

**MANATEE COUNTY ZONING ORDINANCE
PDMU-98-08 (G)(R-6)
HERITAGE HARBOUR (f.k.a. HERITAGE SOUND)**

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE NO. PDMU-09-08(G)(R-6) TO APPROVE CHANGES TO THE GENERAL DEVELOPMENT PLAN AND ORDINANCE AS FOLLOWS: 1) UPDATE PHASING AND BUILDOUT DATES TO REFLECT PREVIOUSLY AUTHORIZED LEGISLATIVE EXTENSIONS, 2) REMOVE THE 12.0 ACRE MARINA AND DESIGNATE THE PARCEL FOR RESIDENTIAL USE, 3) UPDATE CONDITIONS TO REFLECT COMPLIANCE WITH REQUIREMENTS CONTAINED THEREIN 4) MODIFY CERTAIN DESIGN CONDITIONS AND 5) OTHER AMENDMENTS FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. THE HERITAGE HARBOUR DRI IS GENERALLY LOCATED AT THE INTERSECTION OF I-75 AND S.R. 64, SOUTH OF THE MANATEE RIVER, AND WEST OF UPPER MANATEE RIVER ROAD (2,784.7 ± ACRES).

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. AMENDMENT AND RESTATEMENT OF ORDINANCE NO. and PDMU-98-08(G)(R5). Ordinance PDMU-98-08(G)(R5) is hereby amended and restated in its entirety below. All prior zoning ordinances (and any site plans approved pursuant thereto) shall be superseded by this ordinance.

Section 2. DEFINITIONS. All capitalized terms used herein shall have the meanings set forth in Ordinance 14-37, as amended, Section 380.06, F.S., the Manatee County Comprehensive Plan or the Manatee County Land Development Code, in that order of precedence.

Section 3. FINDINGS OF FACT.

The Board of County Commissioners, after considering the testimony, evidence, documentation, application to amend the Zoning Ordinance and General Development Plan for Heritage Harbour the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A. The Manatee County Planning Commission held a public hearing, September 8, 2011, has reviewed the request and filed a recommendation with the Board of County Commissioners; and
- B. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission, the Zoning Ordinance, and General Development Plan as it relates to real property described in Section 6 of this Ordinance for a multi-use development.
- C. The Board of County Commissioners held a public hearing on September 4, 2014 regarding said amendment to the Zoning Ordinance and General Development Plan described herein, in accordance with the requirements of Manatee County Ordinance No. 90-01 (the Manatee County Land Development Code), as amended, and has further considered the information received at the public hearing.

- D. The proposed amendment to the Heritage Harbour Zoning Ordinance and General Development Plan regarding the property described in Section 6 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 (the Manatee County Comprehensive Plan), as amended.
- E. The authorized agent for Lennar Homes, LLC. Is Darin McMurray, Vice-President, 700 NW 107th Ave., Ste 400, Miami, FL 33172.
- F. The Owner and Master Developer of the property is Lennar Homes, LLC.
- G. The Owners of Parcels 19 and 20 is LNR Heritage Harbour, LLLP., David Welch, Vice-President, LNR Heritage Harbour, LLLP.
- H. The owners of Parcel 35 are Manatee Land Investors, LLC and Upper Manatee 288, LLC.

Section 4. GENERAL DEVELOPMENT PLAN

- A. The General Development Plan, dated January 2013 is hereby APPROVED to allow a multi-use development, with the following conditions and modifications, included herein in Section 4.
- B. The previous development order for Heritage Harbour, which was adopted on October 6, 2011, and all subsequent amendments are hereby replaced in their entirety, provided this amendment shall not be construed to terminate the rights of the developer, if any, granted under Section 163.3167(8) Florida Statutes, to the extent such rights have previously been granted and not specifically herein or otherwise modified or amended.

Note: An asterisk (*) in the text of this Development Order denotes that the word is defined.

DEVELOPMENT APPROVAL AND LEVEL OF SERVICE CERTIFICATE CONDITIONS

- A(1). This Development Order approval shall constitute approval of the Revised General Development Plan application subject to the conditions set forth herein and shall be limited to the development amounts set forth in Table 1, below.
- A(2). Preliminary and Final Site Plan Applications shall be reviewed for compliance with this Development Order and shall be subject to the requirements of the Manatee County Comprehensive Plan and Land Development Code in effect at the time of such site plan application which are not specifically addressed in this Development Order or are not inconsistent with this Development Order.
- A(3). The Developer has demonstrated the availability of adequate infrastructure and the ability to meet Acceptable Levels of Service for roadways, solid waste service, mass transit, drainage, and parks and recreation. The Certificate of Level of Service for the project shall be valid until March 22, 2026. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes and previously authorized legislative extensions pursuant to HB 7207 and F.S. 252.363..

TABLE 1 - Development Totals

TYPE OF DEVELOPMENT: Multi-Use Development.

LOCATION: Northeast of the intersection of I-75 and SR 64.

TOTAL DEVELOPMENT AMOUNTS:

| CATEGORY | ACREAGE ¹ | PHASE I ² | PHASE II ² | TOTAL |
|--|----------------------|----------------------|-----------------------|--------------|
| | | 2000-2017* | 2004-2022* | |
| Commercial | 164.3 | | | |
| Retail ³ | | 300,000 s.f. | 551,900 s.f. | 851,900 s.f. |
| Office ³ | | 103,250 s.f. | 66,750 s.f. | 170,000 s.f. |
| Hotel ³ | | 150 rooms | 150 rooms | 300 rooms |
| ACLF | | 0 | 600 beds | 600 beds |
| Residential⁴ | 1302.3 | | | |
| Single family detached | | 1,290 units | 980 units | 2,270 units |
| Single family attached/ semi-attached | | 500 units | 640 units | 1,140 units |
| Multi-family | | 760 units | 830 units | 1,590 units |
| Total Residential Units | | 2,550 units | 2,450 units | 5,000 units |
| Right of Way | 67.9 | | | |
| Open Space | 1250.2 | | | |
| Golf Course | 250 | 36 holes | 9 holes | 45 holes |
| Park | 41.2 | | | |
| Wetlands, Lakes, Passive Recreation | 959 | | | |
| TOTAL | 2784.7 | | | |

* November 21st of referenced year for Phase I and Phase II.

¹ Acreage figures subject to adjustment due to final survey and platting, surveyed jurisdictional determinations, permit survey data, etc.

² The Phase I and II buildout dates include the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes and legislatively authorized extensions pursuant to HB 7207 and F.S. 252.363.

3 Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.

4 Residential units may be exchanged among the types of approved units per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.

A(4). Geographic phasing is not approved with this project. Phase assignments shall be based on the order that the project receives Final Site Plan approval.

B. TRANSPORTATION CONDITIONS

B(1). The following roadway and intersection improvements shall be required as part of Phases I and 2. The Developer* shall, at the time of each application for Preliminary Site Plan* approval, furnish to the County* an accurate, up to date report of the amount of development, defined in terms of net new external p.m. peak hour trips*, identified in the DRI documentation, which has previously been permitted in the Project*. New external p.m. peak hour project trips shall be based on the trip rates adjusted for pass-by and internal capture as established by the following "P.M. Peak Hour Project Trip Generation Comparison".

| Parcels 19 and 20 P.M. Peak-Hour Project Trip Generation Comparison ⁽³⁾ | | | | | | | | |
|--|-------------|-------|-------|------------------|---------|----------------|-------|-------|
| Scenario | Gross Trips | | | Internal Capture | Pass-By | Net, New Trips | | |
| | Enter | Exit | Total | | | Enter | Exit | Total |
| Existing ⁽¹⁾ | 3,889 | 3,252 | 7,141 | 1,428 | 644 | 2,853 | 2,216 | 5,069 |
| Proposed ⁽²⁾ | 3,932 | 3,335 | 7,267 | 1,456 | 666 | 2,871 | 2,274 | 5,145 |
| Difference | 43 | 83 | 126 | 28 | 22 | 18 | 58 | 76 |

Source: (1) ITE's, *Trip Generation* (6th Edition)
 (2) ITE's, *Trip Generation* (8th Edition)
 (3) Traffic Impact Statement dated 12/17/09 by Kimley-Horn, Table 1 on page 2

The Developer* shall not be entitled to a Preliminary Site Plan* approval which would result in the cumulative number of net new external p.m. peak hour trips for the Project* to exceed the applicable net external p.m. peak hour project trip* thresholds set forth in Table 2 unless Funding Commitments* from Responsible Entities* have been obtained to ensure that the improvements required are in place Concurrent* with such Preliminary Site Plan. **[Required Improvements have been mitigated through the approval of LDA-08-08 as amended and restated by LDA-08-08(R), hereinafter referred to as the "LDA".]**

**TABLE 2
 Required Improvements**

| Intersection | Required Improvement | Impact Fee Creditable | When Required |
|--------------------------|--------------------------------------|-----------------------|---------------|
| a. I-75 West-ramps/SR-64 | Signalize when warranted (completed) | No | Notes 1&4 |

| | | | |
|--|--|---|-----------|
| b. I-75 East-ramps/SR-64 | (1) Signalize when warranted (2) Reconfigure northbound off-ramp and provide a second right turn lane. (all improvements completed) | No Yes | Notes 1&4 |
| c. SR-64 and Lena Road | (1) Signalize when warranted (2) Eastbound left-turn lane (3) Westbound right-turn lane (4) Southbound exclusive left-turn lane (5) Southbound shared through/right-turn lane (All improvements completed) | No No No No No | Notes 1&4 |
| d. SR-64/Kay Road | (1) Retrofit the existing Southbound approach (N. Leg) of Kay Road (local Improvement). (2) Extend the Eastbound left-turn lane to 520 feet. (3) Westbound right-turn lane (length 300 feet) (Local Improvement) (4) Signalize when warranted (5) Southbound right-turn lane (local improvement) (All improvements completed) | Note 2 Yes Note 2 No Note 2 | Notes 2&4 |
| e. Grand Harbour Pkwy/SR-64 | (1) Dual Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Exclusive Southbound left-turn lane (completed) (5) Signalize when warranted (completed) (6) Westbound left-turn lane (completed) | No No No No No Yes | Notes 1&4 |
| f. River Heritage Blvd/SR-B4 | (1) Directional Eastbound left-turn lanes (completed) | No | Notes 1&4 |
| | (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Signalized when warranted | No No No | |
| g. SR/64/Lakewood Ranch Blvd/Upper Manatee River Rd. | (1) Northbound left-turn lane (completed) (2) Southbound right-turn lane (local improvement) (completed) | Yes | Notes 3&4 |
| h. SR70/I-75 ramps | (1) Signalize when warranted(local improvement) (completed) | No | |

| | | | |
|-----------------------------|---|----|--|
| i. I-75 & SR 64 interchange | Contribute \$190,000 for construction costs (completed) | No | |
|-----------------------------|---|----|--|

| Roadway | Requirement Improvement | Impact Fee Creditable | When Required |
|--|--|-----------------------|-------------------------------------|
| a. SR-64 from I-75 to Lena Rd | Widen to 4-lanes (completed) | Yes | Notes 1&4 |
| b. SR 64 from Kay Rd to Lena Road | Develop and implement a time based coordinated signal system (local improvement) (completed) | No | Concurrent with signal installation |
| c. SR 64 from 39 th St. E to Kay Road | Widen from 4 to 6 lanes | Yes | See Stipulation B(9) |
| d. Port Harbour Parkway | Extend from its current terminus to Upper Manatee River Road | Yes | See Stipulations B(5) and B(9) |

All improvements on state roads are subject to FDOT approval.

