.56 FEET, MORE OR LESS TO THE SOUTH LINE OF SAID SECTION 22; THENCE NORTH 86°16'02" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 326.00 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 22; SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 27; THENCE SOUTH 01°42'35" WEST ALONG THE EAST LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 1281.86 FEET TO THE POINT OF BEGINNING.

EXHIBIT A

PA-10-11-32-LS

LESS AND EXCEPT THE EAST 28.58 FEET OF THE ABOVE DESCRIBED PROPERTY.

SAID LANDS CONTAINING 42.59 ACRES, MORE OR LESS.

SAID LANDS SUBJECT TO EASEMENTS, CONVENANTS, AND RESTRICTIONS OF RECORD,
IF ANY.

SUN NEWSPAPERS

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PUBLISHER'S AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA

COUNTY OF CHARLOTTE:

Before the undersigned authority personally appeared Diane Brinckman, who on oath says that she is legal clerk of the (Charlotte Sun, Englewood Sun, The Arcadian, North Port Sun, Venice Gondolier Sun), a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Hearing, was published in said newspaper in the issues of:

June 6, 2011

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 1 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)

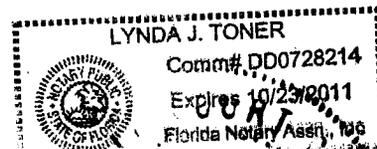
Sworn and subscribed before me this 6th day of June, 2011.


(Signature of Notary Public)
LYNDA J. TONER

\$ 525.00

Personally known OR Produced Identification

Type of Identification Produced _____



CERTIFIED TRUE COPY OF THE ORIGINAL OF THE ORIGINAL BARBARA T. SCOTT CLERK OF THE CIRCUIT COURT CHARLOTTE COUNTY, FLORIDA

BY: 
DEPUTY CLERK

NOTICE OF PUBLIC HEARING FOR ONE OR MORE OF THE FOLLOWING MATTERS: PROPOSED COMPREHENSIVE PLAN AMENDMENTS, ZONING REGULATION AMENDMENTS, 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, JUNE 21, 2011, AT 9:00 A.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 BUILDING AND GROWTH MANAGEMENT DEPARTMENT (RM. B-205) AND ALL CHARLOTTE COUNTY PUBLIC LIBRARIES. A MEETING AGENDA AND PETITION PACKETS MAY BE REVIEWED AT THE FOLLOWING INTERNET ADDRESS: <http://www.charlottecountyfl.com/agenda.asp>

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

Z-11-03-04 **Quasi-Judicial** **Commission District II**
 An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas. The rezoning is from Planned Development to Planned Development (PD). This is a major modification of an existing PD to revise conditions of approval; for property located north of South Jones Loop Road, south of North Jones Loop Road, east of Taylor Road and southwest of Interstate 75, in the Punta Gorda area, containing 87.4± acres; Commission District II; Petition No. Z-11-03-04; Applicant: KB Home Fort Myers, LLC; providing an effective date.

Revision of U.S. 41 Zoning District Overlay (Boundary only) **Legislative** **Commission District IV**
 An ordinance amending Charlotte County Code, Section 3-9-52, U.S. 41 Zoning District Overlay, extending the existing U.S. 41 Zoning District boundary to include one lot located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S. 41), in the Port Charlotte area; Commission District IV; applicant: Jeffrey Fehr; providing an effective date.

PA-11-02-02 **Legislative** **Commission District IV**
 An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the 1997-2010 Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor and to the 2030 Future Land Use Map from Low Density Residential (LDR) to Commercial (COM); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S.41), in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. PA-11-03-02; applicant: Jeffrey Fehr; providing an effective date.

Z-11-02-03 **Quasi-Judicial** **Commission District IV**
 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 Commercial General (CG); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of U.S.41, in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. Z-11-02-03; applicant: Jeffrey Fehr; providing an effective date.

PA-10-02-10-LS **Legislative** **Commission District I**
 Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to FLUM Series Map #1: 2030 Future Land Use from Agriculture (AG) to Rural Community Mixed Use (RCMU) including adoption of a Master Development Plan into FLU Appendix VIII; for property located north of Bermont Road (CR 74), south of Washington Loop Road, east of Duncan Road (US 17) and west of CR 31, in the East County area; containing 740± acres; Commission District I; Petition No. PA-10-02-10-LS; Applicant: Bermont Road Partnership; providing an effective date.

PA-10-11-32-LS **Legislative** **Commission District II**
 Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to FLUM Series Map #1: 2030 Future Land Use from Agriculture (AG) to Low Density Residential (LDR) and applying an annotation limiting residential density to two units per acre; for property located north of South Jones Loop Road, south of and adjacent to Alligator Creek, east of Taylor Road and west of I-75, in the South County area, containing 42.59± acres; Commission District II; Petition No. PA-10-11-32-LS; Applicant: KB Home Fort Myers LLC, c/o KB Home Orlando LLC.; providing an effective date.

LDR Text Amendment (Pain Management Clinics) **Legislative** **County-wide**
 An ordinance amending Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, by amending Section 3-9-2 Rules of construction; definitions; by amending Section 3-9-39 Office, medical, institutional; 3-9-90 Off-street parking and loading facilities; and by creating Section 3-9-90.1 Pain Management Clinics; providing for conflict with other ordinances; providing for severability; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

SV-08-04-10 **Legislative** **Commission District V**
 Paul Hartt has applied for a Street Vacation to vacate Broad Street from Glass Street all the way to the southerly end of Broad Street, along with Seneca Avenue from Broad Street to the easterly right-of-way of Bayshore Road, and the un-named street or alley located between Lots 1 thru 5 of Block 5 in the H. S. Seward Addition to Charlotte Harbor Subdivision as recorded in Plat Book 1, Page 17 of the Public Records of Charlotte County, Florida, and Keene's Addition the Charlotte Harbor Subdivision as recorded in Plat Book 1, Page 10 of the Public Records of Charlotte County. The site, consisting of approximately 0.99 acres, more or less, is located in Section 26, Township 40, Range 22, in Commission District V.

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.

The Charlotte County Commission meeting room is accessible to the physically disabled. However, if you need assistance or require auxiliary aids and services please contact our office at 941-743-1392. FM Sound Enhancement Units for the Hearing Impaired are available at the Front Desk.





FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

DIVISION OF LIBRARY AND INFORMATION SERVICES

KURT S. BROWNING
Secretary of State

July 8, 2011

Ms. Barbara T. Scott
Clerk of the Circuit Court
Charlotte County
350 East Marion Avenue
Punta Gorda, Florida 33950

RECEIVED AT
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2011 JUL 15 AM 8:35
P. J. SCOTT, T. SCOTT
CLERK OF CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA

Attention: Ms. Susan F. Carleton, Deputy Clerk Commission Minutes

Dear Ms. Scott:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 27, 2011 and certified copies of Charlotte County Ordinance Nos. 2011-018, 2011-019, 2011-020, 2011-021, 2011-022 and 2011-023, which were filed in this office on July 8, 2011.

Sincerely,

Liz Cloud
Program Administrator

LC/vm

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6282 • TDD: 850.922.4085 • <http://info.florida.gov>

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