Note 1: The Developer* shall be responsible for design, permitting, and construction of this improvement within thirty-six (36) months of the date upon which Ordinance 00-19 became non-appealable (the date for construction of these improvements has been extended pursuant to an agreement with Manatee County. The Developer* or its Assignees shall be entitled to receive transportation impact fee credits for these improvements as defined in Table 2 above.

Note 2: The existing south approach (north leg) of Kay Road shall be relocated further west to form a typical four-legged intersection with the existing T-intersection at 60th Street Court East (completed). Right-of-way, design, and required permits shall be provided by the County* (completed). The Developer* shall only be responsible for funding and implementing the construction of the improvement and the County* shall reimburse the Developer* for all costs associated with construction of the Local Improvement portions of this improvement. Should Manatee County fail to obtain the required right-of-way and the appropriate permits and complete the design, prior to the commencement of Phase II, the Developer* shall not be prevented from continuing development, provided that when the County does obtain right-of-way and permits and complete design, the Developer* begins construction of this improvement within 6 months. This intersection Improvement (regional improvements 2 and 4) shall be eligible to receive transportation impact fee credits. All local improvements (1, 3, and 5) shall be subject to the Reimbursement Agreement between the County* and the Developer*.

Note 3: The Developer* shall be responsible for design, permitting, and construction of this improvement prior to exceedance of 2,474 p.m. peak hour net new external project trips* (completed). The Developer* or its Assignees shall be entitled to receive transportation impact fee credits for these improvements as defined in Table 2 above.

Note 4: These improvements shall be funded by the Developer* via the posting of a bond in a form and manner acceptable to the County*. The bond for Intersection Improvements a., b., c., e., and f., and both Roadway Improvements (a., and b.) shall be posted prior to the receipt of the first permit allowing for Vertical Development*. The bond for Intersection Improvement d. shall be posted the earlier of completion of right-of-way acquisition, design and permitting or December 1, 2004. The bond for Intersection Improvement g. shall be posted the earlier of July 1, 2004 or upon reaching 2,474 p.m. peak hour net new external project trips*. The Developer,* unless otherwise specified herein, shall be responsible for negotiation for, and acquisition of any right-of-way necessary to accomplish this requirement. The Developer* shall be responsible for all fees and costs associated with the purchase of right-of-way, unless otherwise specified herein. If the Developer* is unable to acquire the right-of-way through a negotiated purchase, then the County* shall use its power of eminent domain to acquire the necessary right-of-way. If condemnation is required, the Developer* shall be responsible for all associated costs with the litigation and

reimburse the County, unless otherwise specified herein. Progress regarding completion of this improvement shall be included in each Biennial Report. The Developer* shall provide documentation regarding such progress and provide an updated schedule of completion addressing design, right-of-way acquisition, permitting and construction. The County* shall determine the reasonableness of each updated schedule. Should the updated schedule require an extension of time for the completion of the improvement due to right-of-way acquisition or permitting, the County* shall determine if an extension of time is acceptable and if an amendment to this Zoning Ordinance is required (All right of way has been acquired).

B(2). When Certificates of Occupancy have been issued for 4,500 residential units, or the equivalent thereof in terms of net new external p.m. peak hour project trips, a biennial monitoring program to provide peak hour counts at the Project* entrances shall be instituted to verify that the projected number of external trips for the Project* are not exceeded. Counts shall continue on an biennial basis through buildout. This information shall be supplied in the required Biennial Report for the Development Order. If the Biennial Report indicates the total trips exceed projected counts by more than 15%, Manatee County shall conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. If a Biennial Report is not submitted within thirty (30) days of its due date, Manatee County may conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. The results of the study may also serve as a basis for the Developer* or reviewing agencies to request Development Order amendments. Such a variance shall be presumed to be a substantial deviation unless the developer rebuts this presumption by clear and convincing evidence. If the variance is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes shall be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis. [Transportation mitigation has been completed for the approved development for both Phase I and Phase II through build-out. Therefore, monitoring is no longer required.]

B(3). When Certificates of Occupancy have been issued for 2,000 residential units or the equivalent thereof, in terms of trip generation, the Developer* shall prepare a Transportation Systems Management (TSM) program. The plan shall be reviewed by Manatee County, Metropolitan Planning Organization, Florida Department of Transportation (FDOT), and TBRPC. [The provisions of this Section B(3) have been supplanted by the LDA.]

The TSM program shall include a yearly assessment of the actual achievement of vehicle trips diverted from the peak hour as a result of the TSM measures. This assessment shall also include sufficient and appropriate documentation for all diversions claimed as a result of the TSM measures. Results of the TSM program shall be included in the Biennial Report.

If the Biennial Report indicates the total peak hour trips are not being diverted reasonably commensurate with those anticipated, Manatee County shall decide whether to conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes for the purpose of determining amendments or other requirements to be added to the Development Order to change TSM objectives or require additional roadway improvements. The results of the TSM study may serve as a basis for the Developer* or reviewing agencies to request Development Order amendment. The TSM program shall seek to implement and will be measured by the TSM objectives and policies set forth in the Florida Transportation Plan and shall include, but shall not be limited to:

POLICY: Promote ride sharing by private and public sector employees.

OBJECTIVES:

- Increase urban peak automobile occupancy rates by 10% by 2015 through expanded ride sharing efforts.
- Increase peak hours occupancy rates for transit and other high-occupancy modes of transportation by 20% by 2015.

B(4). Prior to the first Final Plat, or Certificate of Occupancy if platting is not required, the developer shall dedicate right-of-way along its entire frontage to accommodate the future six laning of State Road 64. (Completed) The Developer or its assignees shall be entitled to receive full transportation impact fee credit for the dedication as defined in Table 2. (Completed) The construction of model homes and the sales center shall be exempt from this condition if the Developer* does not have title to the property to be dedicated at the time a Final Plat or Certificate of Occupancy is issued for model homes or the sales center.

B(5). Prior to commencement of Phase II, the developer shall dedicate 100 feet of right-of-way and construct Port Harbour Parkway as a two-lane thoroughfare roadway, including sidewalks, bike lanes, appropriate intersection improvements and associated retention, from its I-75 terminus to the eastern boundary of the original 2,485 acre tract. (Completed)

For that portion of Port Harbour Parkway on the north side of the 288 acre addition (Parcel 35), adjacent to where the Waterlefe project previously dedicated 42 feet of right-of-way, the Developer* shall dedicate the necessary remaining right-of-way to achieve a total width of 105 feet for the eastern most 500 foot segment and 100 feet for the remaining segment, prior to the first Final Plat approval in Parcel 35. [The provisions of this Section B(5) have been supplanted by the LDA.]

This segment of Port Harbour Parkway shall be completed as a two lane divided roadway (outer lanes) with bike lanes and sidewalks and include the ultimate configuration of Port Harbour Parkway at the intersection of Upper Manatee River Road as set forth in Stipulation in B(9). Temporary striping shall be utilized until the full intersection improvements are made by the county.

B(6). The developer shall provide easement(s) to Manatee County to allow for attenuation and treatment of all stormwater from the planned build-out conditions (6-lane thoroughfare roadway with intersection improvements and sidewalks) for half of Upper Manatee River Road. A Drainage, Maintenance, and Access Easement shall also be provided to Manatee County for conveyance of stormwater from Upper Manatee River Road to the stormwater pond. The Drainage-Maintenance Access Easement shall be on clear and level ground and free of obstructions, including any landscaping in addition to the roadway buffer. Manatee County shall be responsible for the construction of the drainage conveyance improvements, the restoration of the roadway buffer and the maintenance of the free flow of the drainage conveyance. The pond within the stormwater easement shall not be a bonded improvement. Prior to Final Plat approval for the first plat abutting Upper Manatee River Road, the easements shall be approved by the Property Management Department and recorded in the Public Records and the developer shall submit to the Public Works Department the SWFWMD approval letter demonstrating that the approved stormwater pond has been designed with the capacity to accommodate the drainage for the build-out of Port Harbour Parkway as described above. Completion of the above improvements by Manatee County shall not require any further authorization from the developer or Home Owners Association. [The provisions of this Section B(6) have been supplanted by the LDA.]

B(7). The original development order provided for construction of a frontage/access road to the Timberlane RV Park. In lieu of this frontage/access road the developer shall provide the following alternative:

1. Once S.R. 64 construction begins, the contractor shall maintain safe access to Timberlane RV Park pursuant to FDOT rules. Once the right turn lane set forth in #1 below is constructed, the right turn deceleration lane shall be maintained during construction, while the existing SR 64 pavement is being utilized for traffic.
2. The alternative access through Heritage Harbour will be as indicated on Map A, entitled Timberlane Access.
3. Alternative access through Heritage Harbour shall be facilitated with signage agreed to by Lennar Homes, LLC and Timberlane, in conformance to FDOT and Manatee County sign regulations. (Note: Guidance signs will not be permitted on FDOT R.O.W.)
4. Timberlane shall provide a letter to FDOT indicating their satisfaction with alternative proposed. (completed)
5. If this alternative is selected, Lennar Homes, LLC shall be responsible for the costs it has incurred to date associated with the construction of the frontage road. Any legally recognizable costs of the adjacent property owner (Musgrave) which are the result of the County's use of eminent domain shall be the County's responsibility.

As part of this alternative, Timberlane RV will be responsible for the following prior to their Certificate of Occupancy:

1. A right-turn deceleration lane with a 12-foot lane for 100-feet and a 200-foot taper shall be in place on SR 64 prior to the opening of the Timberlane RV Park
2. The deceleration lane shall be built according to the appropriate FDOT standards and shall be approved by FDOT and Manatee County.
3. Timberlane shall provide visitors information relative to traffic circulation. [The Developer has complied with the above obligations and the requirements are no longer necessary as State Road 64 construction has been completed]

B(8) In addition to the access shown on the GDP for Parcel 35, an access shall be provided to Upper Manatee River Road. The second street access shall have a minimum separation of 1,300 feet from Port Harbour Parkway and 800 feet from 2nd Avenue East. [The provisions of this Section B(8) have been supplanted by the LDA.]

B(9) The County has identified the construction of Port Harbour Parkway from its current terminus to the Upper Manatee River Road (or the alternative project as identified in #3 below) ("PFSM Project") as a benefit to a regionally significant transportation facility. Such construction will be in conformance with the provisions set forth below in this Section B(9) and will satisfy the mitigation requirements of Section 163.3180(12) Florida Statutes. [The provisions of this Section B(9) have been satisfied by the LDA.]

- a. Developer* will enter into an agreement with the County in which the Developer* will commit:
 1. To pay to the County its proportionate fair share mitigation "PFSM" for transportation impacts prior to the Final Site Plan for any residential development in Phase II to assure construction of the PFSM Project. The PFSM has been calculated to be \$2,775,500.00;
 2. To dedicate to the County the right of way necessary to complete the construction of

Port Harbour Parkway, and for Upper Manatee River Road as depicted on the General Development Plan at the request of the County and to waive impact fee credits for such right of way dedication;

3. To construct Port Harbour Parkway (the PFSM Project), the cost of which has been determined to be in excess of the PFSM, within 5 years of the approval date of this ordinance, utilizing funds from the PFSM payment to the County as well as additional contributions from the Developer; and
4. To post a bond or letter of credit in the amount of the difference between the PFSM and the costs of the construction of the PFSM Project, as estimated by Developer's engineer and approved by the County, securing such commitment, prior to the approval of the first Final Site Plan for any residential development in Phase II.

The effective date of the agreement will be approximately 45 days after execution to allow for statutory lag time (appeal period, etc.). If the developer transfers a substantial portion of the project to a contract purchaser, the contract purchaser shall also be a party to the agreement

- b. Upon entering into the agreement, the Developer* will be issued a Certificate of Level of Service ("CLOS") for Phase II. The CLOS shall allow Developer to proceed with construction of the commercial development of Phase II of the Project* immediately and with construction of residential units in Phase II upon payment of the PFSM and posting of the bond or letter of credit, but no earlier than January 1, 2010 (except for model homes which may proceed immediately after entering into the agreement). (Completed)
 - c. Initially, the PFSM Project identified for construction will be Port Harbour Parkway as set forth above. However, the County will retain the option to reprogram the Developer's contributions (PFSM payment and financial equivalent of commitment to complete Port Harbour Parkway) to another major project (possible SR 64 if it can be used to forward-fund state construction dollars).
 - d. In the event the County elects to use the PFSM for a project other than Port Harbour Parkway, Developer shall construct Port Harbour Parkway within one year of the Final Site Plan approval of the 1500th unit in Phase II. Prior to approval of the Final Site Plan for the 1500th unit in Phase II the Developer shall post security assuring such construction. Impact fees paid by Phase II of the development shall be earmarked by the County for such construction and shall be used for such construction.
 - e. The Developer will receive impact fee credits for 100% of the Developers PFSM payment and cost of construction of the PFSM Project, but will waive impact fee credits for the donation of right of way for Port Harbour Parkway
- B(10). The developer shall provide easement(s) to Manatee County to allow for attenuation and treatment of all stormwater from the planned build-out conditions (4-lane thoroughfare roadway with intersection improvements and sidewalks) for both sides of Port Harbour Parkway. A Drainage, Maintenance and Access Easement shall also be provided to Manatee County for conveyance of stormwater from Port Harbour Parkway to the stormwater pond. The Drainage-Maintenance Access Easement shall be on clear and level ground and free of obstructions, including any landscaping in addition to the roadway buffer. Manatee County shall be responsible for the construction of the drainage conveyance improvements, the restoration of the roadway buffer and the maintenance of the free flow of the drainage conveyance. The

pond within the stormwater easement shall not be a bonded improvement. Prior to Final Plat approval for the first plat abutting Upper Manatee River Road, the easements shall be approved by the Property Management Department and recorded in the Public Records and the developer shall submit to the Public Works Department the SWFWMD approval letter demonstrating that the approved stormwater pond has been designed with the capacity to accommodate the drainage for the build-out of Port Harbour Parkway as described above. Completion of the above improvements by Manatee County shall not require any further authorization from the developer or Home Owners Association. [The provisions of this Section B(10) have been supplanted by the LDA.]

- B(12) Only Parcels 19 and 20 allow for the conversion of Commercial/Retail, Office, and Hotel uses. Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.
- B(13) Utilization of the Residential Land Use Equivalency Matrix shall not require modifications to the General Development Plan, provided that development proceeds in accordance with the Land Use Table shown on the General Development Plan (Exhibit 6).
- B(14) Upon utilization of the Residential Land Use Equivalency Matrix, at time of FSP review, the applicant shall provide a table on the FSP indicating the exchange of units, and corresponding increase or decrease of total unit counts by type.
- B(15) Land Use Equivalency Matrices (LUEM) for Parcels 19 and 20 and Residential uses are included as Exhibit 15 of this Ordinance. The Tampa Bay Regional Planning Council and the Florida Department of Economic Opportunity will have a minimum 14-day, maximum 21-day review of any/all proposed conversions of the LUEM prior to approval by Manatee County. The applicant shall provide written notice to the Tampa Bay Regional Planning Council and the State Land Planning Agency of all proposed conversions under the LUEM and submit proof of such notice to Manatee County prior to approval by Manatee County of such conversions in accordance with this section. In addition, all future conversions shall be duly noted within subsequent Biennial Report submitted for the project.

C. ENVIRONMENT

C(1). Vegetation. Wildlife. and Wetlands

- a. In the event that any additional state or federally-listed species are discovered on-site during project development, the developer shall immediately notify the Florida Fish and Wildlife Conservation Commission and Manatee County EMD and implement the appropriate measures for species conservation as recommended by the Florida Fish and Wildlife Conservation Commission.
- b. A management plan for the project, consistent with Policy 3.3.2.2 of the Comprehensive Plan, for removal of nuisance and exotic species, shall be developed by the applicant and approved by Manatee County prior to the first Final Site Plan approval for the project. (Completed for that portion of the project site south of Port Harbour Parkway.)
- c. Prior to approval of any Final Subdivision Plat (or Plan if Platting is not required), the Developer* shall record Land Development covenants or deed restrictions designed to prevent homeowner's activities from degrading habitat.

- d. Wetland buffers along the Manatee River, [the river as shown on Map F (Exhibit 1)], tidal creeks and islands shall be a minimum width of 50' except that wetland buffers for development within Parcel 12/13 shall be consistent with the Land Development Code and Comprehensive Plan. All other buffers shall be a minimum width of 30 feet, unless otherwise approved by the Building and Development Services Department, consistent with the Comprehensive Plan and Land Development Code.
- e. Upland buffers between on-site wetlands, marshes, streams or rivers and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation or be replanted with native, transitional zone or upland vegetation. All wetland buffers shall have signage posted depicting the purpose and intent of the buffer. Signage text and location shall be approved by the Building and Development Services Department. The use of pesticides, herbicides, or fertilizers, unless part of an approved nuisance and exotic management plan, shall be prohibited in these buffers and the wetlands they protect.
- f. The Developer* shall submit a wetland management and mitigation plan to the County* for approval prior to, or concurrent with Preliminary Site Plan applications. This plan shall address, but not be limited to, identification of wetlands on-site, wetlands to be preserved, proposed wetland alterations, a detailed mitigation plan, control of on- and off-site water quality, methods for hydroperiod maintenance with a detailed narrative and preliminary plans for mitigated or significantly enhanced wetlands.
- g. Post-development wetlands, conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes. These areas shall be placed under conservation easements conveyed to Manatee County consistent with the restrictions on development provided for in Section 719 of the Land Development Code.
- h. The maximum amount of wetland impacts shall not exceed the total listed in Table 13-4, revised October 2006, attached as Exhibit 2. However, at time of Preliminary Site Plan approval, all proposed wetland impacts shall demonstrate compliance with minimization, avoidance, and mitigation, pursuant to the Comprehensive Plan, prior to authorization of any wetland impacts.
- i. The native upland plant community quantities committed to be preserved in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), shall include 75 percent of the pine flatwoods and pine-mesic oak community located adjacent to the Manatee River and its tributaries, mangrove swamps, and saltwater marshes.
- j. As shown in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), 36 acres of upland forested communities shall be preserved to provide habitat for the Sherman's fox squirrel.
- k. Concurrent with the construction of the internal roadways adjacent to Mitigation Area 6 and the associated wetlands shown on Exhibit 12, the Developer shall construct a fence which will be a minimum of four feet in height and of chain link or a similar material that will prevent passage of young sandhill crane chicks. The general location and extent of the fence is shown on Exhibit 12. (Completed)
- l. Unless otherwise approved by the Building and Development Services Department, native or drought tolerant landscape materials shall be utilized. The developer and future owners of the site shall be required to participate in the Florida Yards and Neighborhood Program.

- m. There shall be no trimming or cutting of mangroves within conservation easements in this development after the effective date of this ordinance. The removal of dead limbs may be allowed subject to approval by the Building and Development Services Department. Language shall be incorporated into the required Conservation Easements, HOA documents and Notice to Buyers. The owners of the golf course and any other open space adjacent to mangroves shall also be notified of this prohibition. The specific language shall be reviewed by the Building and Development Services Department with the Final Site Plan. The conservation easements containing this prohibition shall be submitted to the County Attorney's Office for approval as to form, prior to recording in the Public Records.

C(2). Air Quality

- a. Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.
- b. Best Management Practices shall be employed during site preparation and construction to minimize air quality impacts.
- c. Any open burning conducted on site as part of land clearing activities shall be permitted by EMD.

C(3). Water Quality and Stormwater Management

- a. An Integrated Pest Management Plan (IPMP) shall be developed and approved by Manatee County prior to the first Final Site Plan. Completed. The IPMP shall address the following items:
 - (1) Fertilizer/pesticide/herbicide/application;
 - (2) Golf course pest management methods and procedures; and
 - (3) Related quality control and assurance procedures.

A training manual shall be developed as part of the IPMP for maintenance personnel and made available on site at all times.

- b. The Developer shall implement the surface and ground water monitoring plan in accordance with the Heritage Sound Water Quality Monitoring Plan included as Appendix 14 S.1 in the Heritage Sound DRI Application for Development Approval Sufficiency Response dated March 1999 (Exhibit 10), and as amended for the Moore's Dairy site in accordance with the Water Quality Monitoring Plan approved by the Manatee County Natural Resources Department (MCNRD) on October 11, 2005 and included as Section IV in the Heritage Harbour DRI Notice of Proposed Change 2nd Sufficiency Response dated September 2005, unless otherwise modified with the approval of the Environmental Management Department.
- c. There shall be no individual groundwater wells associated with single or multi-family residences allowed within the development. This requirement shall be noted in all homeowner documents and disclosure statements. The location and well size of existing wells shall be indicated on each Preliminary Site Plan submitted for the project. A Well Management Plan, for the proper rehabilitation/abandonment of existing wells in accordance with SWFWMD Rule Chapter 40D-2, shall be submitted to the EMD for review

and approval prior to authorization of construction.

- d. The developer shall conduct annual inspections of the surface water management system on the project site to ensure that the system is being properly maintained in keeping with its design, and is capable of accomplishing the level of stormwater storage or treatment for which it was designed and intended.
- e. The stormwater management systems shall be designed, constructed, and maintained to meet Chapter 40D-4 of the Florida Administrative Code. At a minimum, planted littoral zones equivalent to 35 percent of the total minimum lake area needed for stormwater treatment shall be required and shall be concentrated at the outfall.
- f. Best Management Practices* (BMP) for reducing water quality impacts, as recommended by the County* and SWFWMD in accordance with adopted regulations of these agencies, shall be implemented.
- g. All on-site existing underground tanks shall be abandoned pursuant to applicable State and County* rules. All existing underground storage tanks within the project* shall be identified prior to the first PSP approval. Completed.
- h. An Environmental Assessment of the site shall be conducted by an Environmental Consultant to determine potential hazardous material locations (i.e., historical cattle dipping vats, underground/above ground storage tanks, or buried drums). Should evidence of hazardous material be discovered, further investigations will be required to determine the level of contamination and appropriate remediation/mitigative measures. The Environmental Assessment for the entire site shall be conducted and submitted for County review prior to the first Preliminary Site Plan approval. Development restrictions may be imposed if any contamination is discovered. Completed.

C(4). Floodplains

- a. All habitable structures and access roadways shall be constructed above the 100-year flood elevation.
- b. Compensation for the loss of 100-year flood storage capacity shall be provided through cut and fill balance calculation and further confirmed by the no-rise certification procedure.
- c. All homeowner documents, real estate disclosure forms, deeds of sale or lease agreements for land or structures in the post development 100-year flood plain on the project site of Heritage Harbour, shall be accompanied by a hazard disclosure statement generally describing the property's relative probability of damage from coastal and fresh water flooding. This disclosure shall also list potential mitigation strategies including elevation, construction of safe rooms, window protection (shutters/security film), where the builder has exceeded coastal construction codes and other potential measures to increase safety.
- d. The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations.
- e. All infrastructure, including gravity sewer, lift stations, service cleanouts, and manhole rims shall be set at 12 inches above the 25-year floodplain or 4 inches above the 100-year floodplain.

- f. Adequate maintenance easements shall be provided on Cypress Strand (major drain). Prior to dedication, the creek embankment, excluding areas remaining in their natural states, shall be stabilized through seeding, sodding, and rip rap. The Engineer shall provide as-built typical sections for the purpose of maintenance. Any alteration to the creek shall not cause a rise in the FEMA 100-year flood elevation.

C(5). Soils

- a. Best Management Practices shall be employed during site preparation and construction to prevent soil erosion.

C(6). Manatee Protection

- a. Prior to any marina construction, the developer shall prepare a Manatee Protection Plan. The Plan shall be approved by the Florida Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, and Manatee County Natural Resources Department. The following elements shall be included:
 1. The Developer shall comply with all standard FWCC manatee construction conditions for all in-water construction.
 2. A manatee education program shall be developed and implemented for all slip lessees.
 3. A navigation channel shall be designated and marked with U.S. Coast Guard approved markers from the marina downstream to the I-75 Bridge prior to occupying any wetlands. The Developer shall be responsible for posting and maintaining the markers for the established channel in perpetuity, unless the Developer* obtains a commitment for posting and/or maintenance by an appropriate governmental agency. The Developer shall be responsible for posting and maintaining the markers from its marina to the designated main river channel in perpetuity, unless otherwise posted or maintained by an appropriate governmental agency.
 4. A sign will be installed and maintained at the facility for boaters traveling to the Manatee River. The sign shall notify boaters of the controlling depth of the river, and request that boaters stay in the marked channel.
 5. The use of the boat ramp shall be limited to lessees/owners of slips at the docking facility.
 6. The maximum draft, including propeller(s) for vessels associated with this project shall be 2.5 feet or as otherwise approved through the permitting process. This requirement shall be posted at the marina and included in all homeowner's documents, real estate disclosure forms, deeds of sale, or lease agreements for land or structures.
 7. Before commencement of the dry storage and boat lift, a speed zone from the I-75 Bridge to the vicinity of the east line of Section 16, Township 34 South, Range 19 East, shall be established by local ordinance and posted. The main marked channel shall be regulated at a speed, or speeds, as determined from public hearings and passing of an ordinance by the Manatee County Commission, with all other waters regulated as slow speed, minimum wake as applicable per Manatee County regulations. The Developer shall be responsible for posting and maintaining the established speed zone markers/buoys in the designated areas unless the Developer* obtains a commitment for posting and maintenance by an appropriate governmental agency.

8. The Developer shall assist in the enforcement of the speed zone, once, established. It shall be a term of the lease of any slip that violations of the speed zone ordinance may result in the revocation of the lease. An employee will be responsible for issuing warnings to lessees who are violating the speed zone. This person will also be responsible for a revocation process of the leased slip for individuals who are cited for violating the speed zone ordinance and pay a fine or are found guilty of violating the ordinance by a court of competent jurisdiction. (Completed)

b. Except for docks whose sole purpose is to provide access to nature parks or picnic areas, and excluding specifically docks for individual or multiple single family use, the only docks on the site shall be at the marina if the marina is permitted.

c. The total number of boat slips allowed for this development in perpetuity shall not exceed 462. The first phase shall consist of up to a maximum of 162 wet slips and boat ramp. The second phase shall consist of up to a maximum of 300 dry slips. The second phase shall not be initiated until two years after the first phase has been completed.

D. ARCHAEOLOGICAL AND HISTORICAL RESOURCES.

D(1). The discovery of any significant historical or archaeological resources shall be reported to the Florida Division of Historical Resources and the disposition of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County in accordance with Rule Chapter 9J-2 FAC.

Archaeological test excavations by a professional archaeologist shall be conducted on each such site to provide sufficient data to make a determination of significance prior to the commencement of ground-disturbing activities at the site. The final determination of significance shall be made in conjunction with the Florida Department of State, Division of Historical Resources, and the County*. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Florida Department of State, Division of Historical Resources) must be completed before resource-disturbing activities are allowed to continue.

E. WASTEWATER MANAGEMENT

E(1) The Certificate of Level of Service for wastewater must be obtained with each Final Site Plan.

F. WATER SUPPLY

F(1) The Certificate of Level of Service for water must be obtained with each Final Site Plan.

F(2) The developer shall use non-potable water, stormwater, reclaimed water (when available) for irrigation of landscaping. When available, the applicant shall use reclaimed water or another alternative source (other than the Floridan aquifer) for tee areas, fairways, greens, and common areas. Irrigation systems shall be designed, installed, and operated for maximum water use efficiency and be developed by an irrigation contractor licensed or certified by the State of Florida. The irrigation system shall include the following:

(a) Irrigation zones with differing water requirements such as putting greens, tees,

fairways, and common areas shall be irrigated separately.

- (b) Low-volume irrigation system components shall be used to the maximum extent possible.
- (c) High-frequency irrigation areas shall be limited to tees and greens.
- (d) The irrigation system shall include rain sensors with automatic rain shutoff devices which shall be installed on each controller within the irrigation system.
- (e) Maintenance of the irrigation system will include resetting the automatic controllers according to the season and checking, adjusting, and repairing irrigation devices to ensure optimum operating efficiency.

F(3). For the purpose of potable or reclaimed water conservation, utilization of Xeriscape landscaping principles shall be incorporated into the golf course design and other landscape areas which shall include ecologically viable portions of the site's existing native vegetation. Xeriscaped areas shall not be irrigated.

F(4). The applicant shall use the lowest quality of water available for irrigation purposes. Consideration shall be given to meeting the irrigation needs of the project with the following sources, in order of preference; (1) treated wastewater, (2) treated stormwater; (3) non-potable quality groundwater. Prior to each Final Site Plan approval, the developer shall identify the irrigation source which will be utilized. When it becomes available from Manatee County, Heritage Harbour shall connect to the County's wastewater reuse system. All wells no longer needed for irrigation purposes shall be properly abandoned except for such wells as may be needed for emergency purposes.

F(5). Water-saving devices shall be required in the project as mandated by the Florida Water Conservation Act (Section 553.14, F.S.).

F(6). For the purpose of potable water conservation, installation of high-efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices shall be required. The water conservation fixtures and measures (low water use toilets, shower heads and other plumbing fixtures) referenced in the ADA shall be required.

F(7). The Developer* shall maintain all water lines and fire hydrants not dedicated to the County.

F(8). All irrigation wells which are not proposed for use (about 30) or are not needed for emergency purposes shall be properly sealed and abandoned prior to commencement of development in the areas where the wells are located. Additionally, an appropriately located irrigation well or wells as approved by Water Management District staff shall be tested annually for salinity.

G. SOLID/HAZARDOUS WASTE/MEDICAL WASTE

G(1) The County has determined that there exists adequate solid waste capacity to accommodate the impacts of the Project*. The Certificate of Level of Service shall be valid until November 21, 2024.

G(2) In the event that hazardous materials or medical waste are located on the site, they shall be handled in a manner consistent with applicable Federal, State, and Local regulations.

H. ENERGY

H(1) The developer shall use xeriscape landscaping wherever possible to reduce both water and energy consumption.

I. RECREATION AND OPEN SPACE

- I(1) The Project shall contain, at a minimum, 893.9 acres of open space. The property designated for recreation purposes shall include a 37.0 acre community park open to the public, a 4.2 acre private neighborhood park, a, 250.0 acres of golf, and 5 acres of usable park area in Parcel 35.

The usable park area in Parcel 35 shall be provided as follows:

- a. In addition to the recreation space shown on the GDP, an additional three "pocket parks" for active recreation shall be distributed (1/4 -1/2 mile maximum distance from homes to parks or greenways leading to parks) within said parcel. These parks shall be connected with pedestrian sidewalks.
 - b. The size, location, and configuration of each pocket park shall be approved by Manatee County with each Final Site Plan and shall generally be a minimum of 1 acre. Each pocket park may include shade trees, playgrounds, seating, water fountains, shade structures, open play areas, picnic areas with pavilions, tables, and grills, or other demographically appropriate recreation amenities/facilities as approved by the Parks Department at time of FSP approval. Pocket parks may be reduced to a minimum of ¼ acre provided the applicant can demonstrate to the satisfaction of the Parks Department that sufficient land areas is provided to accommodate the recreational uses.
 - c. Acreage for trails and greenways may count towards the acreage specified above. For any trails not located within a recreation area/park, the trail shall be calculated as 3 times the width times the length of the trail.
 - d. Lakes, wetlands, and other water features may be partially included in the recreation open space acreage provided they include recreation amenities such as fishing/observation piers, boardwalks, canoe/kayak/boat launches or other water related amenities. Acreage for this spaces shall be calculated at 3 times the area of the recreation amenity itself (ie: the footprint of a fishing/observation pier) but shall not include the acreage of the entire water body.
- I(2) The Developer shall be responsible for the maintenance of all recreation and open space areas within the project site not dedicated to the County.
- I(3) A system of bicycle and pedestrian trails shall be developed to link the residential, commercial and recreational areas. If bicycle trails are combined with the required sidewalk system, then it shall be designed and constructed with a minimum width of 8 feet. If it is not combined with the sidewalk, then a 4 foot wide lane shall be provided on each side of the roadway. Prior to the first residential subphase south of the Port Harbour Parkway and the first residential subphase north of Port Harbour Parkway a comprehensive pedestrian/bicycle plan for each side of Port Harbour Parkway shall be submitted and approved by Manatee County. Completed. Prior to the first Preliminary Site Plan approval for Parcel 35, the plan shall be amended to include Parcel 35.
- I(4) If the golf course is not developed prior to the adjacent residential development, the residential site plans and plats shall accommodate the proposed golf courses. Prior to the 3rd annual report after the first Final Plat or Certificate of Occupancy, whichever occurs first, an eighteen hole golf course shall be competed and open for play. If this is not completed, no further site plan approvals for the project shall be granted. Completed.
- I(6) Each subphase, other than Parcel 16, with lots less than 6,500 square feet shall contain a neighborhood park at least 20,000 square feet in size.

J. PUBLIC SAFETY.

J(1). The Developer* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, equipping, and staffing of emergency service facilities for police and fire services or any combination thereof. The Developer* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as allowed by the Land Development Code, if applicable. An agreement as to pro-rata share for each Phase*, mutually acceptable to the County and the Developer shall be reached prior to the issuance of the first Final Site Plan or Final Plat for Vertical Development for Phase 2*. The pro-rata share shall not exceed the total sum of impact fees anticipated from the Project and any pro-rata lump sum payment shall be creditable against the payment of impact fees, in accordance with applicable law. (Completed).

K. HURRICANE PREPAREDNESS

K(1) The applicant/developer shall promote awareness of hurricane/flooding hazard, preparedness and hazard mitigation through public information, neighborhood association newsletters, model homes, commercial/office buildings, etc.

K(2) . The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations recognizing the vulnerability of this site to fresh water flooding and tropical storms and hurricanes.

K(3) Prior to the first Final Site Plan for a site located either completely or partially within the Coastal Planning Area, as identified in the Comprehensive Plan, the applicant shall develop a master plan for evacuation and recovery to ensure the safe and orderly evacuation of vulnerable residents, hotel guests, and employees after an official evacuation order is issued. This plan shall include such provisions as, but not be limited to: (1) ordering all buildings in the evacuated areas closed for the duration of a hurricane evacuation order; (2) informing all residents, guests and employees of evacuation routes out of the flood prone area and measures to be followed in the event of same; and (3) making all efforts to coordinate with and inform appropriate public authorities of building closings, security and safety measures, and evacuation and re-entry/recovery plans. This plan shall be submitted to the State Land Planning Agency and the County for review and approval before approval of a Final Site Plan for habitable construction within the Coastal Planning Area. State Land Planning Agency shall have 45 days to comment on this plan. (Completed and attached as Exhibit 13).

K(4) Prior to the first Final Site Plan approval for any site located either completely or partially within the Coastal Planning Area for habitable construction, the applicant shall develop a master plan for mitigating the project's impacts on emergency public shelters consistent with the requirements of Rule 9J-2.0256, FAC. These measures may include, but not be limited to; construction of shelter space in accordance with ARC 4496 shelter standards; payment in lieu of construction; and /or participation in the upgrading of existing shelter space. The plan shall be submitted to the State Land Planning Agency and the County for review and approval before approval of a Final Site Plan for habitable construction. State Land Planning Agency shall have 45 days to comment on this plan. (Completed and attached as Exhibit 13).

K(5) Notwithstanding the ability to exchange among residential unit types, per the Land Use Equivalency, no increase in multi-family or single-family semi-detached units shall be permitted in the CHHA (Coastal High Hazard Area).

L. EDUCATION

L(1). The Developer* shall mitigate potential school impacts by making a payment of \$825,000.00 to the School Board, upon request (which represents a cost of \$35,000.00 per acre) with a three percent (3%) adjustment per year for five years. Request for payment shall be made no earlier than the date of the issuance of the first residential Certificate of Occupancy. Payment shall be made within 30 days of request. (Completed)

L.(2) The Developer* shall fund the cost of a sidewalk from the school board property line (adjacent to the student drop off area within Heritage Harbour) to Haile Middle School and a shelter adjacent to the drop off area, upon the request of the School Board. (Completed)

N. AFFORDABLE HOUSING

N(1). An assessment of the potential affordable housing impacts of the Project was performed as part of the 2008 NOPC (Ordinance 08-33). . The Developer* recognizes that the statutory rules require an assessment of "affordable housing", however the TBRPC and Manatee County recognize that the potential deficit is in the area of "essential worker" or "workforce" housing as such terms are defined by the TBRPC and the Manatee County Land Development Code, respectively. Lennar Homes, LCC, per their agreement with the TBRPC, shall implement the following:

- a. 245 units shall qualify upon the first sale to an end user as workforce housing as defined by Manatee County Land Development Code. The sales price for such units shall be determined to qualify as workforce housing after excluding upgrades and options from the price. The maximum sales price for the workforce housing units shall be based upon current workforce sales price as established by the methodology in the Manatee County Land Development Code and may be modified each year as determined by Manatee County.
- b. The Developer* shall receive a 1:1 credit for all such qualifying units built within Phase I or II from January 1, 2004 to December 30, 2017 (project build out).
- c. Should the Developer* not provide the required number of affordable units, mitigation in the form of \$2,000 per affordable unit not built shall be paid into the Affordable Housing Trust Fund prior to Final Site Plan approval for the 1,500th residential unit in Phase II or last residential subphase, whichever comes first.

Prior to the first Final Site Plan approval for residential development, the developer shall deposit into an escrow account, post a letter of credit or bond, in a form acceptable to Manatee County, to secure the payment for the number of unbuilt units, in the amount of \$490,000. The escrowed funds shall be refunded to the developer or the bond or letter of credit released as each workforce unit is constructed.

- d. As a means to monitor the progress, the applicant shall provide an accounting of the number of units that have been provided to date in each Biennial Report. **[Required units have been constructed in compliance with this condition. Condition is no longer applicable]**

O. GENERAL CONDITIONS

O(1) Non-Residential

- a. Building Appearance

All building facades shall exhibit an aesthetically attractive appearance. Buildings visible from I-75 and State Road 64 shall have their primary facade orientation toward these roadways, unless adequate buffering and screening is provided. The Developer may meet the intent of this condition by buffering and screening to be reviewed and approved by the Building and Development Services Department. Design shall be subject to the following criteria and reviewed for compliance by staff with future Final Site Plan submittals.

1. The sides of all buildings shall have minimal blank walls no longer than 40 feet in length or 20' in height. In order to insure that the buildings do not project a massive blank wall, design elements shall include prominently visible architectural details [e.g. bumpouts, reveals and projecting ribs, cornice, offset building planes, windows, shutters, areas of contrasting or different finish building materials, etc.] or other methods, as approved by the Building and Development Services Director. Facades greater than 100 feet in length shall have varying roof lines through varying the height of the cornice, or the use of 2 or more roof types (parapet, dormers, and sloped, etc.).
2. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed concrete block, corrugated metal, or tilt up precast slabs shall not be permitted. Architectural metals in conjunction with other permitted building materials shall be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.
3. All rooftop mechanical equipment shall be screened from view from I-75, State Road 64, internal collector streets as shown on the GDP, and adjacent properties. Screening shall be provided by materials consistent with the building.

b. Service Areas

1. All truck loading, service areas, outside storage, and parking of heavy equipment, semi-trucks or trailers, or other vehicles over 1-1/2 tons shall not be located between the building and I-75, State Road 64, or any internal collector street as shown on the GDP, or on any side of a building which is prominently visible to referenced roadways. This requirement may be modified by the Building and Development Services Department in cases where the developer meets the intent of the condition when adequate buffering and screening is provided.
2. Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade.

c. Parcel 20 Development Restrictions:

1. All buildings, loading and service areas shall maintain a minimum setback of 200 feet from Parcel 16. Buildings within 500 feet of Parcel 16 shall not exceed 25 feet in height. Buildings within 100 feet of I-75 or State Road 64 shall not exceed 25 feet in height, except for hotels, and office buildings, which shall comply with the minimum front yard setback specified on the GDP, plus 25 feet for each story over 2. This height restriction does not apply to architectural or design features used for building entrances and which are required to achieve compliance with Condition O(1).a.3 above.
2. A fifty foot landscape buffer shall be located along the southwest side of the 66 acre lake adjacent to Parcel 20. Existing native trees within this buffer shall be preserved, unless removal is required to accommodate the reconfiguration of the lake. Additional canopy

trees, meeting the requirements of 715.4.B, shall be required where existing trees do not provide continuous screening of the commercial site from Parcels 16 and 18. A wall or hedge, to be a minimum height of at least 6 feet above the finished floor elevation of the proposed building, shall be installed prior to issuance of the first Certificate of Occupancy for any commercial building, parking, loading or service area constructed within 300 feet of the lake.

Residential, hotels, offices and restaurant facilities, which are oriented to the lake and designed to enjoy lake views, shall be exempt from the requirement to maintain a 50 foot setback and install a wall or a hedge.

3. Prior to the issuance of a Certificate of Occupancy for any building which individually or cumulatively exceeds 250,000 square feet for the parcel, or 100 residential units, the access street which goes to the north through Parcel 16 shall be constructed to Port Harbour Parkway. Port Harbour Parkway shall link to an internal collector road, as shown on the GDP, within the development. Port Harbour Parkway shall be constructed from the northern terminus of Kay Road to this access prior to the issuance of a Certificate of Occupancy for any building which individually or cumulatively exceeds 350,000 square feet for the parcel.
4. If multi-family is located within Parcel 20, it shall be located so that traffic from commercial development on this parcel to State Road 64 is not required to pass the multi-family development. All multi-family buildings shall maintain a minimum setback of 75 feet from any commercial building or its associated loading or service area.
5. The preservation of significant trees or tree clusters within the temperate hardwood area adjacent to State Road 64 shall be a condition of Preliminary and Final Site Plan approvals. Sufficient area and protection around the trees, as determined by a registered Landscape Architect, shall be provided to reasonably guarantee their survival. Removal shall be based on impacts resulting from unavoidable required grade changes.
6. Land Uses in Parcel 20 shall be allowable uses within the PDMU district as identified in the Manatee County Land Development Code as of the date of the adopting PDMU Zoning Ordinance with the exception of the manufacturing, flea markets, junkyards, manufactured home parks, and warehousing.

d. Parcels 17 and 19 Development Restrictions

1. Buildings in Parcel 17 shall be limited to a maximum height of 3 stories. Commercial uses in Parcel 17 shall be limited to neighborhood commercial uses in a neo-traditional design.
2. Land Uses in Parcel 19 shall be allowable uses within the PDMU district as identified in the Manatee County Land Development Code as of the date of the adopting PDMU Zoning Ordinance with the exception of manufacturing, flea markets, junkyards, manufactured homes parks, and warehousing. All multi-family buildings shall maintain a minimum setback of 75 feet from any commercial building or its associated loading or service area.

e. Parcels 19 and 20 Development Restrictions

1. Allowable land uses and square footage can transfer between parcels 19 & 20 subject to a land use equivalency matrix shown as Exhibit 15.

f. Parcels 19-27 Buffering

1. A 20 foot wide landscape buffer shall be provided along the frontage of all street shown on the GDP for Parcels 19-27, regardless of whether the site is located within the entranceway. The street frontage buffer for Parcel 20 along I-75 and State Road 64 shall be increased to 30 feet in width. Should a frontage road be provided along I-75 or State Road 64, then the Developer* shall have the option of providing a 20 foot wide buffer on each side of the frontage road. Required canopy trees within the I-75 and SR 64 buffer shall be a minimum size of 12 feet in height and a 4 inch caliper at time of planting.
2. A 25 foot wide buffer with a 3 foot high berm shall be provided along the east side of Parcel 26. Prior to any Temporary or Certificate of Occupancy:
 - A 6 foot opaque fence or wall shall be installed on top of the berm east of all loading and service areas;
 - A hedge, to be at least 6 feet at maturity, shall be planted on the berm along the entire eastern boundary of the site and on the outside of the fence or wall; and
 - A row of 3 inch caliper canopy trees spaced 30 feet apart shall be planted along the entire eastern boundary.

O(2) Residential

- a. The maximum number of residential units per Parcel shall be limited to the numbers indicated in the Land Use Table on the General Development Plan. With each preliminary plan submitted, a Residential Sector Data Table shall be provided to include the number of units and unit type that have Final Site Plan approval in the Phase*
- b. Residential development shall comply with the following dimensional standards:

| TYPE | MINIMUM LOT SIZE (Sq.Ft.) | MINIMUM LOT WIDTH | FRONT SETBACK (ft.) | SIDE SETBACK (ft.) | REAR SETBACK (ft.) |
|------------------------|---------------------------|--------------------|----------------------|-----------------------|--------------------|
| SFD ⁵ | 6,500 SF ² | 55 FT ² | 20/15 ^{1,7} | 7 ² | 15 |
| SFA ^{5,8} | 2,500/3,500 SF | 25/35 FT | 20/15 ^{1,7} | 0/10 ⁶ | 15 |
| SFSD ⁵ | 3,850 SF | 35 | 20/15 ^{1,7} | 0/7.5 | 15 |
| Duplex ⁵ | 7,800 SF | 70 | 20/15 ^{1,7} | 7.5 | 15 |
| Multi-fam ⁴ | | | 25 | 15/40/50 ³ | 15 |

1. Front setback for units with side entry garages
2. A maximum of 30% of the lots in each phase* may be reduced to a minimum lot area of 4,000 square feet, lot width of 40 feet, and side yard setback of 6 feet. These smaller lots shall be contained within a parcel or subphase of a parcel that is separated from other single-family detached unit parcels by a minimum separation width of 25 feet, exclusive of lot areas.
3. This distance is not a side yard setback, but the minimum distance between buildings. A 15' separation is required between one-story buildings, a 25' between two-story, 40' between 3-story, and 50' between 4-story buildings.
4. Single- and two-story multi-family buildings shall maintain a minimum setback of 50 feet from single-family residential development parcels. Multi-family buildings which are three or more stories shall maintain a minimum setback of 100 feet from single-family residential development parcels.
5. All duplexes and single-family residences shall be provided with a minimum of a one car garage for each dwelling unit.

6. Applied to end units.
 7. The front yard setback in Parcel 35 shall be 25'. The front yard for residences with side loaded garages may be reduced to 20'.
 8. The lot width for SFA in Parcel 17 may be 20' with a minimum lot size of 2000'
- c. Residential development in each parcel shall maintain consistency in unit type and size, unless otherwise specified above in Condition O.(2) b, footnote 2 or in Stipulation O(2).h.i, and j below
- d. Single-family detached, attached, semi-detached, duplex and multi-family dwellings shall be as defined in the Land Development Code. No other uses shall be permitted within these land use categories identified on the General Development Plan, with the exception of permitted home occupation, family day care homes and family care homes. Duplex units may be permitted in single-family semi-detached or attached categories.
- e. All residential dwelling units, except multi-family units, shall contain a minimum floor area of 1,200 square feet.
- f. Multi-family building restrictions (Parcels 2A, 2B, 7B, and 10B and 13)
1. Parcel 12/13 shall be developed with single-family detached lots.
 2. Parcels 2A, 2B, 7B, and 10B Tree Plantings
 - (a) At least 1 year prior to Final Site Plan approval and 2 years prior to submittal of any building permit for a multi-story building for Parcels 2A, 2B, 7B and 10B, additional tree plantings between the Manatee River and referenced parcels (Exhibit 11) shall be completed and certified to the Building and Development Services Department by a landscape architect. Prior to planting, the Developer* shall remove all nuisance and exotic vegetation from this buffer. The Developer* shall submit tree planting plans for review and approval by the Building and Development Services Department prior to implementation and shall certify when complete. The plantings shall consist of a double row of trees consisting of at least 60 percent canopy trees and have a minimum caliper of 4 inches at planting. Tree species shall be based upon site conditions needed to sufficiently screen the future buildings. Trees for each row shall be staggered and spacing within each row shall maintain a maximum distance of 40 feet.(Completed)
 - (b) Prior to Final Site Plan approval, a Florida Registered Landscape Architect shall certify that all the trees have survived and sustained normal growth patterns. Trees which have not shall be replaced with enhanced tree sizes to make up the loss in growth time.
 - (c) Prior to the issuance of the first building permit and Certificate of Occupancy for a multi-family building in each parcel, a Florida Registered Landscape Architect shall re-certify that all the trees have survived and sustained normal growth patterns. Trees which have not shall be replaced with enhanced tree sizes to make up the loss in growth time.
- g. Multi-family building restrictions (Parcels 23 and 24)
1. Multi-family buildings shall maintain a 75 foot setback from any commercial building or its associated loading or service area. This setback shall not be required if multi-family

and commercial development are vertically mixed.

2. Multi-family development shall provide a minimum buffer of 50 feet along State Road 64. Buildings within 75 feet of State Road 64 or any roadway shown on the GDP shall not exceed 3 stories.
- h. Multi-family buildings in Parcel 32 shall be limited to two stories and 210' and 165' in length, provided no more than 2 buildings in a row shall exceed 165' in length. The street frontage buffer shall be at least 25 feet wide and contain a 3 foot high berm (measured from the property line) with a 6 foot continuous hedge at maturity. Trees within the buffer shall be spaced 40 feet on center and be at least 3 inch caliper at time of planting.
- i. The following conditions shall apply to all residential development in Parcels 15A, 15B, 16, and 20:
 1. No residential development shall be allowed between the L10 70 dB(A) noise level contour and I-75, unless such residences are protected by some performance equivalent measure to achieve the L10 70 dB(A) exterior noise level. These restricted areas are identified within the Noise Study completed by the applicant and attached as Exhibit 9.
 2. The buffer along I-75 in Parcels 15A, 15B, and 16, as shown on the General Development Plan, shall be maintained.

Native trees and vegetation within the mixed wetland hardwood and temperate hardwood areas located in Parcel 15A shall be preserved, unless removal is required to implement improvements to Cypress Creek or to remove trees in accordance with Sections 714.2.2.8 or 9 of the Land Development Code. Additional canopy trees shall be planted within the buffer area outside the flow way that is substantially void of trees.

A minimum of five acres of the Pine flatwoods in or adjacent to Parcels 1 or 15A shall be preserved and incorporated as open space.

3. All residential development in Parcel 16 adjacent to the Parcel 20 commercial access road to Port Harbour Parkway shall be designed as reverse frontage in accordance with the requirements of Section 907.7.4 of the Land Development Code.
4. Multi-family development on western portion of Parcel 16 may be permitted only if all of the following criteria is met:
 - (a) The multi-family parcel is separated from the single-family residential parcel in Parcel 16 by a road right-of-way of at least 50 feet in width. This right-of-way shall maintain a minimum setback of 20 feet from existing all single-family lots in Lighthouse Cove.
 - (b) A 20 foot wide buffer along the western boundary of the multi-family tract shall be provided and screened pursuant to Figure 715.C.
 - (c) The closest multi-family buildings shall maintain a minimum setback of 150 feet from a single-family lot in Lighthouse Cove.
 - (d) Multi-family buildings in Parcel 16 shall be limited to 2 stories in height.

j. Parcel 35

1. Lots along Upper Manatee River Road and along the southern boundary of Parcel 35, within 1,200 feet of Upper Manatee River Road, shall be limited to single-family detached residences. The landscape buffer along the southern boundary shall be 30 feet wide.
2. Construction traffic for Parcel 35 shall not utilize the existing Stoneybrook roads in Parcel 31. Signs to this effect shall be posted at both inter-neighborhood tie locations exiting Parcel 35 and all entrances into Parcel 31. The developer shall include these provisions in all construction contracts.
3. Prior to Final Site Plan approval, the applicant shall provide a noise mitigation plan to the staff for mitigation of noise from Port Harbour Parkway and Upper Manatee River Road. Such analysis shall demonstrate noise mitigation based on the projected 2025 traffic volumes. Staff approved noise mitigation measures shall be shown on the approved Final Site Plan and installed prior to the issuance of the first Final Plat in Parcel 35.

k. Parcel 1/5

The existing landscape buffer, exclusive of the nuisance exotic species, along the western property boundary shall be preserved.

Single-family attached units shall be limited to 1 story and maintain a setback of 300 feet from the western property boundary.

l. Inter-neighborhood ties/Access

1. Prior to Final Plat (or Final Site Plan if platting is not required) approval for Parcel 13 or 14, an inter-neighborhood pedestrian tie (by common easement or right-of-way), shall be provided from Parcel 13 or 14 to the property to the east to connect to the required Pedestrian tie in PDR-97-12(Z)(G) – Waterlefe.
2. Prior to the Final Plat (or Final Site Plan if platting is not required) approval for any portion of Parcel 31 located adjacent to the vacant parcel between Waterlefe and Greenfield Plantation subdivisions, an inter-neighborhood pedestrian (or roadway if streets are public in Parcel 31) tie shall be constructed (or bonded) to the east. This tie shall be shown on all future Preliminary and Final Site Plan approvals and noted in all homeowners documents and disclosure statements. (Completed)
3. Prior to Final Plat (or Final Site Plan if platting is not required) approval for any portion of Parcel 31 south of the northern boundary of Haile Middle School, an inter-neighborhood pedestrian tie (by common easement or right-of-way) or street, shall be provided to the Haile Middle School site. If a street is not provided, then the developer shall facilitate a vehicular area adjacent to the school site to facilitate student drop-off and pick-up. The specific location and design shall be subject to approval by the School Board staff and the Building and Development Services Department. To facilitate the purpose of this condition, all streets within Parcel 31 shall be open to the public from 7:00 to 9:00 a.m. and from 2:00 to 5:30 p.m. while school is in session. This requirement shall be noted in all homeowner's documents and disclosure statements within the project. If a guard gate or sign is utilized which identifies the streets or Parcel 31 as being private, then there shall be accompanied verbiage, visible from the street, that the roads are open to the public during the above referenced school hours.

4. Inter-neighborhood ties between parcels internal to the project shall be determined at time of Preliminary Site Plan approval.
5. The required second means of access for each portion the project shall be provided pursuant to Section 712.2.8 of the Land Development Code. Access pursuant to Diagram A, Number 3 may be used provided that the number of units in the portion of the project in which this access serves does not exceed 600 dwelling units.

m. Buffers

1. A 50 foot wide buffer shall be provided between Parcel 31 and SR 64. Enhanced landscaping, including trees, berms, and golf course shall be provided within the buffer.
 2. A 25 foot greenbelt shall be located between all residential development and the 330 foot wide FP&L easement. All building setbacks shall be measured from this greenbelt.
- n. The Homeowner's Documents for Stoneybrook Southeast (Parcels 31 and 32) shall include notices to inform homeowner's of that a portion of Parcel 32 will include two story multi-family residences in accordance with Condition N.(2)h.
- o. ACLF (Group Care) uses shall be permitted only in the parcels specifically identified in the Land Use Table of the General Development Plan.
- p. Multi-family buildings in Parcels 3, 4, 7A, 8, and 10A shall be limited to 3 stories and 35' in height.

O(3) Signage

- a. One freestanding pole sign, in compliance with Section 737.5.3.3 shall be allowed per frontage for Parcels 25 and 27. Any additional signs that may be permitted along State 64, 1-75, or along any other street frontage shall be limited to ground signs, in compliance with Section 737.5.3.3.
- b. A project identification sign located at the project's westernmost entrance may contain a maximum sign area of 200 square feet (constructed on Parcel 23). The sign shall maintain a minimum setback of 125 feet from State Road 64 and a minimum distance of 500 feet from the pole sign along State Road 64 in Parcel 20. The design of the sign and surrounding wetland and water features shall be consistent with plan and elevation in Exhibit 5.
- c. Signage on Parcels 19 and 20 will be consistent with the signage plan attached hereto as Exhibit 16. All signage on Parcels 19 and 20 for the Heritage Harbour DRI shall be permitted as shown on the attached sign plan and key legend, Exhibit 16. No signs shall be permitted within the public right-of-way. Signage shall be placed so it does not conflict with vehicular clear zones, FDOT indices and clear zone requirements shall be met.

O(4) Lighting

- a. All lighting shall comply with Section 709 of the Land Development Code.

O(5) Notice to Buyers

The Notice to Buyers or Tenants shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the sales contract, and in the Final Site Plan and shall include language informing prospective homeowners of the following:

- a. The Hurricane Evacuation Plan is approved by the Public Safety Department for this project. The applicant and their heirs, assigns, or transferees are hereby notified that a payment of an impact fee for emergency shelter facilities shall be required if such impact fee is adopted by the Board of County Commissioners.
- b. Port Harbour Parkway is planned as a 4-lane thoroughfare roadway and Upper Manatee River Road is planned as a 6-lane thoroughfare roadway and residents may experience increase noise impacts.
- c. Upper Manatee River Road is planned to bridge over the Manatee River.

DEFINITIONS.

Note: An asterisk (*) in the text of this Ordinance denotes that the word is defined

- A. "Acceptable Level of Service" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the Highway Capacity Manual (1994), TRB Special Report 209 or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor.
- B. "Application" and "Application for Development Approval" or "ADA" shall mean Heritage Sound's DRI ADA submitted on October 30, 1998 and sufficiency responses submitted on March 25, 1999 and May 19, 1999, and the response to the second sufficiency comments dated May 17, 1999 and submitted on May 19, 1999, and the NOPC submitted on March 4, 2002 and amended on October 4, 2002 and December 17, 2002, and the NOPC submitted on June 29, 2004, and amended on December 21, 2004, September 27, 2005, May 5, 2006, August 8, 2006, and November 27, 2006, January 3, 2008, February 7, 2008, and March 11, 2008, the NOPC submitted on October 19, 2009 and the application for an amendment to the development order submitted on XXattached as Exhibit 4.
- C. "Best Management Practices" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code.
- CC. "Community Support Facility" shall mean a master irrigation and communication facility and accessory uses designed to serve this project and adjacent areas as required by Manatee County.
- D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the law. and

the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.

- E. "County" shall mean the Board of County Commissioners for Manatee County, or their designee(s).
- F. "County Transportation Authority" shall mean the County entity responsible for roadway approvals.
- G. "Developer" shall mean Lennar Homes, LLC., its heirs, assigns, designees, agents, and successors in interest as to the Heritage Harbour DRI.
- H. "Development Approval" shall mean any approval for development granted through the Preliminary Site Plan, Preliminary Plat, Final Plat, and Final Site Plan process or Construction Drawing approval where site plans or subdivision plats are not required.
- I. "Funding Commitments" shall mean to assure completion of any improvement required by this Development Order, or any combination of the following:
 - 1. binding commitments for actual construction with a posting of a cash bond, irrevocable letter of credit, or other financial instrument, in a form satisfactory to the County; or
 - 2. actual construction; or
 - 3. the placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required, as long as the improvement is within the first two years of the responsible entity's work plan at the time of Preliminary Site Plan approval of a subphase or phase; or
 - 4. a local development agreement as defined by Florida Statutes or the Land Development Code. The funding commitment shall guarantee that the improvement will be in place when needed or concurrent with the expected impacts of the development.
- J. "General Development Plan*" shall be defined as the site plan for PDMU-98-08(G)(R6), last revised October 2012, and attached as Exhibit 6. Development on the General Development Plan shall be limited to the total number of dwelling units and non-residential development on Table 1.
- K. "Horizontal Development" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development" (e.g., roadways, drainage, water, sewer, communications, utilities, etc.).
- L. "Net New External p.m. Peak Hour Project Trips shall mean the total trip generation using the ITE Trip Generation Manual, 6th Edition, less the internal capture and pass-by captured trips.
- M. "Owner" shall mean Lennar Homes, LLC., their heirs, assigns, designees, agents, and successors in interest, except as otherwise noted for Parcels 19, 20 and 35.
- N. "Phase" shall mean the development totals listed in Table 1 above.
- O. "Preliminary Site Plan" (PSP*) shall mean a Preliminary Master Development Plan* or a Preliminary

Site Plan for a Phase or Sub-Phase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended), for a Phase or Sub-Phase.

- P. "Project" shall mean the land uses by area, square footage, density, and phase described in the ADA*, and as modified in Table 1, to be constructed on the real property described in Section 6 herein.
- Q. "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP* in combination with prior approvals of this project will be five percent (5%) or more of the Manatee County adopted Level of Service. This area is generally depicted on Figure 21.1 (Exhibit 7) which was submitted with the ADA.
- R. "Vertical Development" shall mean and be deemed to include the construction of or the addition to any existing structure.
- S. "Warranted" shall mean a determination by the County, or FDOT for state roads (unless the improvement is identified as a "local improvement", based on generally accepted transportation engineering practices that the Acceptable Level of Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All reserved vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination.
- T. "Wetland" shall mean any wetland under the jurisdictional limits defined by Chapter 62-340, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined by Chapter 40D-4, FAC, and implemented by the Southwest Florida Water Management District.

SECTION 5. SPECIFIC APPROVALS REGARDING PARCELS 19 AND 20.

The Board of County Commissioners granted Specific Approval from compliance with Sections 737, Entranceways, and specifically in Section 737.5.3, Signs, and Section 724, Signs, specifically Sections 724.6.4 to enable implementation of the sign plan (Exhibit 16) with revised Ordinance PDMU-98-08(Z)(G)(R4). Further, the Board of County Commissioners granted Specific Approval from compliance with Sections 715, Landscaping and Screening Standards, and specifically in Section 715.3.1, Landscaping –Vehicle Use Areas and Sections 710 Off-Street Parking and Loading, specifically, in Section 710.1.4 Reduction in Number of Size of Required Off-Street Parking Spaces and Section 710.1.6 Table B Parking Ratios with revised Ordinance PDMU-98-08(Z)(G)(R4).

SECTION 6. LEGAL DESCRIPTION.

General Development Plan

Development of Heritage Harbour shall be restricted to the 2,784.7 ± acre tract of land described below:

ALL OF SECTIONS 13, 14, 23, 24, 25, 26, 35 AND 36, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, LYING NORTH OF STATE ROAD NO. 64, AS SHOWN ON STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION NO. 1305-250 AND ALSO NORTH OF STATE ROAD NO. 93 (INTERSTATE 75) AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-

WAY MAP FOR SECTION 13075-2403 AND SOUTH OF THE MEAN HIGH WATER LINE OF THE SOUTH BANK OF THE MANATEE RIVER. CONTAINING 2,397.5 ACRES MORE OR LESS. ALSO: THAT PORTION OF THE FOLLOWING DESCRIBED LAND LYING SOUTHWEST OF STATE ROAD NO. 93 (INTERSTATE 75) AND EAST OF THE EASTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF KAY ROAD AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2404, SHEET 3 OF 9: BEGIN AT THE NW CORNER OF SECTION 26, TOWNSHIP 34 SOUTH, RANGE 18 EAST RUNNING EAST 2,681.25 FEET, THENCE RUNNING SOUTH 3,769 FEET, THENCE RUNNING WEST 2,681.25 FEET, THENCE RUNNING NORTH TO THE POINT OF BEGINNING, LESS THE SOUTHERNMOST 1640.5 FEET THEREOF. CONTAINING 10.6 ACRES MORE OR LESS. ALSO: UNSURVEYED PORTION OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LYING SOUTH OF GOVERNMENT LOTS 3 AND 4; UNSURVEYED PORTION OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NW CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATER OF THE MANATEE RIVER, THENCE MEANDER THE WATERS OF THE MANATEE RIVER IN AN EASTERLY AND NORTHEASTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 13 WHICH IS ON OR NEAR THE EXTENDED EAST LINE OF U.S. GOVERNMENT LOT 1 OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE WEST ALONG THE NORTH LINE OF SECTION 13 TO THE POINT OF BEGINNING; UNSURVEYED PORTION OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NE CORNER OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATERS OF MANATEE RIVER, THENCE MEANDER THE WATERS OF MANATEE RIVER IN A WESTERLY AND NORTHWESTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 14, RUN THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 14 TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 87.7 ACRES (COMPUTED BY DIGITIZING FROM AERIAL PHOTOGRAPHS THE AREA ABOVE THE APPROXIMATE MEAN HIGH WATER LINE) ALL LYING AND BEING LOCATED IN MANATEE COUNTY, FLORIDA. THE AREA OF THE ABOVE DESCRIBED LAND IS APPROXIMATELY 2,495.8 ACRES.

TOGETHER WITH (HERITAGE HARBOUR STONEYBROOK EAST):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF MANATEE, LYING IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, BEING A PORTION OF THE LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1460, PAGES 5079 THROUGH 5083, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE N.89°47'24"W. ALONG THE SOUTH LINE OF SAID SECTION 19, FOR 175.10 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°47'24"W., ALONG SAID SOUTH LINE OF SECTION 19, ALSO BEING THE NORTH BOUNDARY LINE OF LANDS OF RIVER ROAD PLANTATION (KNOWN AS PROPERTY IDENTIFICATION NUMBER 5668.0020\9 PER MANATEE COUNTY PROPERTY APPRAISER), FOR 4666.00 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 19; THENCE N.01°24'51"E., ALONG THE WEST LINE OF SAID SECTION 19, ALSO BEING THE EAST BOUNDARY LINES OF PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1, AS RECORDED IN PLAT BOOK 44, PAGES 168 THROUGH 185, SAID PUBLIC RECORDS AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2, AS RECORDED IN PLAT BOOK 50, PAGES 10 THROUGH 13, SAID PUBLIC RECORDS, FOR 2662.92 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF KAY ROAD

(42 FOOT WIDE PUBLIC RIGHT OF WAY), A PORTION OF WHICH IS SHOWN ON PLAT OF WATERLEFE GOLF & RIVER CLUB, UNIT 5, AS RECORDED IN PLAT BOOK 37, PAGES 162 THROUGH 168, SAID PUBLIC RECORDS AND A PORTION OF WHICH IS SHOWN ON AND DESCRIBED IN OFFICIAL RECORDS BOOK 1711, PAGES 673 THROUGH 674, SAID PUBLIC RECORDS; THENCE S.89°44'37"E., ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE NORTH LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 1460, PAGES 5079 THROUGH 5083, SAID PUBLIC RECORDS FOR 2398.56 FEET; THENCE S.87°54'15"E., CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND SAID NORTH LINE, FOR 2354.69 FEET TO A POINT ON THE WESTERLY MAINTAINED RIGHT OF WAY LINE OF UPPER MANATEE RIVER ROAD (80 FOOT WIDE PUBLIC RIGHT OF WAY) AS RECORDED IN ROAD PLAT BOOK 6, PAGE 73, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE S.00°21'37"W., ALONG SAID WESTERLY MAINTAINED RIGHT OF WAY LINE, FOR 2282.71 FEET TO THE NORTHEAST CORNER OF LANDS OF VIRGINIA MOORE (KNOWN AS PROPERTY IDENTIFICATION NUMBER 5469.0000/2 PER MANATEE COUNTY PROPERTY APPRAISER); THENCE N.89°53'12"W., ALONG THE NORTHERLY BOUNDARY LINE OF SAID LANDS, FOR 135.10 FEET; THENCE S.00°22'23"W., ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDS, FOR 299.98 FEET TO THE SOUTHWEST CORNER OF SAID LANDS AND THE POINT OF BEGINNING. CONTAINING 12,578,452.9 SQUARE FEET OR 288.76 ACRES, MORE OR LESS. BEARINGS ARE BASED THE WEST LINE OF SECTION 19 AS BEARING N.01°24'51"E. TO COINCIDE WITH THE EASTERLY BOUNDARY LINE OF THE HERITAGE HARBOUR DEVELOPMENT TO THE WEST (SHOWN ON SAID PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1 AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2).

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective upon filing of a certified copy of this Ordinance with the Department of State, provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend any additional development authorization granted by this Development Order.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 4th day of September, 2014.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: *Larry Bustle*
Larry Bustle, Chairman

**ATTEST: R. B. SHORE
Clerk of the Circuit Court**

By: *R. B. Shore*
Deputy Clerk

EXHIBITS 1–5, 7-14 AND 16;

ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED PDMU-98-08(Z)(G), APPROVED ON MARCH 21, 2000, PDMU-98-08(Z)(G)(R-2), APPROVED ON MARCH 11, 2008 and PDMU-98-08(Z)(G)(R4), approved June 3, 2010.

EXHIBIT 8 HAS BEEN DELETED AS NOTED IN SECTION B(1) TRANSPORTATION CONDITIONS

EXHIBIT #15

Land Use Equivalency Matrix

| Land Use Equivalency Rates and Minimum/Maximum Development Thresholds For Parcels 19 and 20 | | | | | |
|--|-----------|-------------------|------------|------------|------------|
| Change To→ | Hotel | Commercial/Retail | Office | | |
| Change From↓ | (1Room) | (1,000 SF) | (1,000 SF) | Minimum | Maximum |
| Hotel (1 Room) | --- | 171.5 SF | 396 SF | 80 rooms | 300 rooms |
| Commercial/Retail (1,000 SF) | 5.8 Rooms | --- | 2,308.3 SF | 540,000 SF | 683,000 SF |
| Office (1,000 SF) | 2.5 Rooms | 433.2 SF | --- | 0 SF | 100,000 SF |

Note: 1 Hotel Room equates to 171.5 SF of Commercial/Retail or 396 SF of Office
 1,000 SF of Commercial/Retail equates to 5.8 Hotel Rooms or 2,308.3 SF of Office
 1,000 SF of Office equates to 2.5 Hotel Rooms or 433.2 SF of Commercial/Retail
 Any land use exchanges will not exceed the substantial deviation thresholds set forth in FS.380.06(19)(b).

| Land Use Equivalency Rates and Minimum/Maximum Development Thresholds for Residential Uses | | | | | |
|---|------------------------|------------------------|--------------|---------|---------|
| Change To→ | Single Family Detached | Single Family Attached | Multi Family | | |
| Change From↓ | Single Family Detached | Single Family Attached | Multi Family | Minimum | Maximum |
| Single Family Detached (1 Unit) | --- | 1.97 Units | 1.38 Units | 1,816 | 2,724 |
| Single Family Attached (1 Unit) | 0.51 Unit | --- | 0.70 Unit | 912 | 1,368 |
| Multi Family (1 Unit) | 0.73 Unit | 1.44 Units | --- | 1,272 | 1,908 |

Notes: (1) The above unit type exchange rates are based on the gross trip generation numbers as determined using the mostly recently approved Traffic Impact Statement for the Project (dated December 2009). Pursuant to such study, each Single Family Detached Unit generates 0.77 gross PM peak hour trip; each Single Family Attached Unit generates 0.39 gross PM peak hour trip; and each Multi-Family Unit generates 0.56 gross PM peak hour trip. Such generation rates are specific to this Project and are not generally applicable.

(2) Example: Upon surrendering 1 Single Family Detached Unit, the Developer would be able to add up to 1.97 Single Family Attached Units, 1.38 Multi-Family Units, or a pro rata combination thereof.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

September 8, 2014

Honorable R. B. "Chips" Shore
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. PDMU-98-08(G)(R-6), which was filed in this office on September 8, 2014.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR