

# MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

<b>SUBJECT</b>	Evaluation and Appraisal Report (EAR)	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearing – Consent
<b>DATE REQUESTED</b>	05/12/11	<b>DATE SUBMITTED/REVISED</b>	05/05/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Comprehensive Planning and Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official <i>JO</i>
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Kathleen Thompson / 748-4501 ext. 6841	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Kathleen Thompson / Planning Manager / 748-4501 ext. 6841
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**  
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

I move to continue the public hearing for the EAR to June 9, 2011 at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Center, 1<sup>st</sup> Floor Chambers.

**ENABLING/REGULATING AUTHORITY**

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Chapter 163 Florida Statutes (163.3191) and Chapter 9J-5 Florida Administrative Code.

**BACKGROUND/DISCUSSION**

- Every 7 years, local governments must assess the progress of implementing their Comprehensive Plan (Florida Statute 163.3191)
- The evaluation reviews and responds to changes in state, regional, and local policies on planning and growth management, changing conditions and trends, intergovernmental coordination, and identifies major issues regarding the community's achievement of its goals.
- The following major issues were identified with input from state and regional agencies, adjacent local governments, and the public:
  - Urban Core Development/Redevelopment
  - Energy Conservation – Reduction in Green House Gas Emissions
  - Economic Development
- The Evaluation and Appraisal Report (EAR) serves as a summary audit of the County's actions undertaken by the Plan and identify changes that it may need to make to the Plan. The report is based on the analysis of major issues to further the community's goals consistent with statewide minimum standards. A brief assessment of successes and shortcomings related to each element of the plan is also prepared.
- The draft report is presented today for discussion. A transmittal hearing is scheduled May 12, 2011.
- Ninety days prior to the scheduled adoption date, a draft EAR will be sent to the Department of Community Affairs (DCA) for review. Adoption of the EAR is expected prior to September 1<sup>st</sup>, 2011.

**COUNTY ATTORNEY REVIEW**

<b>Check appropriate box</b>	
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: _____)
<input checked="" type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

<b>ATTACHMENTS: (List in order as attached)</b>		<b>INSTRUCTIONS TO BOARD RECORDS:</b>	
n/a		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

# MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

<b>SUBJECT</b>	Ordinance 11-20 – Impact Fee Update	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearing – Consent
<b>DATE REQUESTED</b>	05/12/11 PC	<b>DATE SUBMITTED/REVISED</b>	05/05/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Sharla Fouquet / 748-4501 ext. 3966	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Sharla Fouquet/Impact Fee Coordinator / 748-4501 ext. 3966
<b>ADMINISTRATIVE APPROVAL</b>			

<b>ACTION DESIRED</b> INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED
I move to continue the public hearing for Ordinance 11-20 to June 9, 2011 at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Center, 1 <sup>st</sup> Floor Chambers.

<b>ENABLING/REGULATING AUTHORITY</b> Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy
Manatee County Comprehensive Plan and Manatee County Land Development Code.

<b>BACKGROUND/DISCUSSION</b>
n/a

<b>COUNTY ATTORNEY REVIEW</b>	
<b>Check appropriate box</b>	
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: ____)
<input checked="" type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

<b>ATTACHMENTS: (List in order as attached)</b>		<b>INSTRUCTIONS TO BOARD RECORDS:</b>	
n/a		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	Z-11-04 – Parkway Land Trust #1/301 Commercial Rezone	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearing – Consent
<b>DATE REQUESTED</b>	05/12/11 PC	<b>DATE SUBMITTED/REVISED</b>	05/04/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official <span style="float: right;">JO</span>
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Sharon Tarman, AICP / 748-4501 ext. 6863 DTS#20110062	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Sharon Tarman, AICP / Planner / 748-4501 ext. 6863
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**  
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

I move to recommend approval of Z-11-04 per the recommended motion in the staff report attached to this memo.

**ENABLING/REGULATING AUTHORITY**

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Manatee County Comprehensive Plan and Manatee County Land Development Code.

**BACKGROUND/DISCUSSION**

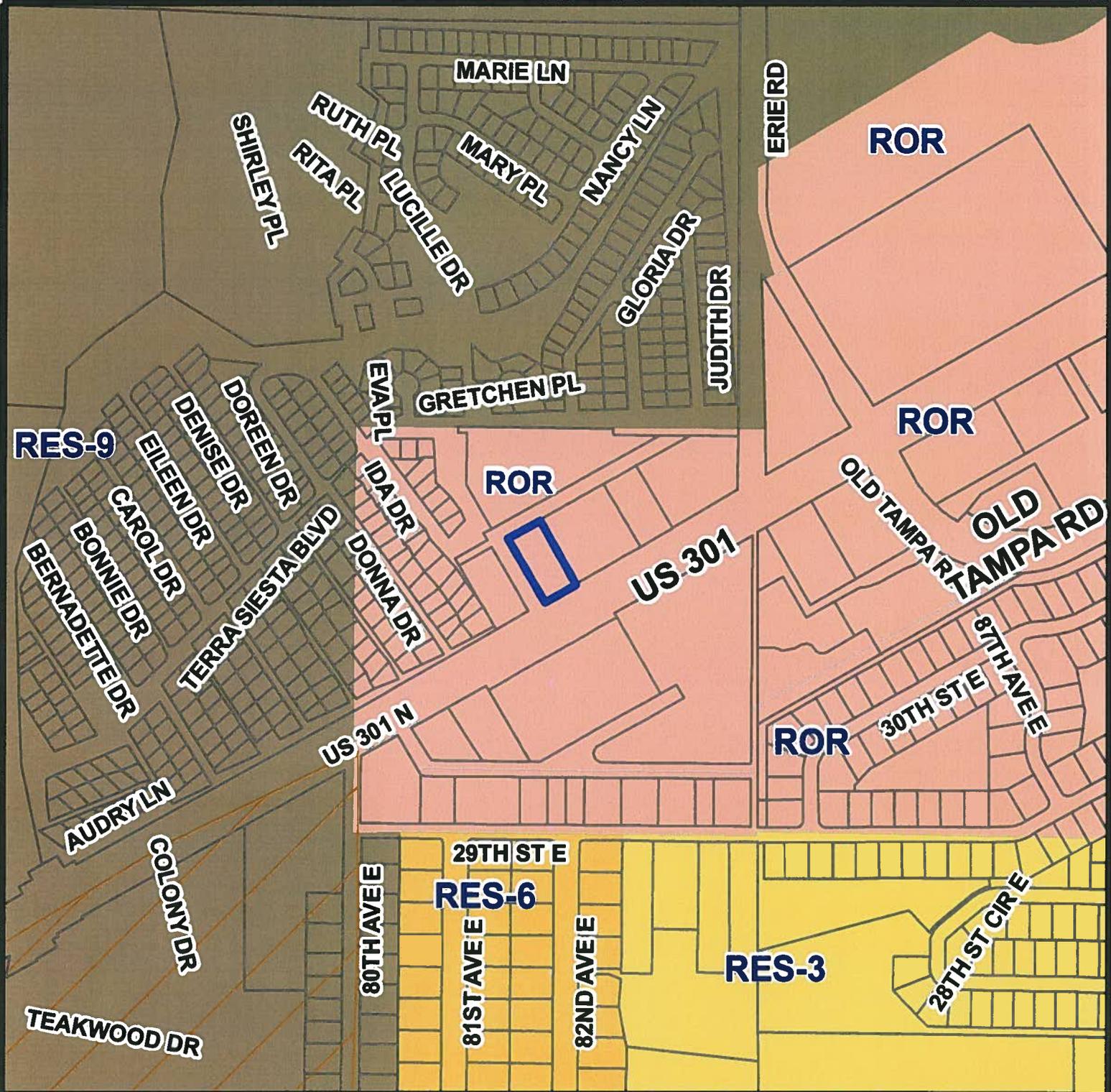
- Parkway Land Trust #1, owner of property located in Parrish has filed an application requesting rezone of approximately 0.6 acres from RSF-1 (Residential - 1 dwelling unit per gross acre) to GC (General Commercial) district.
- The site is on the north side of US 301 N and approximately 1,200 feet west of Erie Road.
- The site is designated ROR (Retail/Office/Residential) on the Future Land Use Map.
- The site meets commercial locational criteria (i.e. site within 1,500 feet of two functionally classified roadways (US 301 N and Erie Road) designated as Collector or higher) and is eligible to be considered for commercial zoning.
- This is a 'straight rezone'. All requirements of the GC zoning district will be reviewed with future site plan or building permit approvals.
- Staff recommends approval.

**COUNTY ATTORNEY REVIEW**

Check appropriate box	
<input type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: _____)
<input checked="" type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
Staff Report		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

# FUTURE LAND USE



Parcel ID #(s) 849500109

Project Name: 301 Commercial Rezone  
 Project #: Z-11-04  
 DTS#: 20110062  
 Proposed Use: Rezone to GC

S/T/R: Sec 11 Twn 34 Rng 18  
 Acreage: 0.63  
 Existing Zoning: RSF-1  
 Existing FLU: ROR  
 Overlays: NONE  
 Special Areas: NONE

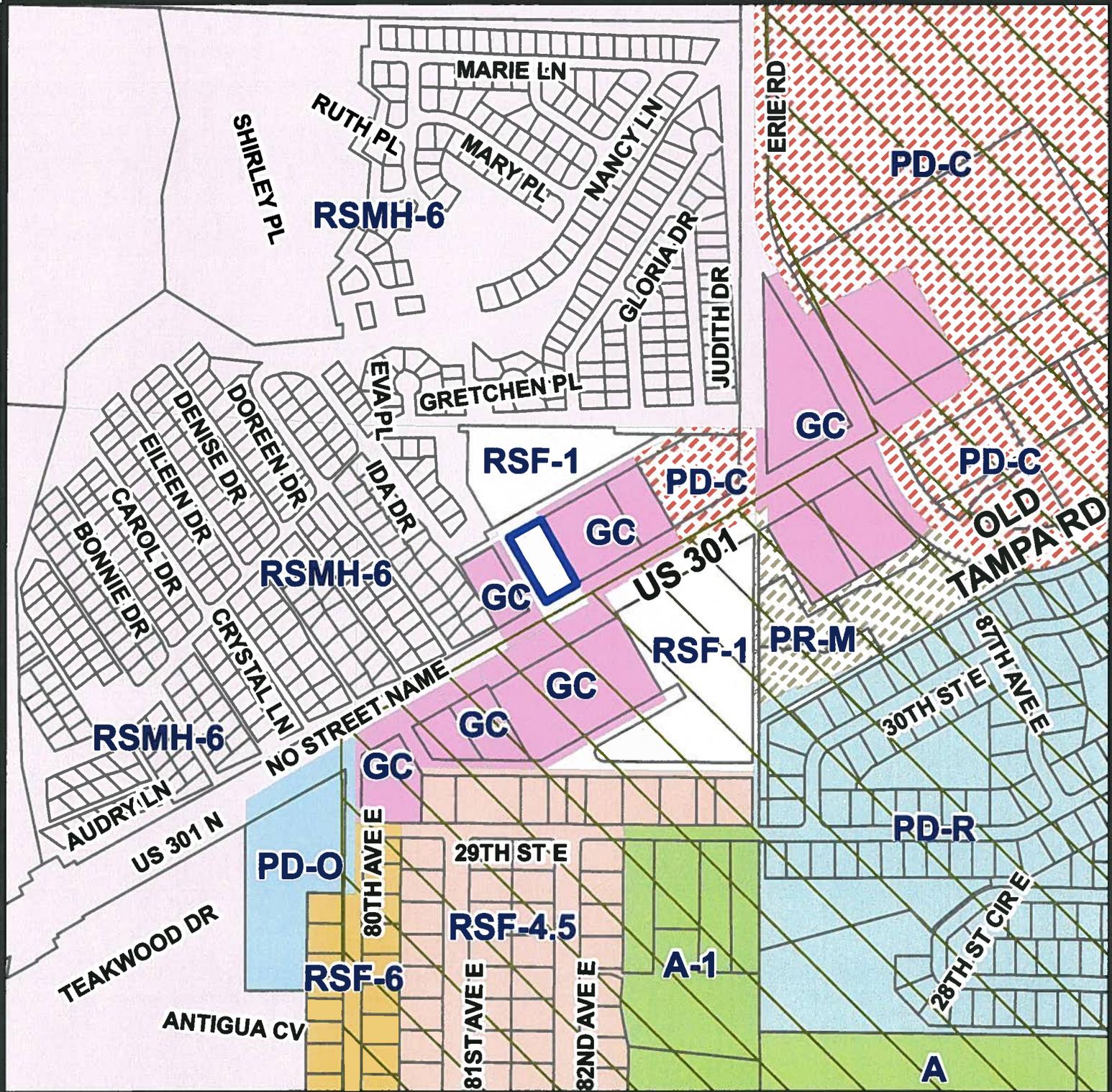
CHH: NONE  
 Watershed: NONE  
 Drainage Basin: MIDDLE MANATEE R  
 Commissioner: Larry Bustle



Manatee County  
 Staff Report Map

Map Prepared 4/27/2011  
 1 inch = 453 feet

# ZONING



Parcel ID #(s) 849500109

Project Name: 301 Commercial Rezone  
 Project #: Z-11-04  
 DTS#: 20110062  
 Proposed Use: Rezone to GC

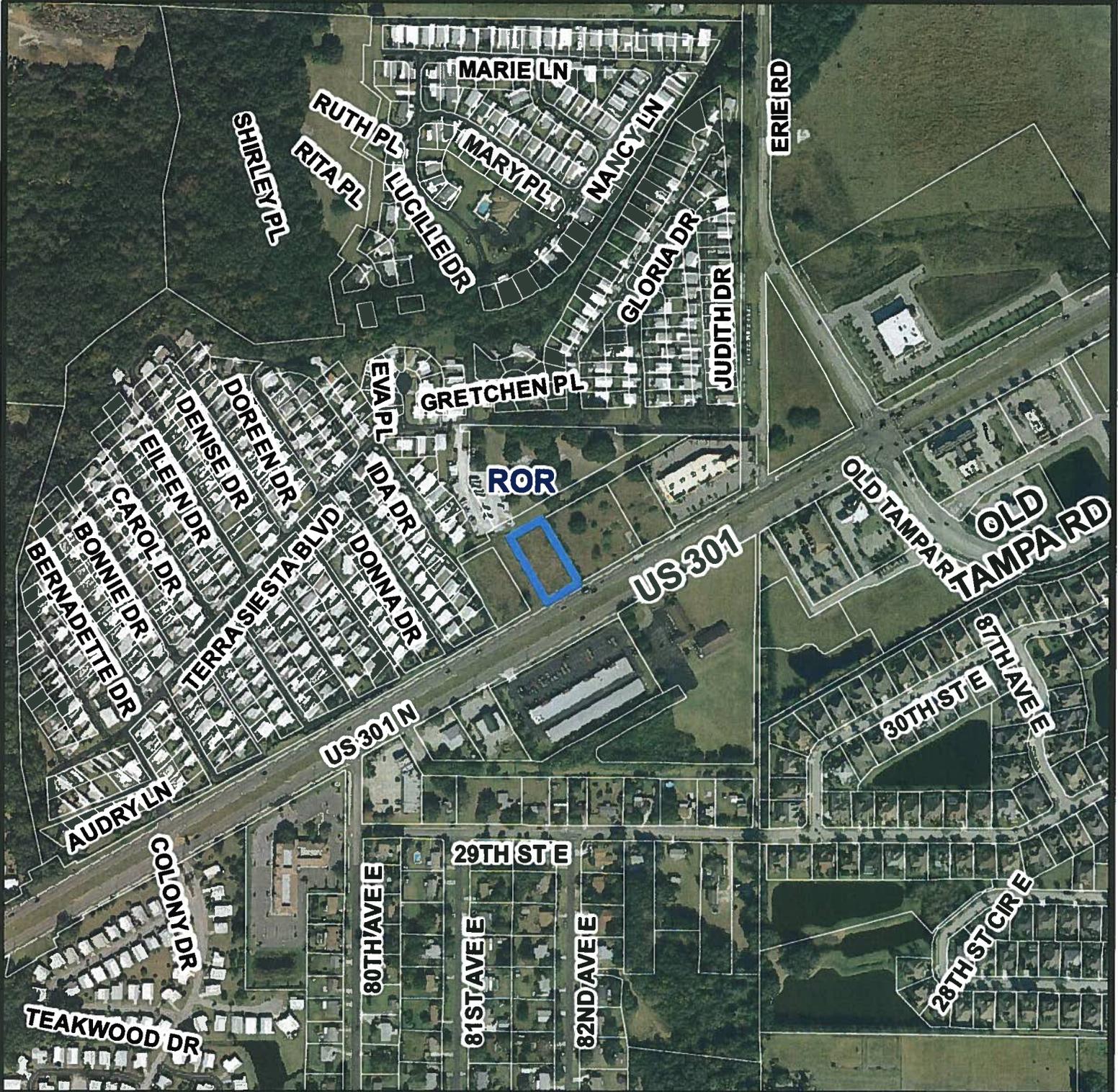
S/T/R: Sec 11 Twn 34 Rng 18  
 Acreage: 0.63  
 Existing Zoning: RSF-1  
 Existing FLU: ROR  
 Overlays: NONE  
 Special Areas: NONE

CHH: NONE  
 Watershed: NONE  
 Drainage Basin: MIDDLE MANATEE R  
 Commissioner: Larry Bustle

Manatee County  
 Staff Report Map  
 Map Prepared 4/27/2011  
 1 inch = 453 feet

 North Central Overlay

# AERIAL



Parcel ID #(s) 849500109

Project Name: 301 Commercial Rezone  
 Project #: Z-11-04  
 DTS#: 20110062  
 Proposed Use: Rezone to GC

S/T/R: Sec 11 Twn 34 Rng 18  
 Acreage: 0.63  
 Existing Zoning: RSF-1  
 Existing FLU: ROR  
 Overlays: NONE  
 Special Areas: NONE

CHH: NONE  
 Watershed: NONE  
 Drainage Basin: MIDDLE MANATEE R  
 Commissioner: Larry Bustle



Manatee County  
 Staff Report Map

Map Prepared 4/27/2011  
 1 inch = 453 feet

P.C. 05/12/2011

**Z-11-04 – PARKWAY LAND TRUST #1/301 COMMERCIAL REZONE (DTS #20110062)**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee County Land Development Code), relating to zoning within the unincorporated area; providing for a rezone of approximately 0.6 acres north of US 301 N and approximately 1,200 feet west of Erie Road, Parrish from the RSF-1 (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description; providing for severability, and providing an effective date.

**P.C.: 05/12/2011**

**B.O.C.C.: 06/02/2011**

**RECOMMENDED MOTION:**

**Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, I move to recommend ADOPTION of Manatee County Zoning Ordinance No. Z-11-04, as recommended by staff.**

<b>PROJECT SUMMARY</b>	
<b>CASE#</b>	<b>Z-11-04 DTS # 20110062</b>
<b>PROJECT NAME</b>	<b>301 Commercial Rezone</b>
<b>APPLICANT(S):</b>	<b>Parkway Land Trust #1 – Timothy A. Knowles</b>
<b>PROPOSED ZONING:</b>	<b>GC (General Commercial)</b>
<b>EXISTING ZONING:</b>	<b>RSF-1 (Residential Single Family – 1 Dwelling Unit Per Gross Acre)</b>
<b>CASE MANAGER:</b>	<b>Sharon Tarman</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL</b>

<b>DETAILED DISCUSSION</b>
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The site is 0.6 acres of vacant property located on the north side of US 301 N, approximately 1,200 feet west of Erie Road.

The application request is to rezone from RSF-1 (Residential Single Family-1 Dwelling Unit Per Gross Acre) to GC (General Commercial). The GC zoning district is consistent with the ROR FLUC designation and development trends and timing within the area. There is existing GC zoning to the east and west of the proposed project site.

The site meets commercial locational criteria (i.e. site is within 1,500 feet of two functionally classified roadways (US 301 N and Erie Road) designated as Collector or higher) and is eligible to be considered for commercial zoning. However, the ROR FLUC exempts commercial projects from commercial locational criteria requirements.

The site will have direct access to US 301 N.

<b>SITE CHARACTERISTICS AND SURROUNDING AREA</b>
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<b>ADDRESS:</b>	<b>US 301 N</b>
<b>GENERAL LOCATION:</b>	<b>North of US 301 and 1,200± feet west of Erie Road, south of Terra Siesta Manufactured Home Park</b>
<b>ACREAGE:</b>	<b>0.6 ± acres</b>
<b>EXISTING USE(S):</b>	<b>Vacant</b>

<b>FUTURE LAND USE CATEGORY(S):</b>	<b>ROR (Retail/Office/Residential)</b>	
<b>DENSITY / INTENSITY:</b>	<b>Max .25/.35 with special approval/1.0 for hotels F.A.R. permitted in GC Zoning</b>	
<b>OVERLAY DISTRICT(S):</b>	<b>None</b>	
<b>SURROUNDING USES &amp; ZONING</b>		
<b>NORTH</b>	<b>Terra Siesta Manufactured Home Park (RSF-1)</b>	
<b>SOUTH</b>	<b>South side of US 301, Commercial (GC/NCO)</b>	
<b>EAST</b>	<b>Vacant (GC)</b>	
<b>WEST</b>	<b>Vacant (GC – Z-07-22)</b>	
<b>SITE DESIGN DETAILS</b>		
<b>LOT SIZE(S):</b>	<b>General Commercial (GC) requires a 7,500 sq. ft. minimum lot size.</b>	
<b>SETBACKS:</b>	<b>Front</b>	<b>25'</b>
	<b>Side</b>	<b>10'</b>
	<b>Rear</b>	<b>20'</b>
<b>OPEN SPACE:</b>	<b>15% required in GC zoning. No site plan submitted at this time.</b>	
<b>ACCESS:</b>	<b>Driveway access to US 301</b>	
<b>FLOOD ZONE(S):</b>	<b>X (Panel 120153 215C, revised 7/15/92)</b>	
<b>AREA OF KNOWN FLOODING:</b>	<b>Yes, Rainfall 50% Reduction</b>	
<b>UTILITY CONNECTIONS:</b>	<b>County water and sewer are available</b>	
<b>ENVIRONMENTAL INFORMATION</b>		
<b>Overall Wetland Acreage:</b>	<b>No plans submitted; unable to determine at this time.</b>	
<b>Proposed Impact Acreage:</b>	<b>No plans submitted; unable to determine at this time.</b>	

**NEARBY DEVELOPMENT**

<b>NON-RESIDENTIAL</b>				
<b>PROJECT</b>	<b>SQ. FT.</b>	<b>FAR</b>	<b>FLUC</b>	<b>YEAR APPROVED</b>
<b>Salzer &amp; Marianna/301 Commerce Shopping Center/Allris Plaza</b>	<b>19,000± sq. ft</b>	<b>0.26</b>	<b>R/O/R</b>	<b>2004</b>
<b>Parkwood Square Shopping Center</b>	<b>117,633± sq. ft.</b>	<b>0.11</b>	<b>R/O/R</b>	<b>2000</b>
<b>Creekside Oaks Commercial/Victoria Estates</b>	<b>300,000± sq. ft.</b>	<b>0.14</b>	<b>R/O/R</b>	<b>2008</b>
<b>Petzoldt, Curtis, Burnside, Kent/Xpress Storage US 301 North</b>	<b>43,284 sq. ft.</b>	<b>0.31</b>	<b>R/O/R</b>	<b>2011</b>

**POSITIVE ASPECTS**

- The site has GC zoning on the east and west sides.
- The site has access to US 301 N.
- The timing appears to be consistent with the development trends in the area.
- Commercial uses at this location may serve the day-to-day needs of the area, including banking, dry cleaning, retail sales, clinic, etc.
- General commercial uses may have a beneficial traffic impact by reducing trip lengths on the network.
- The size and configuration of the site will limit the amount of commercial development.

**NEGATIVE ASPECTS**

- The mobile home community (Terra Siesta Manufactured Home Park) may experience some impacts by this development.

**MITIGATING MEASURES**

- There is a storage area for the mobile home community directly to the north of the development.
- The provisions of the Land Development Code regarding compatibility, buffering, and lighting will be assessed when a site plan is reviewed.

<b>STAFF RECOMMENDED STIPULATIONS</b>	
<p><b>Not applicable. This is a “straight rezone” from RSF-1 to GC. All requirements of the R/O/R FLUC and GC zoning district will be reviewed with all future site plan approvals. These requirements include the range of permitted uses and size of project (FAR), setbacks, buffers, parking, adverse impact standards, etc.</b></p>	
<p><b>REMAINING ISSUES OF CONCERN – NOT RESOLVED OR STIPULATED</b>  <b>(Note: Stipulations cannot be attached to a straight rezone)</b></p>	
<p>None</p>	
<b>COMPLIANCE WITH THE LAND DEVELOPMENT CODE SECTION 504.5 - REZONE CRITERIA</b>	
<p><b>1. <u>Compatibility with Neighbors.</u> Is the requested change compatible with the existing development pattern and the zoning of nearby properties?</b></p>	<p>There is GC (General Commercial) zoning to the south, east, and west of this site. The manufactured home park to the north has RSF-1 (Residential Single Family-1 dwelling unit per gross acre) zoning. GC zoning is compatible with the existing development pattern and zoning of nearby and adjacent properties along this portion of US 301 corridor.</p>
<p><b>2. <u>Changes from Original Conditions.</u> Has there been a change in the conditions upon which the original zoning designation was based? Have major land uses or conditions changed since the zoning was established?</b></p>	<p>The property is currently zoned RSF-1 and adjacent to RSF-1 zoning to the north. The vacant properties to the east and west of the development are currently zoned GC. The majority of the property near this site on the south side of US 301 N, from the intersection of Erie Road west to 80<sup>th</sup> Avenue East is zoned GC with a FLUC of ROR. Therefore, GC zoning for this project appears to be appropriate given the development trends in the area.</p>
<p><b>3. <u>Comprehensive Plan.</u> Does the current zoning or the proposed zoning better conform to the current Comprehensive Plan?</b></p>	<p>Both RSF-1 and GC zoning districts are appropriate for the ROR FLUC. Along the major thoroughfare, US 301 N, there is more GC zoning.</p>
<p><b>4. <u>Conflicts with Public Improvements.</u> Will the proposed change conflict with existing or planned public improvements?</b></p>	<p>The applicant has been advised that additional right-of-way may be required for future roadway improvements. This will be determined with future site plan submittal.</p>
<p><b>5. <u>Sufficient Public Facilities.</u> Whether the proposed change will be supported by sufficient public facilities, based upon a consideration of the following factors:</b></p>	<p>(i) <b>Will the proposed change adversely affect traffic patterns or congestion?</b>                      Based on the Traffic Impact Statement dated May 3, 2011, and the subsequent analysis for 301 Commercial, The Building and Development Services, Transportation Planning Division, recommends approval of the Traffic Impact Statement. The applicant has addressed the Comprehensive Plan requirements and provided analysis to substantiate the findings. Based on the information presented in the Impact Statement a complete Traffic Impact Analysis will be required prior to issuance of concurrency.</p> <p>(ii) <b>Will the proposed change adversely impact population density or development intensity such that the demand for schools, sewers, streets, recreational areas and facilities, and other public facilities and services are adversely affected?</b>                      This is a commercial development so the population impact is non-existent. A CLOS</p>

will be considered with future submittals.

- (iii) **Are sufficient public facilities planned and funded to support any change in density or intensity pursuant to the requirements of the Comprehensive Plan and applicable law?**

No insufficient public facility issues have been raised by staff. US 301 N has recently been widened.

- 6. Neighborhood Changes. Will the proposed change adversely affect the health, safety or welfare of the neighborhood?**

This project should have no adverse impact on the health, safety or welfare of the neighborhood in this location.

- 7. Compliance with LDC. Is the proposed amendment in conformance with all applicable requirements of this Code?**

The proposed amendment is in conformance with all applicable requirements of the LDC. The future site plan for this project is required to be reviewed by Manatee County for compliance with the LDC.

- 8. Orderly Development. Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request.**

The proposed amendment is consistent with the development patterns in the area and appropriate for orderly development of the community.

- 9. Expanding Districts. Is the proposed amendment the logical expansion of adjacent zoning districts?**

The proposed amendment is a logical expansion of the adjacent zoning districts to the east and west.

- 10. Trends. Is the timing of the request appropriate given the development trends in the area?**

The timing appears to be appropriate given the development trends in the area.

- 11. Historic Resources. Will the proposed change adversely impact historic resources?**

There are no known historic resources on this site.

- 12. Environmental Impacts. Will the proposed change have an adverse environmental impact on the vicinity?**

Any environmental impacts will be addressed with future site plan submittals.

- 13. Lighting. Will the proposed change allow uses that require so much outdoor lighting that even the light from shielded fixtures may reflect off-site with potentially adverse effects on residential areas?**

Any proposed outdoor lighting will be required to meet LDC Section 709 during the future site plan submittal.

- 14. County Wide Changes. Will the proposed change adversely affect the health, safety and welfare of the County as a whole?**

This project should have no negative impact to the public health, safety, and welfare in this location.

**15. Mobile Homes.** For any rezoning that would result in the removal or relocation of mobile home owners residing in a mobile home park, has the applicant demonstrated that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners, within the meaning of, and pursuant to, Section 723.083, Florida Statutes.

Not applicable.

**16. Other Matters.** Any other matters which may be appropriate for consideration pursuant to this Code, the Comprehensive Plan or applicable law.

Future development will require the site plan review.

#### COMPLIANCE WITH LDC

(Note: Compliance with the standards of the GC zoning district and all other requirements of the LDC will be reviewed and verified with future site plan approvals for this site.)

#### COMPLIANCE WITH COMPREHENSIVE PLAN

The site is in the R/O/R Future Land Use Category. A list of Comprehensive Plan Policies applicable to this request is attached. This project was specifically reviewed for compliance with the following policies:

**Policy 2.1.2.7 Appropriate Timing.**

The timing of this rezone is appropriate given development trends in the area. The surrounding area is characterized by residential manufactured home development to the north and commercial to the south. The vacant parcels to the east and west of the site have GC zoning.

**Policy 2.2.1.17.2 Range of Potential Uses.**

Uses permitted in the GC zoning category include but are not limited to neighborhood convenience retail sales, eating establishments, banks, business services, professional medical office, medical dental lab, office, dry cleaner, small or medium printing, personal service establishment, or rental service establishment. Staff has reviewed the potential uses permitted in the GC zoning district and recommends that these uses are appropriate at this location and consistent with the R/O/R Future Land Use Category.

**Policy 2.6.1.1 Compatibility.**

The range of land uses permitted in GC zoning will be compatible with surrounding land uses and zoning as previously detailed in this staff report. The GC zoning district also establishes lot sizes, setbacks, open space requirements, and Floor Area Ratio that will be comparable with surrounding development and zoning districts, thereby assuring compatibility.

<b>CONCURRENCY</b>				
<b>CLOS APPLIED FOR: N</b>				
<b>TRAFFIC STUDY REQ'D: N</b>				
<b>AFFECTED ROADWAY</b>	<b>LINK(S)</b>	<b>ADOPTED LOS</b>	<b>OPERATING LOS</b>	<b>IMPROVEMENTS REQUIRED</b>
US 301	3407	D	C	N*
<p><b>*REQUIRED IMPROVEMENTS:</b> None at this stage of review.</p> <p>1. Based on the Traffic Impact Statement dated May 3, 2011, and the subsequent analysis for 301 Commercial, The Building and Development Services, Transportation Planning Division, recommends approval of the Traffic Impact Statement. The applicant has addressed the Comprehensive Plan requirements and provided analysis to substantiate the findings. Based on the information presented in the Impact Statement a complete Traffic Impact Analysis will be required prior to issuance of concurrency.</p>				

<p><b>ATTACHMENTS</b></p> <p><b>1. Applicable Comprehensive Plan Policies</b></p> <p><b>2. Zoning Disclosure Affidavit</b></p> <p><b>3. Copy of Newspaper Advertising</b></p>
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**APPLICABLE COMP PLAN POLICIES**

Policy: 2.1.2.4 Limit urban sprawl through the consideration of new development and redevelopment, when deemed compatible with existing and future development, and redevelopment area planning efforts when applicable in areas which are internal to, or are contiguous expansions of the built environment.

Policy: 2.1.2.7 Review all proposed development for compatibility and appropriate timing. This analysis shall include:

- consideration of existing development patterns,
- types of land uses,
- transition between land uses,
- density and intensity of land uses,
- natural features,
- approved development in the area,
- availability of adequate roadways,
- adequate centralized water and sewer facilities,
- other necessary infrastructure and services.
- limiting urban sprawl
- applicable specific area plans
- (See also policies under Objs. 2.6.1 - 2.6.3)

Policy: 2.2.1.17 **R/O/R:** Establish the Retail/Office/Residential future land use category as follows:

Policy: 2.2.1.17.1 Intent: To identify, textually in the Comprehensive Plan's goals, objectives, and policies, or graphically on the Future Land Use Map, areas which are established and developed areas exhibiting a broad range of commercial, residential and, in certain cases, light industrial uses, and to recognize the continued existence of such areas through the long range planning timeframe. Also, to provide for orderly transition from, or redevelopment of, these existing and developed multiple-use areas. Also, to prohibit the intrusion of new industrial areas into these ROR areas, which typically fail to exhibit a planned or integrated approach to multiple use development, and instead exhibit an incremental or unplanned history of multiple use development. Also to establish at a few major and highly accessible, but currently undeveloped, sites for the development of major future community or region-serving commercial uses with a variety and permitted intensity of use which allows for a multi-purpose commercial and office node, with residential uses. Also, to provide incentives for, encourage, or require the horizontal or vertical integration of various residential and non-residential uses within these areas, achieving internal trip capture,

Policy:	2.2.1.17.2	and the development of a high quality environment for living, working, or visiting. Range of Potential Uses (see Policies 2.1.2.3 - 2.1.2.7, 2.2.1.5): Retail, wholesale or office commercial uses which function in the market place as neighborhood, community, or region-serving. Also residential uses, lodging places, public or semi-public uses, schools, recreational uses, appropriate water-dependent/ water-related/water-enhanced uses (see also Objectives 4.2.1 and 2.10.4), and short-term agricultural uses.
Policy:	2.2.1.17.3	Range of Potential Density/Intensity: Maximum Gross Residential Density: For development existing at time of plan adoption or treated as a special exception under this Comprehensive Plan - 16 dwelling units per acre For new development - 9 dwelling units per acre Minimum Gross Residential Density: 7.0 only in CRA's and UIRA for residential projects that designate a minimum of 25% of the dwelling units as "Affordable Housing". Maximum Net Residential Density: For development existing at time of plan adoption or treated as a special exception under this Comprehensive Plan - 20 dwelling units per acre For new development - 16 dwelling units per acre 24 dwelling units per acre inside the CRA's and UIRA for residential projects that designate a minimum of 25% of the dwelling units as "Affordable Housing". Maximum Floor Area Ratio: 0.35 1.0 inside the CRA's and UIRA Maximum Floor Area Ration for Hotels: 1.0 Maximum Square Footage for Neighborhood, Community, or Region-Serving Uses: Large 300,000sf
Policy:	2.2.1.17.4	Other Information: a) All mixed and multiple-use projects shall require special approval, as defined herein, and as further defined in any land development regulations developed pursuant to § 163.3202, F.S. b) All projects for which either gross residential density exceeds 6 dwelling units per acre, or for which any net residential density exceeds 9 units per acre, shall require

special approval.

- c) All non-residential projects, or part thereof, exceeding 0.25 FAR shall also require special approval except mini-warehouse.
- d) Non-residential projects exceeding 150,000 square feet gross building area may be considered only if consistent with the requirements for large commercial uses, as described in this element.
- e) In areas where existing development is recognized utilizing the Retail/Office/Residential category, or where the spatial form of the Retail/Office/Residential designation on the Future Land Use map is accordingly inconsistent with the commercial locational criteria contained in this element; development or redevelopment within the area designated under this category shall not be required to achieve compliance with the commercial locational criteria described in Sections 2.10.4.1 and 2.10.4.2 of this element. However, any such development or redevelopment shall still be required to achieve compliance with other commercial development standards contained in this element, and be consistent with other goals, objectives, and policies in this Comprehensive Plan (see also 2.10.4.2).
- f) In areas where the Retail/Office/Residential category is designated in a manner entirely consistent with the commercial locational criteria, all commercial development or redevelopment shall be conducted in a manner consistent with the commercial location criteria and development standards contained in this element.
- g) In order to distinguish between uses which may be permitted in the R/O/R category, as compared to those which require siting within an industrial category, the following guidelines shall be utilized:
  - I. No uses which have a primary purpose of distribution of goods from that site shall be permitted in the Retail/ Office/ Residential designation.
  - II. No new areas (a new area, for the purposes of this policy, shall be defined as property beyond those parcel configurations as of May 11, 1989 which had light industrial uses established upon them) engaging in the manufacturing, processing, and assembly of goods shall be permitted in the Retail/Office/ Residential designation except as provided below:
  - III. Legally established light industrial uses existing prior to the adoption of this Comprehensive Plan shall be

considered legally conforming uses, limited to their approved location. With special approval, other light industrial uses and additional square footage within the same parcel may be approved if there are no additional impacts to adjoining properties and all special approval criteria are met.

- iv. If a legally established light industrial use ceases operation for over six months with no action to re-establish and/or continue such use, the use shall now be prohibited from development within the R/O/R designation.

**GOAL: 2.6 Development Compatible With Existing And Proposed Adjacent Land Uses.**

**Objective: 2.6.1 Compatibility Through Screening, Buffering, Setbacks, And Other Mitigative Measures:** Require suitable separation between adjacent land uses to reduce the possibility of adverse impacts to residents and visitors, to protect the public health, and to provide for strong communities.

**Policy: 2.6.1.1** Require all adjacent development that differs in use, intensity, height, and/or density to utilize land use techniques to mitigate potential incompatibilities. Such techniques shall include but not be limited to:

- use of undisturbed or undeveloped and landscaped buffers
- use of increased size and opacity of screening
- increased setbacks
- innovative site design (which may include planned development review)
- appropriate building design
- limits on duration/operation of uses
- noise attenuation techniques
- limits on density and/or intensity [see policy 2.6.1.3]

**Policy: 2.10.4.2** Prohibit the consideration of any development order establishing the potential for commercial development, where the proposed project site is inconsistent with commercial locational criteria. Consistency shall be determined through the application of the commercial location review process described in the operative provisions contained in this Element. Permitted exceptions to these requirements are limited to:

- existing commercial uses that are legally permitted, and that are in place at time of comprehensive plan adoption. However, where such uses are nonconforming to other development regulations, nothing in this policy shall render those uses conforming to the subject

regulations.

- redevelopment of an existing commercial use which does not meet the commercial locational criteria, subject to the finding by the Board of County Commissioners that the proposed project is consistent with the general welfare of Manatee County residents.
- locations designated as Retail/Office/ Residential (ROR) or Low Intensity Office (OL), Medium Intensity Office (OM) or Mixed Use (MU) or within the MU-C Mixed Use Community and its Sub Areas which are inconsistent with commercial locational criteria [see 2.2.1.16.4(b) and 2.2.1.17.4(e)].
- recreational vehicle parks. However, compliance with Policy 2.10.5.2 shall be required.
- establishments providing nursing services as described in Chapter 464, F.S.
- sale of agricultural produce at roadside stands.
- small commercial uses associated with a permanent roadside agricultural stand. Maximum commercial square footage shall be 3,500 square feet of the project. Development must be located on functionally classified rural arterial or rural collector roadway. Planned development approval required.
- agricultural service establishments (e.g. farm equipment sales and service).
- low intensity commercial recreational facilities (e.g., driving range).
- rural recreational facilities located in the Ag/R future land use category meeting adverse impact standards as established within the Manatee County Land Development Code. All such uses must receive Special Approval.
- appropriate water-dependent, water -related, and water-enhanced commercial uses, as described under Objective 4.2.1.
- commercial uses located within Port Manatee.
- Professional office uses not exceeding 3,000 square feet in gross floor area within the Res-6, Res-9, RES-12, and Res-16 future land use categories may be exempted from compliance with any locational criteria specified under Policies 2.10.4.1 and detailed in the operative provisions provided such office is located on a roadway classified as a minor or principal arterial on the roadway functional classification map, however, not including interstates, and shall still be consistent with other commercial

development standards and with other goals, objectives, and policies in this Comprehensive Plan (see also 2.2.1.12.4, 2.2.1.13.4, 2.2.1.15.4).

- commercial uses located within the rural community of Myakka City which is designated as those lands on Sheet 29 of the Future Land Use Map shown as Res-3 or Res-1 on May 11, 1989, provided that they are located along State Road 70 within 1,500 feet from its intersection with Wauchula Road, and located within 1,000 feet along Wauchula Road from its intersection with State Road 70. Further, properties developed commercially, or having commercial zoning in place at the time of adoption of this Comprehensive Plan if they have frontage on State Road 70 and are within three-quarters mile of the State Road 70 and Wauchula Road intersection are also exceptions. Furthermore, all commercial uses allowable under this provision will be exempt from the one-half mile spacing requirement denoted in Policy 2.10.4.3(4).
- Small commercial (professional) office uses which operate as an accessory use to a residential religious development. Such accessory office uses which do not serve the general public but which serve the residential religious development may locate in residential future land use categories (RES-1, RES-3, UF-3, RES-6, RES-9, RES-12 and RES-16)
- and may be exempted from compliance with any locational criteria specified under Policies 2.10.4.1 and detailed in the operative provisions (see also 2.2.1.9, 2.2.1.10, 2.2.1.11, 2.2.1.12.4, 2.2.1.13.4, 2.2.1.14.4 and 2.2.1.15.2).
- Neotraditional developments that have commercial and office developments located internal to the project and whose main project access is located on a road designated as a collector or higher.
- DRI's and Large Project developments that have mixed uses with a residential component and meet minimum development characteristics (see Neo-Traditional Development definition for development characteristics), have commercial uses located internal to neighborhoods and whose main neighborhood access is located on a road designated as a collector or higher.
- commercial uses located within the Parrish area for properties fronting US 301, from Moccasin Wallow Road to the realigned Ft. Hamer Road. These commercial uses are limited to a building footprint of 5,000 square feet except at nodes.
-

No exception to commercial locational criteria provided for under this policy shall be used as a precedent for establishing other commercial development inconsistent with this Comprehensive Plan.

Nothing in this policy shall require the issuance of a development order solely on the basis of compliance with commercial locational criteria. Compliance with other commercial development standards contained in Policy 2.10.4.3 below, and with all other goals, objectives, and policies of this Comprehensive Plan is also required for issuance of a development order approving commercial uses. In particular, compliance with the policies of Objectives 2.6.1 and 2.6.2 is mandatory for approval of any commercial use within a residential designation.

**MANATEE COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
ZONING DISCLOSURE AFFIDAVIT**

Project name: 301 Commercial Rezone

The Manatee County Land Development Code 90-01, as amended requires that all applications for Zoning Atlas Amendments shall include public disclosure of applicants and their percentage of interest.

If the property is owned by a CORPORATION, list the principal officers and principal stockholders and the percentage of stock owned by each.

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

If the property is in the name of a PARTNERSHIP or LIMITED PARTNERSHIP, list the name of the principals below, including general and limited partners.

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust. This is in addition to the list of owners.

FOR ANY CHANGES OF OWNERSHIP OR CHANGES IN CONTRACTS FOR PURCHASE SUBSEQUENT TO THE DATE OF THE APPLICATION, BUT PRIOR TO THE DATE OF FINAL PUBLIC HEARING, A SUPPLEMENTAL DISCLOSURE OF INTEREST SHALL BE FILED.

Disclosure shall not be required of any entity whose interests are solely equity interest which are regularly traded on an established securities market in the United State or another country.

NAME, ADDRESS AND OFFICER

PERCENTAGE  
STOCK, INTEREST OR OWNERSHIP

Check if owner (  ) or contract purchaser (  )

Trustee/Beneficiaries:

<u>Carlos M. Beroff as trustee</u>	<u>100%</u>
<u>of the Carlos M. Beroff</u>	_____
<u>revocable trust u/a/d Sept. 23, 1999</u>	_____

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true.

Signature: *Timothy Knowles*  
(Applicant): Timothy A. Knowles

STATE OF FLORIDA  
COUNTY OF Manatee

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 28 day of Feb, 2011, by Timothy Knowles, who is personally known to me or who has produced \_\_\_\_\_ as identification.  
(type of identification)

*Joylyn Sanchez*  
**Joylyn Sanchez** Notary Signature

My Commission Expires: Dec 3, 2014

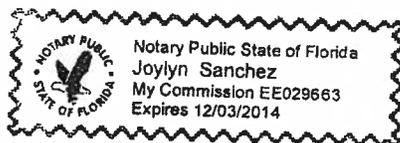
Print or type name of Notary

Commission No: EE029663

Title or Rank

Revised 2/8/10

B-4



**Copy of Newspaper Advertising**

**Bradenton Herald**

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Planning Commission of Manatee County will conduct a Public Hearing on Thursday, May 12, 2011 at 9:00 a.m. at the Manatee County Government Administrative Center, 1st Floor Chambers, 112 Manatee Avenue West, Bradenton, Florida to consider, act upon, and forward a recommendation to the Board of County Commissioners on the following matters:

**MANATEE COUNTY ORDINANCE 11-16 (DRI #14) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County RI #14 a/k/a Tampa Bay Regional Planning Council BRPC DRI #103); providing findings of fact; providing conclusions of law; providing definitions; providing amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted by Senate Bill 1752.  
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.  
3. Amend Map H to permit an additional right in/right out access from University Parkway.  
4. Amend General Conditions, Section O.(2), to allow Biennial Reports in conformance with Section 380.06(18), Florida Statutes (as amended).  
5. Any other revisions deemed necessary or appropriate during

the public hearing process. 6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(Z)(G)(R8) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcels H, I and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**Z-11-04 - DTS20110062 - PARKWAY LAND TRUST #1/302 COMMERCIAL REZONE**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee County Land Development Code), relating to zoning within the unincorporated area; providing for a rezoning of approximately 0.6 acres north of US 301 and approximately 1,200 feet west of Erie

Road, Parrish from the RSF-1 (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description; providing for severability, and providing an effective date.

All interested parties are invited to appear at this public hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission and entered into the record.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate

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**Sarasota Herald Tribune**

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5. Any other revisions deemed necessary or appropriate during the public hearing process.
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**THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**  
MANATEE COUNTY PLANNING COMMISSION  
Manatee County Building and Development Services Department  
Manatee County, Florida

Date of pub: April 27, 2011

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	Ordinance 11-17 – LDC Amendment – Access Point to University Parkway	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearings - Regular
<b>DATE REQUESTED</b>	05/12/11PC	<b>DATE SUBMITTED/REVISED</b>	05/05/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Lisa Barrett / 748-4501 ext. 6884 DTS20100214	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Lisa Barrett / Planning Manager / 748-4501 ext. 6884
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**  
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

I move to recommend APPROVAL of Ordinance 11-17 per the recommended motion in the staff report attached to this memo.

**ENABLING/REGULATING AUTHORITY**  
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Manatee County Comprehensive Plan and Manatee County Land Development Code.

**BACKGROUND/DISCUSSION**

- The applicant, Benderson Properties, Inc. within the Cooper Creek DRI (Development of Regional Impact), has submitted an application for an NOPC (Notice of Proposed Change) and GDP (General Development Plan) Amendment to the Cooper Creek DRI. Along with the NOPC and the GDP amendments, the applicant submitted a proposed Land Development Code Amendment to revise LDC Section 741.3.2 to add a new right-turn in/right-turn out driveway along the north side of University Parkway. The new access point is proposed approximately 450' west of Cooper Creek Boulevard within the Cooper Creek DRI.
- The NOPC and GDP are scheduled for May hearings. The NOPC and GDP applications include the proposed new access point to University Parkway. However, in addition to the DRI and GDP amendments, the LDC must be amended. Two Board of County Commission public hearings are required for a Code Amendment (scheduled for May 5, 2011 and May 24, 2011). The NOPC and GDP are also scheduled to be heard by the Board at the May 24, 2011 hearings.
- In addition to the LDC Amendment, the Interlocal Agreement between Sarasota County and Manatee County will need to be amended prior to Board approval of this LDC Amendment (prior hearing or at the same hearing as 05/24/2011). Sage Kamiya, with the Traffic Engineering Division of Public Works is processing the amendment to the Interlocal Agreement.
- Public Works and Building and Development Services Department have no objection to the new access point as it will reduce the amount of traffic through the intersections of University Parkway and Cooper Creek Blvd. and Tourist Center Drive and Cooper Creek Blvd.; it will reduce queuing of traffic and improve safety at the Tourist Center Drive and Cooper Creek Blvd. intersection, and will allow for an alternate route for delivery trucks to access the commercial/retail and hotel establishments.
- Staff recommends approval, contingent upon the amendment of the Interlocal Agreement.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input checked="" type="checkbox"/>	<b>REVIEWED</b> <b>Written Comments:</b> <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Available from Attorney (Attorney's initials: SAS)
<input type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

<b>ATTACHMENTS: (List in order as attached)</b>		<b>INSTRUCTIONS TO BOARD RECORDS:</b>	
Staff report		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

P.C. 05/12/2011

**ORDINANCE 11-17– LAND DEVELOPMENT CODE AMENDMENT - ACCESS POINT  
TO UNIVERSITY PARKWAY (DTS #20110100 )**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending Section 741.3 of the Manatee County Land Development Code (Ordinance 90-01, as amended); amending the number and location of access points to University Parkway; providing for severability; and providing an effective date.

**P.C.: 04/14/11, 05/12/2011**

**B.O.C.C.: 05/24/2011**

**RECOMMENDED MOTION:**

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, I move to recommend ADOPTION of Manatee County Ordinance 11-17 subject to approval of the Ninth Amendment to the Interlocal Agreement for University Parkway between Manatee County and Sarasota County.

**PLANNING COMMISSION ACTION:**

On April 14, 2011, by a vote of 7 – 0, the Planning Commission continued the public hearing to May 12, 2011.

<b>PROJECT SUMMARY</b>	
<b>CASE#</b>	(DTS # 20110100)
<b>PROJECT NAME</b>	Cooper Creek DRI #14
<b>APPLICANT(S):</b>	Benderson Properties, Inc., a New York Corporation (f/k/a Benderson Development Company, Inc.)
<b>PROPOSED ZONING:</b>	N/A
<b>EXISTING ZONING:</b>	PDMU/WP-E/ST - 604.68 acres
<b>PROPOSED USE(S):</b>	Amend LDC Section 741.3.2 regarding the number and location of access points to University Parkway. Applicant requests to add a new right -turn in/right-turn out access drive on University Parkway, approximately 450 ft. west of Cooper Creek Boulevard.
<b>CASE MANAGER:</b>	Lisa Barrett
<b>STAFF RECOMMENDATION:</b>	APPROVAL
<b>DETAILED DISCUSSION</b>	
<p>The proposed amendment will amend the language within the Land Development Code as to the number and location of access points allowed for segments of University Parkway.</p> <p>The right-turn in/right-turn out only driveway will provide access to the commercial/retail and hotel establishments located adjacent to Tourist Center Drive, within the Cooper Creek Center Development of Regional Impact (DRI #14). The new driveway construction will include a deceleration lane entering the site and an acceleration lane exiting the site onto University Parkway. The new drive will provide several benefits to the surrounding roadway network, including:</p> <ol style="list-style-type: none"> <li>1. Reducing the amount of traffic through the University Parkway and Cooper Creek Boulevard intersection. Patrons exiting the commercial/retail and hotel establishments along Tourist Center Drive and wishing to turn right (west) on University Parkway will be able to avoid the intersection of Tourist Center Drive</li> </ol>	

and Cooper Creek Boulevard.

2. Reducing the queuing of traffic and improve safety at the Tourist Center Drive and Cooper Creek Boulevard intersection. During the heaviest intervals of traffic during the day, the southbound left-turn queues at University Parkway and Cooper Creek Boulevard intersection can back into the Tourist Center Drive intersection, causing congestion for eastbound right-turning vehicles and northbound left-turning vehicles, and potential safety-related concerns. Thus, this new driveway will improve traffic flow and safety in this area.

The proposed amendment language and amended map (See Attachment 1) clarify the number and location of right-turn intersections allowed within segments of University Parkway. Currently tracking with this LDC amendment is an amendment to the Interlocal Agreement for University Parkway between Manatee and Sarasota Counties to add the additional right turn-in/right turn-out intersection. The amendment to the Interlocal Agreement must be approved by Sarasota and Manatee Counties prior to or at the same hearing as this Code amendment.

The proposed amendments to LDC Section 741.3.2 are presented in add/delete format:

*741.3.2.Provisions:*

Cross Access Easement: When vehicular traffic is projected to exceed seventy-five (75) vehicle trips per day on the subject property, a thirty (30) foot wide vehicular cross access easement(s) to adjacent parcels shall be granted to adjoining property owners and the public in a location acceptable to the Manatee County Planning Department.

• *Median Opening Intersection:* Median Opening Intersections shall be allowed only at the following University Parkway intersections:

Kentucky/28th Street Court East

Shade Avenue

Tuttle Avenue

Lockwood Ridge Road

Conservatory Drive

Whitfield Avenue

DeSoto Road/Park Boulevard (extension through Longwood Run Development, former McIntosh Road)

Saunders Road (extension)

Honore Avenue

Cooper Creek Road/Brown Road

or as otherwise approved by the Board

*Median Opening Intersections*, are limited to a minimum average of one-half (½) mile spacing.

• *Right Turn Intersections:* Right Turn Intersections shall include adequate deceleration and acceleration traffic lanes upon University Parkway.

Right Turn Intersections Prohibited:

Between Interstate 75 and State Road 70,

Right Turn Intersections shall not be permitted; and Projects shall provide a thirty-foot wide vehicular cross-access easement or frontage road to adjoining parcels, generally to run parallel to University Parkway.

Right Turn Intersections shall be a minimum of six hundred and sixty (660) feet from a Median Opening Intersection or another Right Turn Intersection.

A Right Turn Intersection shall be permitted within each area as indicated below:

1. Between US 301 and Shade Avenue. None
2. Between Shade Avenue and Tuttle Avenue, located on a centerline six hundred sixty (660) feet west of the centerline of Tuttle Avenue.
3. Between Shade Avenue and Tuttle Avenue, on a centerline one thousand and six hundred sixty (1,660) feet west of the centerline of Tuttle Avenue and equally positioned on a property line common to the parcels known as the "Whitcomb" and "County Line Groves" parcels or within two hundred (200) feet east or west of the common property line, provided that if not located on the common property line, then a mutually agreed upon unified development plan and access plan for the two (2) parcels shall be required.
4. Between Tuttle Avenue and Lockwood Ridge Road beginning at seven hundred (700) feet west of the west right-of-way line of Lockwood Ridge Road and extending an additional two hundred twenty-eight (228) feet westward.
5. Between Tuttle Avenue and Lockwood Ridge Road beginning at eight hundred (800) feet east of the centerline of Tuttle Avenue and extending an additional two hundred (200) feet.

6. Between Lockwood Ridge Road and Conservatory Drive beginning at eight hundred sixty-five (865) feet west of the east right-of-way line of Lockwood Ridge Road and extending an additional four hundred thirty (430) feet eastward.
7. Between Conservatory Drive and Honore Avenue beginning at one thousand one hundred forty (1,140) feet west of the centerline of Honore Avenue and extending an additional one hundred (100) feet westward.
- 7.8. Between Honore Avenue and I-75 beginning at eight hundred fifty (850) feet east of the centerline of Honore Avenue and extending an additional two hundred (200) feet eastward.
9. Between Honore Avenue and Cooper Creek Boulevard, approximately 450 feet west of Cooper Creek Boulevard.

#### POSITIVE ASPECTS

- Reduces the amount of traffic through the University Parkway and Cooper Creek Boulevard intersection and at the Tourist Center Drive and Cooper Creek Boulevard intersection and, thus, will extend the capacity available at both locations.
- Reduces the queuing of traffic and improve safety at the Tourist Center Drive and Cooper Creek Boulevard intersection.
- Allows for an alternate route for delivery trucks to access the commercial/retail and hotel establishments.

#### COMPLIANCE WITH COMPREHENSIVE PLAN

**This project was specifically reviewed for compliance with the following Comprehensive Plan Policies:**

**Manatee County Land Development Code, Section 741.3.2, is being amended pursuant to the following Comprehensive Plan Policies:**

Policy: 5.2.2.3      Designate where determined to be necessary by the Board of County Commissioners, any roadway shown on the Future Traffic Circulation Map (Map 5E) as a "controlled access facility," as defined herein. This designation should not be confused with the category of roadway used for functional classification purposes called "limited access facility". Also, for any controlled access facility, limit the rights of abutting lands to direct

or indirect access to the facility in a manner specific to that facility. Furthermore, to prohibit the issuance of a Certificate of Level of Service Compliance on any project unless project design meets all criteria adopted for adjacent controlled access facilities. A list of approved intersections may also be developed for each controlled access facility to identify permitted access points to the facility.

All "entranceways," as described in Policies 2.9.4.1 & 2.9.4.2, shall also be designated as controlled access facilities, with access limitations specified at time of defining the extent of these facilities pursuant to Policies 2.9.4.1 & 2.9.4.2.

At a minimum, the following roadways shall be considered as Manatee County Designated "Controlled Access Facilities".

- 1) University Parkway between U.S. 301 and SR70.
- 2) State Route 70 between I-75 and Verna Bethany Road.
- 3) State Route 64 between I-75 and Verna Bethany Road.
- 4) U.S. 301 Between I-75 and North Manatee County line.
- 5) U.S. 41 between 49th Street East (Experimental Farm Road) and north Manatee County Line.

All Manatee County "Controlled Access Facilities" shall be shown on the Future Traffic Circulation Map (Map 5E) via the plan amendment process, and a description of access limitations shall be contained in land development regulations developed pursuant to Section 163.3202, F.S.

Implementation Mechanism(s):

- a) Coordination between the Manatee County Public Works Department and the Planning Department, and the Florida Department of Transportation to recommend, as necessary, proposed controlled access facilities and related limitations on direct or indirect access.
- b) Inclusion in any land development regulations developed pursuant to Section 163.3202, F.S., descriptions of access intersections and adjacent land access limitations for controlled access facilities.

Policy: 5.2.2.4

Consider, for any roadway alignment established as a controlled access facility pursuant to Policy 5.2.2.3 above, the reservation and protection of sufficient right-of-way for the development of parallel frontage roads to

increase local access. Any such increased right-of-way shall be protected or reserved as permitted under Policies 5.2.1.5 and 5.2.1.6 above.

**Policy: 5.2.2.5**

Generally, encourage the use of project access points which provide project entrances onto collectors and not arterials, and which provide access to arterials at improved intersections and not via uncontrolled driveways. However, "right-turn-in only" ingress points on arterials may be considered where appropriate.

**Implementation Mechanism:**

- a) Coordination between the Planning Department and Public Works Department to recommend development order conditions addressing access to ensure compliance with this policy.

**ATTACHMENTS**

- 1. Ordinance 11-17 with Exhibit A**
- 2. Copy of Newspaper Advertising**

## **ORDINANCE 11-17**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY FLORIDA AMENDING SECTION 741.3 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED); AMENDING THE NUMBER AND LOCATION OF ACCESS POINTS TO UNIVERSITY PARKWAY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on May 12, 2011, the Planning Commission, the County's Local Planning Agency, held a duly noticed public hearing to review this Ordinance and adopted a motion finding this Ordinance consistent with the Comprehensive Plan and recommending its approval; and

**WHEREAS**, on May 24, 2011, the Board of County Commissioners held a duly noticed public hearing to receive public comment and to review and consider this Ordinance; and

**WHEREAS**, after considering public comment, the recommendations of the Planning Commission and Planning staff, the Board has found this Ordinance consistent with the Comprehensive Plan and in furtherance of the public health, safety, and welfare, and has adopted the Ordinance as set forth herein.

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

**Section 1. Purpose and Intent.** This ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

**Section 2. Findings.** The Board of County Commissioners relies upon the following findings for the adoption of this ordinance:

1. There has been a privately initiated application filed to amend the Land Development Code to add a westbound right turn in/right turn out intersection located approximately 450 feet west of Cooper Creek Boulevard onto University Parkway.
2. The Planning Commission as the County's Local Planning Agency has held a duly noticed public hearing on May 12, 2011 to review proposed Ordinance 11-17 and adopted a motion finding this proposed ordinance consistent with the Comprehensive Plan and recommending its adoption to the Board of County Commissioners; and
3. The Board of County Commissioners held a duly noticed public hearing May 24, 2011 on proposed Ordinance 11-17 to receive public

comment and review and consider the Staff Report and the report of the Planning Commission on this proposed ordinance; and

4. The Board of County Commissioners after considering public comment, the recommendations of the Planning Commission and Planning staff, has found proposed Ordinance 11-17 consistent with the Comprehensive Plan and in furtherance of the public health, safety and welfare and has adopted this ordinance as set forth herein.

**Section 3.** Amendment to Section 741 of the Land Development Code, Section 741, Limited Access of Major Thoroughfares of the Land Development Code is hereby amended to add reference to an additional restricted access intersection on University Parkway to Section 741.3.2. Said amended Section 741.3.2 as amended shall provide as follows: with additional text indicated by underlining, deletions by ~~strikeout~~.

*741.3.2.Provisions:*

Cross Access Easement: When vehicular traffic is • projected to exceed seventy-five (75) vehicle trips per day on the subject property, a thirty (30) foot wide vehicular cross access easement(s) to adjacent parcels shall be granted to adjoining property owners and the public in a location acceptable to the Manatee County Planning Department.

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- 9. Between Honore Avenue and Cooper Creek Boulevard, approximately 450 feet west of Cooper Creek Boulevard.

**Section 4. Codification.** The publisher of the County’s Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 3 and the attached Access Management for University Parkway, Figure 2-East diagram (Exhibit A), as adopted in this ordinance into the Land Development Code.

**Section 5. Severability.** If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 24<sup>th</sup> day of May 2011.

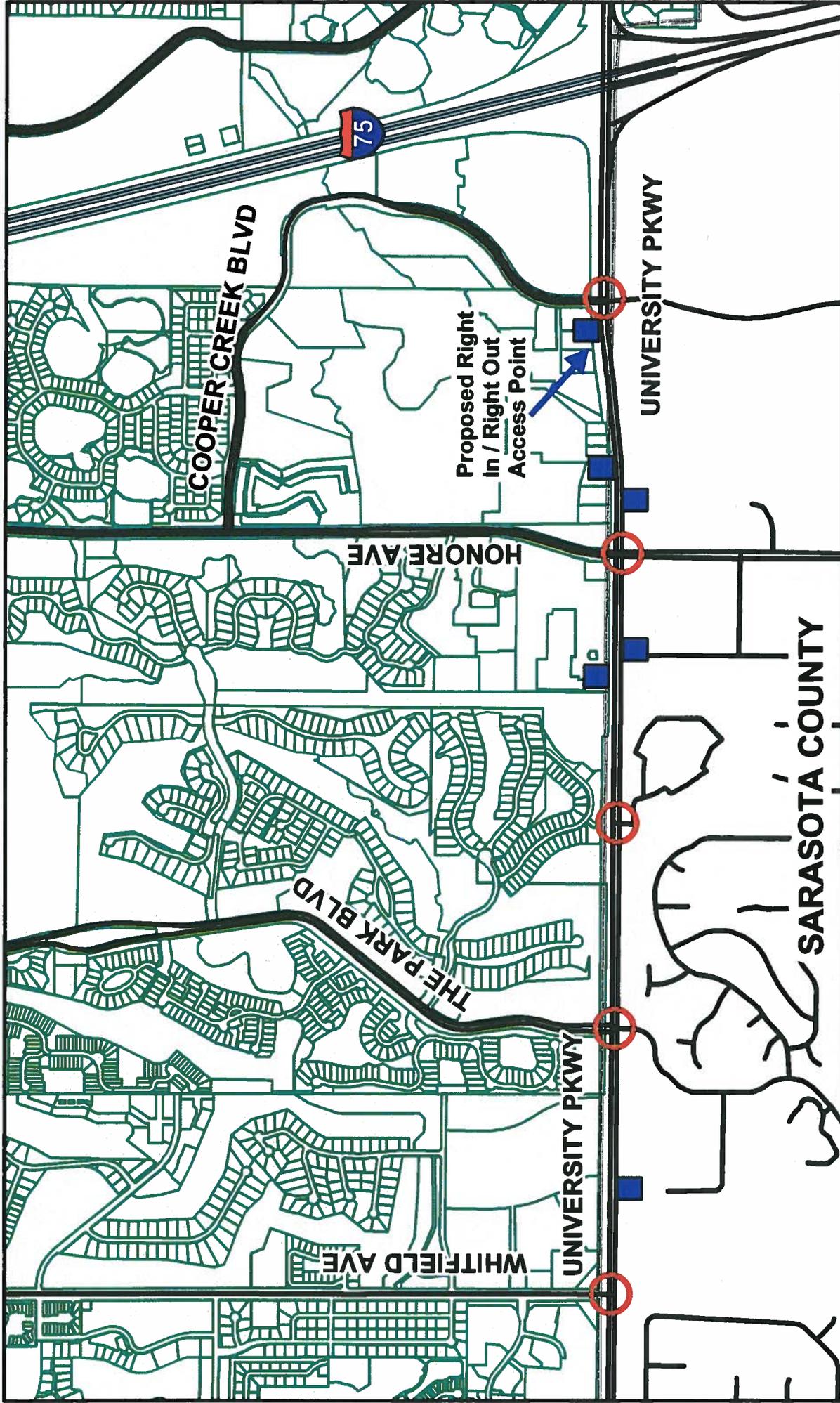
**BOARD OF COUNTY COMMISSIONERS OF  
MANATEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Carol Whitmore, Chairman

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

By: \_\_\_\_\_  
Deputy Clerk

# ACCESS MANAGEMENT FOR UNIVERSITY PARKWAY



This map was prepared by the Manatee County Geographic Information System. The data used on this map is not intended to be used for legal purposes. Errors from non-coincidence of features from different sources may exist. The Manatee County BOCG shall be held harmless for inappropriate or unlicensed uses of the information.

Map Author: gash  
 Creation Date: 4/2011  
 Map Document Name: C:\PLANNING\GIS\WEB MAPS



Figure 2 - East



MEDIAN OPENING INTERSECTIONS

RIGHT TURN IN / RIGHT TURN OUT INTERSECTIONS  
 (SEE TEXT FOR LOCATION AND DIMENSIONS)



## **NOTICE OF LAND DEVELOPMENT CODE CHANGES IN UNINCORPORATED MANATEE COUNTY**

The Manatee County Planning Commission will hold a public hearing to consider amendments to certain provisions of the Manatee County Land Development Code (Ordinance 90-01, as amended) and make a recommendation to the Board of County Commissioners as to the consistency of the proposed Ordinances with the Comprehensive Plan and as to whether the proposed ordinance should be adopted, adopted with modifications, or denied.

Date: Thursday, April 14, 2011  
Time: 9:00 AM or soon thereafter  
Place: Manatee County Government Administrative Center  
1112 Manatee Avenue West,  
1st Floor Chambers

### ORDINANCE 11-05 – SIGN ORDINANCE

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 201, LAND DEVELOPMENT CODE, TO REPEAL ALL SIGN-RELATED DEFINITIONS; REPEALING IN ITS ENTIRETY SECTION 724, SIGNS, LAND DEVELOPMENT CODE; CREATING A NEW SECTION IN THE LAND DEVELOPMENT CODE FOR SIGN-RELATED DEFINITIONS IN SECTION 201, DEFINITIONS, TO CREATE NEW SIGN DEFINITIONS; AMENDING SECTION 304 REGARDING AUTHORITY OF HEARING OFFICERS TO GRANT ADJUSTMENTS TO SIGN REGULATIONS; CREATING A NEW SECTION 724 IN THE LAND DEVELOPMENT CODE CONSISTING OF NEW SIGN REGULATIONS; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING FOR A PERMITTING PROCESSES FOR SIGNS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF THE SIGN REGULATIONS; PROVIDING FOR EXCEPTIONS FROM REQUIREMENTS FOR STANDARDS FOR SIGN PERMITS; PROVIDING FOR REVOCATION OF SIGN PERMITS; SETTING FORTH AN APPEAL PROCESS REGARDING SIGN PERMITS; AMENDING SECTION 502.7.4, POSTED NOTICE, REGARDING SIGN REGULATIONS; AMENDING SECTION 603.4 PLANNED DEVELOPMENT DISTRICTS WITH SPECIFIC REFERENCE TO SIGNS; AMENDING SECTION 737, ENTRANCEWAYS REGARDING SIGN REGULATIONS; AMENDING SECTION 603.3 REGARDING PLANNED DEVELOPMENT AND 603.14, PDW-PLANNED DEVELOPMENT-WATERFRONT WITH REFERENCE TO SIGN REGULATIONS; AMENDING 604.10 NORTH CENTRAL OVERALY DISTRICT WITH REFERENCE TO SIGN REGULATIONS; AMENDING SECTION 713, VISIBILITY TRIANGLES; AMENDING SECTION 911, VACATION OF STREETS AND TRANSFER OF PLATS; AMENDING SECTION 709.3.6 LIGHTING FOR SIGNS; AMENDING OTHER SECTIONS OF LAND DEVELOPMENT CODE FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY IN GENERAL; PROVIDING FOR SEVERABILITY WHERE LESS SPEECH RESULTS; PROVIDING FOR SEVERABILITY OF PROVISIONS PERTAINING TO PROHIBITED SIGNS; PROVIDING FOR SEVERABILITY OF PROHIBITION ON BILLBOARDS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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The public is invited to speak at this hearing, subject to proper rules of conduct. The hearing may be continued from time to time to a date and time certain. The public may also provide written comments for the Planning Commission to consider.

Interested parties may examine the proposed Ordinances and related documents and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2<sup>ND</sup> Floor, Bradenton, Florida; telephone number (941) 748-4501 EXT. 6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

Rules of procedure for this public hearing are in effect pursuant to Resolution 05-239(PC). A copy of this Resolution is available for review or purchase from the Building and Development Services Department (see address below).

Please send comments to: Manatee County Building and Development Services Department  
Attn: Project Coordinator  
1112 Manatee Ave. West 2<sup>ND</sup> Floor  
Bradenton, FL 34205

All written comments will be entered into the record.

For More Information: Copies of the proposed amendment will be available for review and copying at cost approximately ten (10) days prior to the public hearing. Information may also be obtained by calling 748-4501 x 6878, between 8:00 AM - 5:00 PM.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Kaycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds, FAX 745-3790.

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**

MANATEE COUNTY PLANNING COMMISSION  
Manatee County Building and Development Services Department  
Manatee County, Florida

**Copy of Newspaper Advertising**

**Bradenton Herald**

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MANATEE COUNTY PLANNING COMMISSION  
Manatee County Building and Development Services Department  
Manatee County, Florida

656610

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	Ordinance 11-16 – Cooper Creek (DRI #14)	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearings - Regular
<b>DATE REQUESTED</b>	05/12/11PC	<b>DATE SUBMITTED/REVISED</b>	05/05/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official <i>JO</i>
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Lisa Barrett / 748-4501 ext. 6884 DTS20100214	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Lisa Barrett / Planning Manager / 748-4501 ext. 6884
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**  
**INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED**

I move to recommend APPROVAL of Ordinance 11-16 per the recommended motion in the staff report attached to this memo.

**ENABLING/REGULATING AUTHORITY**  
**Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy**

Manatee County Comprehensive Plan and Manatee County Land Development Code and Florida Statute 380.06.

**BAGKGROUND/DISCUSSION**

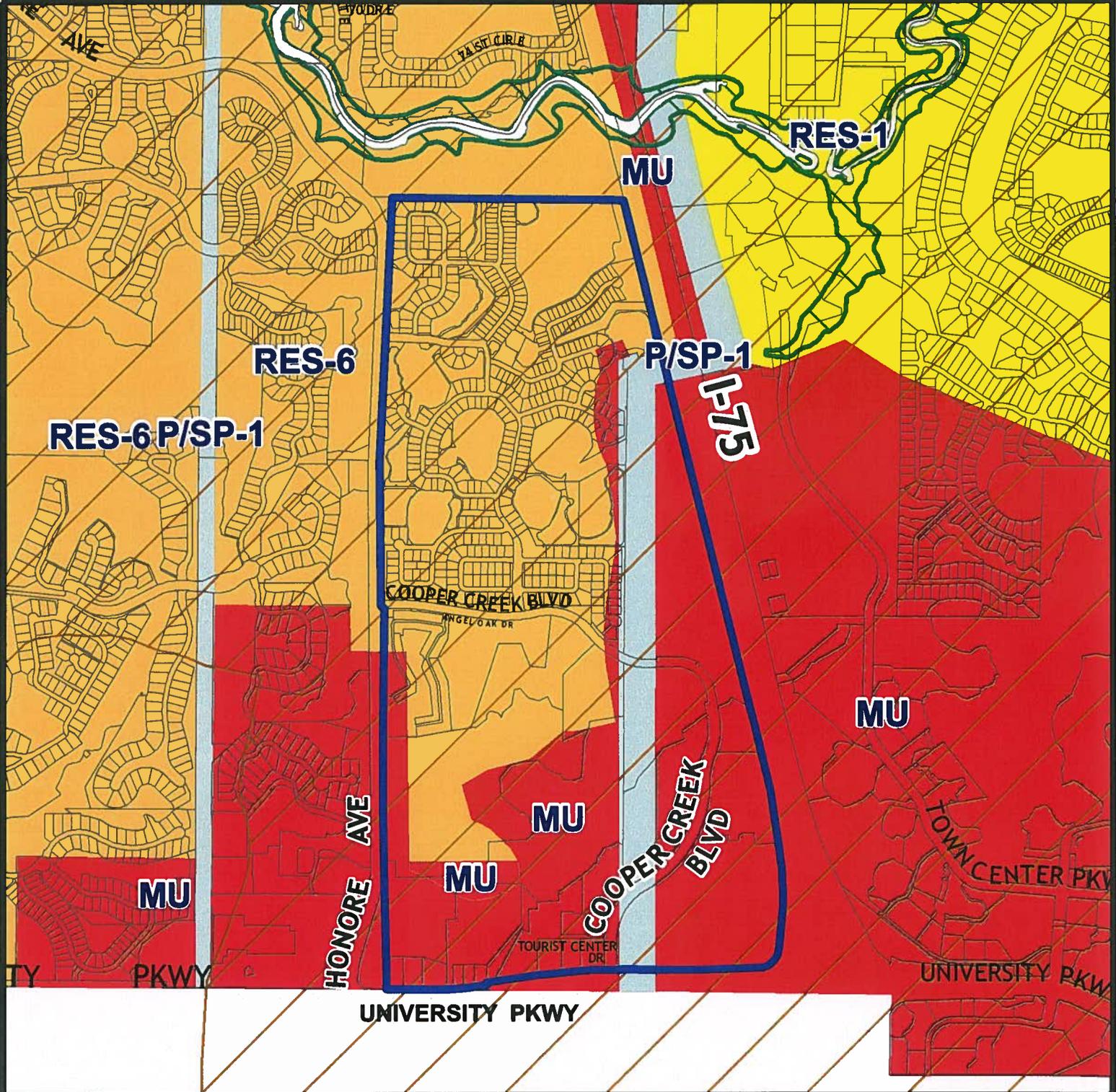
- This request is for an amendment to the Cooper Creek DRI (Development of Regional Impact).
- Accompanying the amendment to the DRI as a Notice of Proposed Change (or NOPC) is the amendment to the General Development Plan and Zoning Ordinance and a Land Development Code Text Amendment to add a right-in/out along University Parkway.
- The changes to the Ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:
  1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
  2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial and/or office sq. ft.
  3. Amend Map H to permit an additional right in/right out access from University Parkway.
  4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
  5. Any other revisions deemed necessary or appropriate during the public hearing process.
  6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.
- The Developer has rebutted the presumption by clear and convincing evidence that the proposed NOPC modifying the Cooper Creek DRI constitutes a Substantial Deviation.
- The Tampa Bay Regional Planning Council (TBRPC) has completed their review of the project. The TBRPC has provided an NOPC Report to be considered at the May 9, 2011 TBRPC Council Meeting. The report concludes that the proposal is presumed to create a Substantial Deviation, however, it is the opinion of the agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representation stated in the Discussion of the Region's Report. The TBRPC Report is attached and all recommendations/representation are provided in the proposed development order (shown in strike-thru/underline format).
- Staff recommends approval of the request.

<b>COUNTY ATTORNEY REVIEW</b>	
<b>Check appropriate box</b>	
<input checked="" type="checkbox"/>	<b>REVIEWED</b> <b>Written Comments:</b> <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Available from Attorney (Attorney's initials: SAS)

<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input type="checkbox"/>	OTHER

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
Staff report		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

# FUTURE LAND USE



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center - NOPC  
 Project #: ORD-11-16  
 DTS#: 20110068  
 Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
 Acreage: 604.68  
 Existing Zoning: PD-MU  
 Existing FLU: RES-6, MU, P/SP-1  
 Overlays: ST  
 Special Areas: NONE

CHH: NONE  
 Watershed: WPE  
 Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
 Commissioner: Donna Hayes

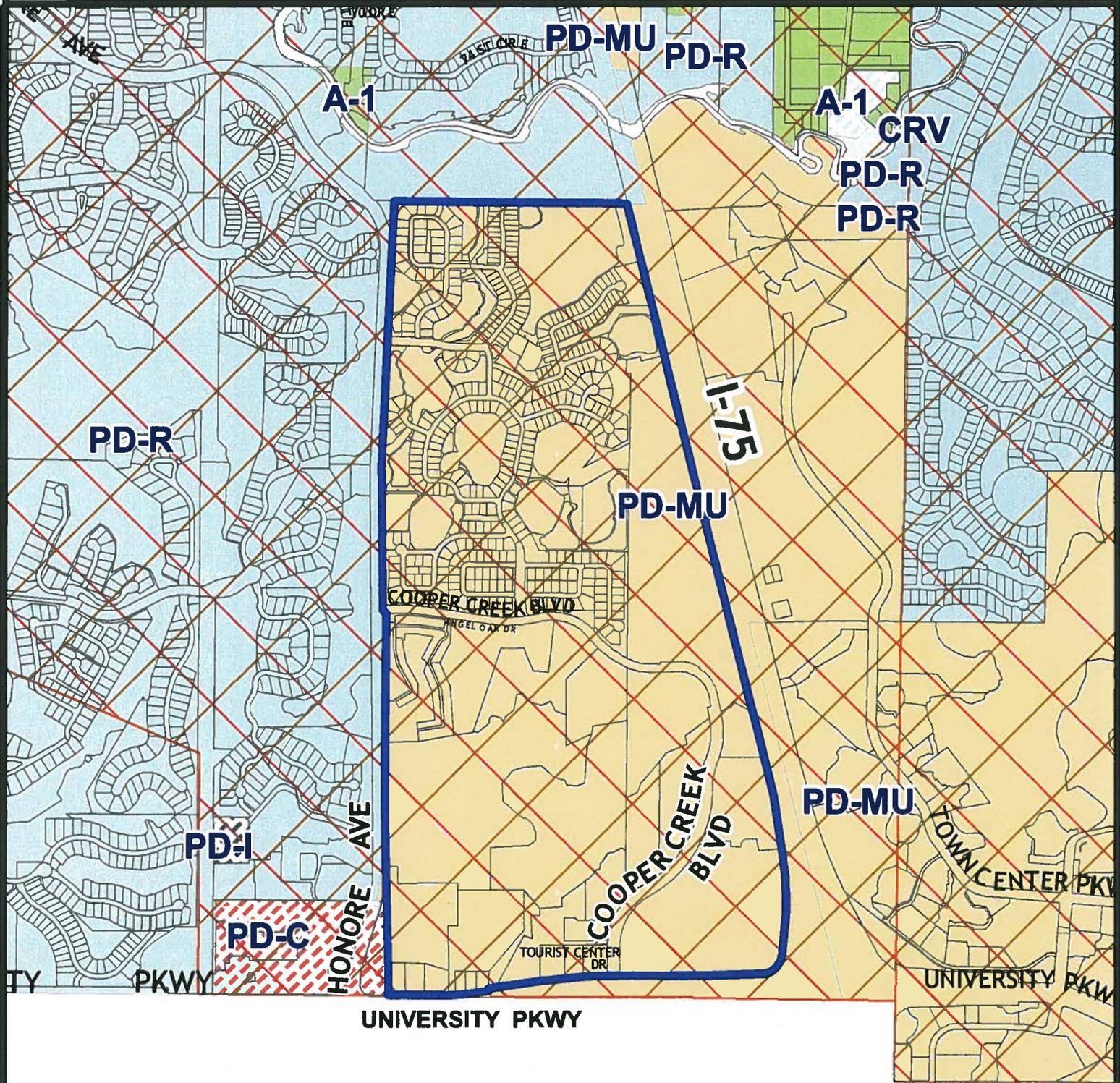


Manatee County  
 Staff Report Map  
 Map Prepared 4/19/2011  
 1 inch = 1,393 feet

### Overlay

 Evers Watershed (WPE)

# ZONING



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center - NOPC  
 Project #: ORD-11-16  
 DTS#: 20110068  
 Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
 Acreage: 604.68  
 Existing Zoning: PD-MU  
 Existing FLU: RES-6, MU, P/SP-1  
 Overlays: ST  
 Special Areas: NONE

CHH: NONE  
 Watershed: WPE  
 Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
 Commissioner: Donna Hayes

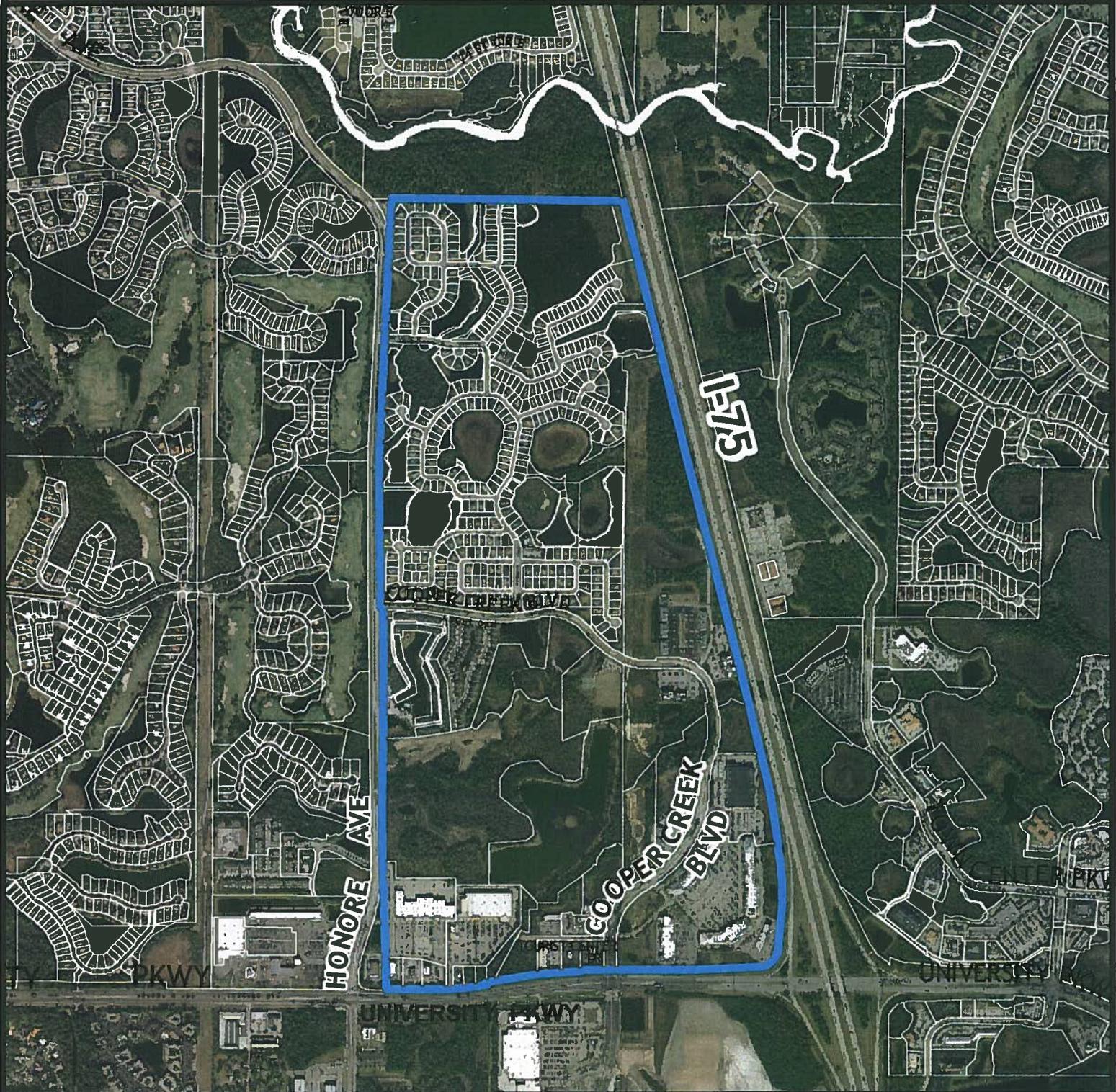


Manatee County  
 Staff Report Map  
 Map Prepared 4/19/2011  
 1 inch = 1,393 feet

### Overlay

-  Special Treatment
-  Evers Watershed (WPE)

# AERIAL



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center - NOPC  
Project #: ORD-11-16  
DTS#: 20110068  
Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
Acreage: 604.68  
Existing Zoning: PD-MU  
Existing FLU: RES-6, MU, P/SP-1  
Overlays: ST  
Special Areas: NONE

CHH: NONE  
Watershed: WPE  
Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
Commissioner: Donna Hayes



Manatee County  
Staff Report Map

Map Prepared 4/19/2011

1 inch = 1,393 feet

**ORDINANCE 11-16/COOPER CREEK (DRI #14)**

Request: An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the Ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial and/or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU/WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**P.C.:** 05/12/11

**B.O.C.C.:** 05/24/11

**RECOMMENDED MOTION:**

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan, the Manatee County Land Development Code, Section 380.06, Florida Statutes, and Rule 9J-2.025, Florida Administrative Code, as conditioned herein, I move to recommend APPROVAL, finding that the Developer has rebutted the presumption by clear and convincing evidence that the proposed NOPC modifying the Cooper Creek DRI Development Order constitutes a Substantial Deviation has provided sufficient information to rebut the presumption that the proposed NOPC modifying the Cooper Creek DRI Development Order constitutes a Substantial Deviation; and recommend APPROVAL of Manatee County Ordinance 11-16, amending and restating Ordinance 11-07, as recommended by staff.

## CASE SUMMARY

**CASE NO.:** Ordinance 11-16 (DRI #14)

**APPLICANT:** Cooper Creek Center

**REQUEST:** An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the Ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**STAFF**

**RECOMMENDS:** Approval

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### REQUEST, LOCATIONAL INFORMATION, AND LAND USE CHARACTERISTICS

- Approval of modifications to the Cooper Creek Development Order and Map H. The 604.75 acre project is northwest of the University Parkway and I-75 intersection.

- To the NORTH is vacant land zoned PDR/WP-E/ST approved for single-family residences in Riva Trace.
- To the SOUTH, across University Parkway, is a shopping center in an approved multi-use DRI, in Sarasota County.
- To the EAST is I-75.
- To the WEST are the University Park Country Club DRI and a shopping center zoned PDR/PDC/WP-E/ST.

**SUMMARY:** (LB)

The applicant requests approval of a Notice of Proposed Change (NOPC) to the Cooper Creek DRI and a determination of whether the changes constitute a Substantial Deviation.

The proposed modifications do not appear to constitute a Substantial Deviation to the Cooper Creek DRI.

**History**

The Development Order (DO) for Cooper Creek Center was originally approved on January 9, 1986 and became effective on January 13, 1986 (Resolution 85-236). The DO has been amended ten times, the latest occurring on February 3, 2011.

The project consists of:

Use	Development Totals
Residential	767 d.u.
Commercial <sup>1, 2, 3</sup>	774,000 sq. ft.
Office <sup>1, 3</sup>	140,000 sq. ft.
Motel	250 rooms
School <sup>3</sup>	20,000 sq. ft.

<sup>1</sup> May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.

<sup>2</sup> Includes one existing communication antennae structure.

<sup>3</sup> May include up to an additional 6,000 sq. ft. of school upon corresponding decrease of office or commercial uses.

Pursuant to Senate Bill 1752 extensions, buildout for the Cooper Creek DRI is now December 30, 2015 and will be reflected with the proposed changes.

**The Tampa Bay Regional Planning Council (TBRPC) has completed their review of the project. The TBRPC has provided an NOPC Report to be considered at the May 9, 2011 TBRPC Council Meeting. The report concludes that the proposal is presumed to create a Substantial Deviation, however, it is the opinion of the agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representation stated in the Discussion of the Region's Report. The TBRPC Report is attached and all recommendations/representation are provided in the proposed development order (shown in strike-thru/underline format). The Final Report, once issued by the TBRPC, will be provided at the Planning Commission public hearing.**

#### **POSITIVE ASPECTS OF THE APPLICATION**

- **Based on the Transportation Support Letter, the proposed right-turn in/right-turn out only driveway is expected to improve circulation and safety conditions at the Cooper Creek Boulevard & Tourist Center Drive intersection, as well as reduce traffic and extend the life of this intersection as well as the Cooper Creek Boulevard & University Parkway intersection.**
- **The extension of the build out dates and the expiration date of the Development Order is consistent with the Board's direction to allow active developments to continue to move forward toward completion.**
- **Much of the language in the Development Order has been clarified as to expiration dates and the level of development currently approved.**

# STAFF ANALYSIS

## ANALYSIS OF REQUEST & SUBSTANTIAL DEVIATION ANALYSIS

Pursuant to Section 380.06(19).b, Florida Statutes, any proposed change to a previously approved Development of Regional Impact or Development Order Condition, which, either individually or cumulatively with other changes, exceeds the criteria set-out in the Statute shall constitute a Substantial Deviation and shall cause the development to be subject to further Development of Regional Impact review. For changes made pursuant to Section 380.06(19) (c) and (e), Florida Statutes, depending on the magnitude they may be presumed to be a Substantial Deviation which may be rebutted by clear and convincing evidence.

The following is an analysis of each request and whether or not the modifications constitute a Substantial Deviation to the Cooper Creek DRI Development Order:

### PROPOSED CHANGES:

#### Proposed Change

1. **Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.**

#### Applicable Statutes

Subsection 380.06(19)(b)14(C), Florida Statutes, states that an extension of the date of buildout of a development, or any phase thereof, by more than 7 years is presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of more than 5 years but not more than 7 years is presumed not to create a Substantial Deviation. ....An extension of 5 years or less is not a Substantial Deviation. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time. In recognition of the 2007 real estate market conditions, all phase, buildout, and expiration dates for projects that are developments of regional impact and under active construction on July 1, 2007, are extended for 3 years regardless of any prior extension. The 3-year extension is not a Substantial Deviation, is not subject to further development-of-regional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. Land not previously reviewed or any change not specified in paragraph (b) or paragraph (c)

shall be presumed to create a Substantial Deviation. This presumption may be rebutted by clear and convincing evidence.

### **Staff Discussion**

The buildout date and expiration date of the current development order, Ordinance 11-07 recognized the 3 year extension granted under the above referenced update to 380.06 (19)b(14) c granted in 2007, as well as the 2 year extension granted under SB 360. The additional 2 years to be added to the buildout and expiration dates are the result of the additional 2-year extension granted under recently adopted SB 1752. These two Senate Bills have granted a total of 4 additional years, which is less than the 5 years and is therefore not a Substantial Deviation.

### **Staff Conclusion and Recommendation**

Staff recommends that this change reflects the already approved extensions and does not create a Substantial Deviation.

### **Proposed Change**

- 2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.**

### **Applicable Statutes**

Subsection 380.06(19)(e)3, Florida Statutes, states that any land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

### **Staff Discussion**

The prior NOPC, approved pursuant to Ordinance 11-07, included a change to allow 6,000 square feet of school use as a permitted trade-off use within the DRI. The additional 6,000 square feet of school use can only be attained through a corresponding reduction of commercial or office use on Parcels J and K, respectively, at a 1:1 ratio. The Development Order is being updated to clarify a corresponding reduction is required.

Pursuant to Stipulation A.(4) of the DRI, simultaneous increases and decreases may be approved for the office, commercial, and residential entitlements listed in Table 1 with an amendment to the General Development Plan. In doing so, the applicant is required to provide a traffic study and analyze the impacts to potable water, solid waste, waste

water, transit, EMS, and Sheriff's. The applicant must also notify TBRPC and DCA at least 15 days prior to county approval of the tradeoff.

A 6,000 square foot school is approved for Parcels K and J. These parcels are also approved for office and commercial uses, respectively.

### **Staff Conclusion and Recommendation**

It is staff's conclusion that the change will not cause additional regional impacts, therefore, this request should not be found to be a Substantial Deviation. The tradeoff condition requires sufficient analysis to evaluate all regional impacts.

### **Proposed Change**

- 3. Amend Map H to permit an additional right in/right out access from University Parkway.**

### **Applicable Statutes**

Subsection 380.06(19)(e)3, Florida Statutes, states that any land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a Substantial Deviation. This presumption may be rebutted by clear and convincing evidence.

Subsection 380.06(19)(2)d, Florida Statutes states: "changes in the configuration of internal roads that do not affect external access points" is not a Substantial Deviation. However, by contrast, the additionally proposed external access point is presumed to create a Substantial Deviation.

### **Staff Discussion**

The applicant has provided a transportation analysis from the Traffic Consultant, Kimley-Horn and Associates, which states that the proposed right-turn in/right-turn out only driveway will reduce the amount of traffic through two significant intersections: University Parkway & Cooper Creek Boulevard and Cooper Creek Boulevard & Tourist Center Drive. This reduction will result in an extension of the "life expectancy" of the existing lane geometry at both intersections. In addition, it is expected that the proposed new driveway into the Tourist Drive retail center area will reduce congestion and the queuing of traffic as well as improve circulation and safety conditions at the Cooper Creek Boulevard & Tourist Center Drive intersection. Finally, the proposed driveway will provide an alternate route to access the retail center, including delivery trucks.

### **Staff Conclusion and Recommendation**

It is staff's conclusion that the change will not cause additional regional impacts, therefore, this request should not be found to be a Substantial Deviation. The tradeoff condition requires sufficient analysis to evaluate all regional impacts.

### **Proposed Change**

- 4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).**

### **Applicable Statutes**

Newly amended Section 380.06(18), Florida Statutes, BIENNIAL REPORTS states that "Development orders that require annual reports may be amended to require biennial reports at the option of the local government."

### **Staff Discussion**

The applicant has requested to be allowed to amend the Development Order condition O.(2) to allow to change from annual to biennial monitoring reports. Given the level of development completed in this DRI, and the continued progress, monitoring and maintenance occurring of the development, it makes sense to allow for biennial monitoring.

### **Staff Conclusion and Recommendation**

Staff recommends approval of the request. The change does not create a Substantial Deviation.

### **Proposed Change**

- 5. Any other revisions deemed necessary or appropriate during the public hearing process.**
- 6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.**

**Applicable Statutes**

Subsection 380.06(19)(e)3, Florida Statutes, states that any land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

**Staff Discussion**

Various changes are proposed to the Development Order necessary to facilitate the above changes (see attached Development Order in strike-thru/underline format).

**Staff Conclusion and Recommendation**

Staff recommends the changes do not create a Substantial Deviation because the changes merely provide clarification and consistency.

**ATTACHMENTS:**

1. Ordinance 11-16
2. Copy of Newspaper Advertising
3. NOPC Report from TBRPC for May 9, 2011 Council Meeting



# NOPC

## Notice of Proposed Change Report

4000 Gateway Centre Boulevard, Suite 100, Pinellas Park, FL 33782  
 Phone (727) 570-5151 / FAX (727) 570-5118  
 www.tbrpc.org

### DRI #103 - COOPER CREEK MANATEE COUNTY

On March 16, 2011 (dated March 15, 2011), the Applicant submitted a Notice of Proposed Change application requesting modifications to the Development Order. Supplemental information was received on March 23<sup>rd</sup> (e-mail from Mr. Tom McCollum/ZNS Engineering) and April 13<sup>th</sup> (Correspondences from Mr. Adam Gibson/Kimley-Horn & Associates to Mr. John Meyer/TBRPC staff & from Mr. Adam Gibson to Mr. Bob Agrusa/Manatee County staff, each dated April 13, 2011). The following provides a summary of project entitlements and history, a description of the proposal, and the Council recommendation.

#### **PROJECT DESCRIPTION**

On January 9, 1986, Manatee County granted a Development Order (Resolution R-85-236) to the Wilbur Boyd Corporation for the above-referenced DRI, a 605-acre, mixed-use development located northwest of the University Parkway and I-75 intersection in Manatee County.

The Development Order had been amended ten times, most recently on February 3, 2011 (Ordinance No. 11-07). The amendments have cumulatively: consolidated the formerly approved two phase project into a single phase; extended the buildout date and the Development Order expiration date to December 30, 2013 and December 30, 2014, respectively [inclusive of prior extensions granted by Manatee County in association with revisions to Subsection 380.06(19)(c), F.S. and SB 360]; modified the trade-off mechanism and plan of development; modified list of transportation improvements including two "safety" improvements; recognized new owners/Master Developers; recognized a conversion of 113 residential units for 20,000 sq. ft. Vo-Tech/School space (Parcel K); authorized a potential conversion for 6,000 sq. ft. of additional Vo-Tech/School space (to 26,000 sq. ft.) with corresponding reductions of Commercial (Parcel J) **OR** Office (Parcel K) uses; increased Commercial space by 29,000 sq. ft.; recognized potential alternative uses for Parcel J; added an Honore Avenue access point; and corresponding changes to the Master Development Plan and corresponding Land Use Table.

The approved plan of development is as follows:

BUILDOUT DATE	RESIDENTIAL (Units)	COMMERCIAL (Sq. Ft.)	OFFICE (Sq. Ft.)	VO-TECH/SCHOOL (Sq. Ft.)	MOTEL (Rooms)
Dec. 30, 2013	767	774,000	140,000	20,000*	250

\* - an additional 6,000 sq. ft. of Vo-Tech/School can be attained with a simultaneous reduction of Commercial (Parcel J) or Office (Parcel K) at a 1:1 ratio..

## PROPOSED CHANGES UNDER THIS NOPC

The Applicant has requested the following modifications to the Development Order:

- establish an additional “right-in/right-out” only access point along University Parkway;
- modify the Project Summary (i.e. Table 1 of the Development Order) to appropriately reflect that only 20,000 sq. ft. of Vo-Tech/School space is/was specifically approved. An additional 6,000 sq. ft. of this use (to 26,000 sq. ft. total) can be obtained through conversion of Commercial and/or Office space; and
- extend the frequency of future monitoring to Biennial (future reports shall be due on January 9<sup>th</sup> of all even-numbered years).

## CONSISTENCY WITH SUBSECTION 380.06(19), FLORIDA STATUTES

Subsections 380.06(18) and 380.06(19)(2)2.d., F.S. identify the provisions applicable to this proposal. These citations read as follows respectively:

*“Development orders that require annual reports may be amended to require biennial reports at the option of the local government.”*

*“changes in the configuration of internal roads that do not affect external access points” is not a Substantial Deviation. However, by contrast, the additionally proposed external access point is presumed to create a Substantial Deviation.*

*“Except for the change authorized by subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.”*  
[underlined to express emphasis]

## DISCUSSION

The following statements serve as representations made by, or on behalf of, the applicant or are statements or recommendations made by Tampa Bay Regional Planning Council staff. These references/recommendations were relied upon by the Tampa Bay Regional Planning Council to determine that no further information would be required in conjunction with the current proposal:

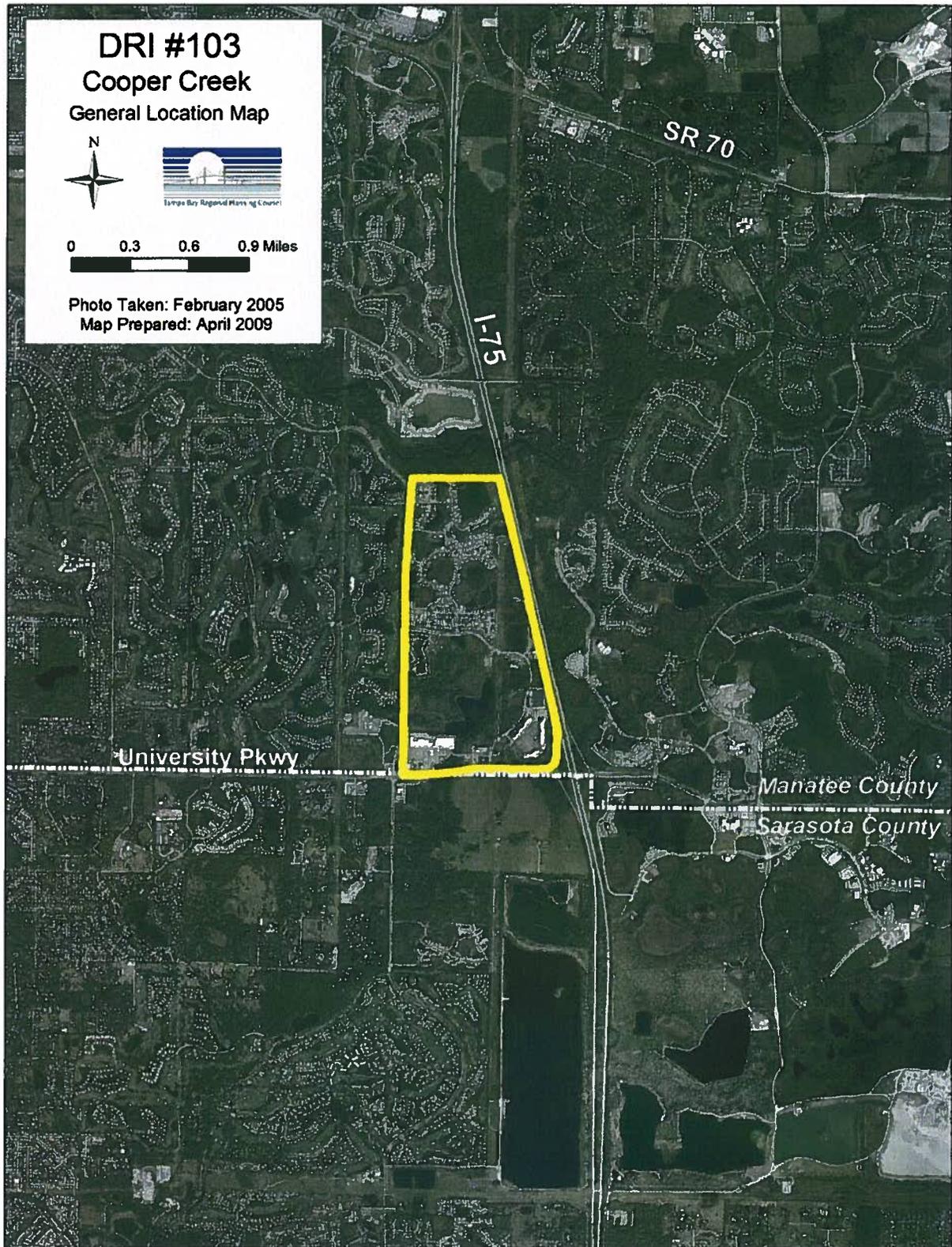
1. The Applicant has acknowledged that the Table 1 of the Development Order shall be modified “*to clarify that the 6,000 sq. ft. of the 26,000 sq. ft. of School is included within the approved total land use category and is not in addition to the totals provided in the Commercial and Office categories.*” In summary, Table 1 shall be revised to reflect 20,000 sq. ft. of Vo-Tech/School use, as expressed above, with the ability to convert for an additional 6,000 sq. ft. thereof in exchange for Commercial and/or Office uses. (March 15, 2011 correspondence/Page 2/NOPC Response #5)
2. The proposed/revised Map H, attached to this Report as **Exhibit 2**, “*clearly notes that the additional access (requested) is Right In/Right Out only.*” (March 23, 2011 e-mail from Tom McCollum)

3. *The (proposed) right-turn in/right-turn out only driveway will provide access to the commercial/retail and hotel establishments located along Tourist Center Drive (internal to the project) and be located along University Parkway, approximately 450' west of the Cooper Creek Boulevard/University Parkway intersection. The driveway will also include a deceleration lane entering the site and an acceleration lane existing the site onto University Parkway. The right-turn in/right-turn out only driveway (would) provide several benefits to the surrounding roadway network, which are described below: (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. John Meyer)*
- *reduce the amount of traffic through the University Parkway/Cooper Creek Boulevard intersection. Patrons exiting the commercial/retail and hotel establishments along Tourist Center Drive who travel west along University Parkway (would) no longer have to make a southbound right-turn from Cooper Creek Boulevard to University Parkway;*
  - *reduce the amount of traffic through the Cooper Creek Boulevard/Tourist Center Drive intersection. Patrons exiting the commercial/retail and hotel establishments along Tourist Center Drive who travel west along University Parkway (would) no longer have to make a eastbound right-turn from Tourist Center Drive to Cooper Creek Boulevard. In addition, patrons entering the commercial/retail and hotel establishments along Tourist Center Drive from University Parkway (would) no longer have to make a northbound left-turn from Cooper Creek Boulevard to Tourist Center Drive;*
  - *reduce queuing of traffic and improve safety at the Tourist Center Drive/Cooper Creek Boulevard intersection. During the heaviest intervals of traffic during the day, the southbound left-turn vehicle queues at the University Parkway/Cooper Creek Boulevard intersection sometimes spill back into the Cooper Creek Boulevard/Tourist Center Drive intersection. This causes congestion and queues to occur for the eastbound right-turn vehicles and the northbound left-turn vehicles;*
  - *delivery trucks (would) have an alternate route to access the commercial/retail and hotel establishments, which (would) reduce congestion at the Cooper Creek Boulevard/Tourist Center Drive intersection; and*
  - *(would) extend the "life expectancy" of the existing lane geometry at the University Parkway/Cooper Creek Boulevard and Cooper Creek Boulevard/Tourist Center Drive intersections.*
4. *The estimated volume redistribution shown on Figure 1 has the potential to reduce the southbound right-turn volume at the University Parkway/Cooper Creek Boulevard intersection [external project driveway] by approximately 20% of the existing p.m. peak-hour traffic volume. Based upon the existing traffic count data, the southbound right-turn volume is expected to decrease from 240 vehicles to approximately 195 vehicles... The volume redistribution shown on Figure 1 also shows the potential to reduce the amount of existing entering (northbound left) and exiting (eastbound right) volume at the Cooper Creek Boulevard/Tourist Center Drive intersection [internal to the project] between 45% - 50% during the p.m. peak hour. (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. Bob Agrusa)*
5. Council staff routinely evaluates timeliness of Annual Report submittals and regular findings of consistency with the Development Order when determining whether to support a potential extension in the frequency of monitoring from Annual to Biennial. In this particular instance, the Developer has provided relatively timely Annual Report submittals and has always been determined to be compliant with the Development Order Conditions. With the prior knowledge of this NOPC application and in particular this request to extend the frequency of monitoring, the RY 2010-11 Cooper Creek Annual Report has not been submitted. It is therefore appropriate that the first installment of the Cooper Creek Biennial Report (for RYs 2010-12) be submitted on (or before) January 9, 2012 and each even-numbered year thereafter.

**RECOMMENDED ACTION**

Indicate to Manatee County and the Florida Department of Community Affairs that the proposal is presumed to create a Substantial Deviation, as defined above. However, it is the opinion of this agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representations stated in the Discussion above within the amendatory language, as may be appropriate.

**EXHIBIT 1**





**Copy of Newspaper Advertising**

**Bradenton Herald**

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Planning Commission of Manatee County will conduct a Public Hearing on Thursday, May 12, 2011 at 9:00 a.m. at the Manatee County Government Administrative Center, 1st Floor Chambers, 112 Manatee Avenue West, Bradenton, Florida to consider, act upon, and forward a recommendation to the Board of County Commissioners on the following matters:

**MANATEE COUNTY ORDINANCE 11-16 (DRI #14) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County RI #14 a/k/a Tampa Bay Regional Planning Council BRPC DRI #103); providing findings of fact; providing conclusions of law; providing definitions; providing amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted by Senate Bill 1752.

2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.

3. Amend Map H to permit an additional right in/right out access from University Parkway.

4. Amend General Conditions, Section O.(2), to allow Biennial Reports in conformance with Section 380.06(18), Florida Statutes (as amended).

5. Any other revisions deemed necessary or appropriate during the public hearing process.

6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been compiled with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(Z)(G)(R8) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcels H, I and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**Z-11-04 - DTS20110062 - PARKWAY LAND TRUST #1/302 COMMERCIAL REZONE**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee County Land Development Code), relating to zoning within the unincorporated area; providing for a rezoning of approximately 0.6 acres north of US 301 and approximately 1,200 feet west of Erie

Road, Parrish from the RSF-1 (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description; providing for severability, and providing an effective date.

All interested parties are invited to appear at this public hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission and entered into the record.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Planning Commission of Manatee County will conduct a Public Hearing on Thursday, May 12, 2011 at 9:00 a.m. at the Manatee County Government Administrative Center, 1st Floor Chambers, 1112 Manatee Avenue West, Bradenton, Florida to consider, act upon, and forward a recommendation to the Board of County Commissioners on the following matters:

**Sarasota Herald Tribune**

**MANATEE COUNTY ORDINANCE 11-16 (DRI #14) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council BRPC DRI #103); providing findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been compiled with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(Z)(G)(R8) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcels H, I and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**Z-11-04 - DTS20110062 - PARKWAY LAND TRUST #1/302 COMMERCIAL REZONE**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee

County Land Development Code relating to zoning within the unincorporated area; providing for a rezoning of approximately 0.6 acres north of US 301 and approximately 1,200 feet west of Erie Road, Parrish from the RSF (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description providing for severability, and providing an effective date.

All interested parties are invited to appear at this public hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission and entered into the record.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA should contact Kaycee Ellis at 742-5800 TDD ONLY 742-5802 and wait 60 seconds, or FAX 745-3790.

**THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**

**MANATEE COUNTY PLANNING COMMISSION**

Manatee County Building and Development Services Department  
Manatee County, Florida

Date of pub: April 27, 2011

**ORDINANCE ~~11-07~~ 11-16**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA REGARDING LAND DEVELOPMENT, RENDERING AN AMENDED AND RESTATED DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, FOR COOPER CREEK CENTER (RESOLUTION 85-236, AS AMENDED BY RESOLUTIONS 86-323, 87-58, 90-39, 93-300, 95-135, AND ORDINANCES 97-23, 99-40, 02-31, ~~AND 05-54,~~ AND 11-07), ALSO KNOWN AS TBRPC DRI #103; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on January 9, 1986, the Board of County Commissioners (BOCC) approved R-85-236, a Development Order\* for the Cooper Creek Center DRI for a planned residential, commercial, office, and industrial development on approximately 604.68 acres; and

**WHEREAS**, on December 23, 1986, February 10, 1987, March 29, 1990, April 5, 1993, June 22, 1995, November 4, 1997, September 7, 1999, May 28, 2002, and December 1, 2005, and February 3, 2011, The Board of County Commissioner approved Resolutions R-86-323, R-87-58, R-90-39, R-93-100, R-95-135, Ordinance 97-23, Ordinance 99-40, 02-31, ~~and 05-54,~~ and 11-07 respectively, approving amendments to the Development Order for Cooper Creek Center, which amendments were not found to be a substantial deviation to the originally approved Development Order; and

**WHEREAS**, County Line Road Associates, LTD. has been succeeded by Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, ~~WR-4~~ Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, and Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, as the Developer of Cooper Creek Center; and

**WHEREAS**, said Cooper Creek Center is a MULTI-USE PROJECT, as defined in Section 380.0651(3)(i), Florida Statutes, on approximately 604.68 acres, located in south Manatee County, the legal description of which is attached as "Exhibit A"; and

**WHEREAS**, the buildout date, pursuant to this amendment, ~~for Cooper Creek Center as listed in Ordinance 11-07~~ expires on December 30, ~~2013~~2015; and

**WHEREAS**, the ~~current~~ expiration date of the Development Order, pursuant to this amendment, ~~as listed in Ordinance 11-07~~ is December 30, ~~2014~~2016; and

**WHEREAS**, the Developer has requested that further amendments to the Cooper Creek Center Development Order, as previously amended ("prior DO") be approved to provide for and approve the following changes to the project:

- ~~1. Amend Condition A.(4) to include schools as a permitted trade-off use in the DRI.~~
- ~~2. Exchange 113 residential units (various residential parcels) for 20,000 square feet, Vo Tech/School space (Parcel K) and increase Commercial by 29,000 square feet (Parcels H, I, and/or J).~~
- ~~3. Add an additional Honore Avenue access point, and~~
- ~~4. Extend Buildout date to expire on December 30, 2013.~~
- ~~5. Extend expiration date of the Development Order to December 30, 2014.~~
- ~~6. Show corresponding changes to the Master Development Plan and corresponding Land Use Table.~~
- ~~7. Amend the Development Order to update terminology and departmental references; and other changes for internal consistency.~~
1. Extend build out date to December 30, 2015, and expiration date to December 30, 2016.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use.
3. Amend Map H to permit additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended) to Manatee County.
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.
1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.

2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office square feet.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

**WHEREAS**, while the development of Cooper Creek Center has commenced and is underway in accordance with the Prior DO\*, this Development Order shall be, hence forth, considered the approved Cooper Creek Center Development of Regional Impact Development Order; and

**WHEREAS**, the above described changes in conjunction with all previous changes, do not constitute a Substantial Deviation to the Development Order, as amended, for Cooper Creek Center, pursuant to Chapter 380, Florida Statutes; and

**WHEREAS**, this Development Order shall be considered an amended Development Order; and

**WHEREAS**, all future development ~~will~~ shall comply with the requirements of the Comprehensive Plan (Ordinance 89-01, as amended) and Land Development Code (Ordinance 90-01, as amended), except where specifically approved by the BOCC in this Development Order.

**WHEREAS**, the Board of County Commissioners as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, has the statutory authority to consider and approve Notices of Proposed Changes (NOPC) for an amendment to an approved Development of Regional Impact; and

**WHEREAS**, the public notice requirements of Manatee County and Chapter 380, Florida Statutes, have been satisfied; and

**WHEREAS**, the Planning Commission of Manatee County as the Local Planning Agency of Manatee County has held a duly noticed public hearing on May 12, 2011 to consider the NOPC application, has found said NOPC application consistent with the Manatee County Comprehensive Plan and has recommended approval of this ordinance, subject to the conditions specified herein; and, has reviewed the NOPC and has filed a recommendation on said NOPC with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners has received and considered the comments of the Tampa Bay Regional Planning Council; and

**WHEREAS**, the Board of County Commissioners of Manatee County on ~~February 3,~~ May 24, 2011 held a duly noticed public hearings on said NOPC and has solicited, received and considered all testimony, reports, comments, evidence, and recommendations from interested citizens, County and City agencies, and the applicant, as well as the review and report of the Manatee County Planning Department;

**WHEREAS**, said Board of County Commissioners has considered all of the foregoing in the adoption of this Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 3<sup>rd</sup>-24<sup>th</sup> DAY OF MAY-FEBRUARY, 2011 AS FOLLOWS:**

**SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #14, ORDINANCE-~~05-54~~-11-07.**

Ordinance ~~05-54~~-11-07 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the Cooper Creek Development of Regional Impact. All prior Development Orders shall be superceded by this Ordinance. 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 been previously granted and are not specifically herein or otherwise modified or amended.

**SECTION 2. FINDINGS OF FACT**

The Board of County Commissioners of Manatee County, after considering the testimony, evidence, documentation, application for amendment of the Zoning Ordinance, NOPC for an amended Development Order\*, the recommendation and findings of the Planning Commission of Manatee County, as well as all other matters presented to said Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. All recitals preceding Section 1 of this Ordinance are adopted as findings of fact.

B. The real property involved in this development and owned by Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-4 Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, and Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, is located in Manatee County, Florida, and is described on "Exhibit A" attached hereto and made a part hereof.

C. The Developer\* has received County approvals for and has completed certain development consistent with the prior DO.

D. Development of the Cooper Creek Center site to date has proceeded in accordance and in compliance with the prior Development Order, as amended, and the Land Development Regulations of Manatee County. ~~Specifically the Board also finds that:~~

1. The Developer has submitted the information requested in the County environmental consultant's Summary Report dated September, 1985.
2. The Developer has instituted and conducted the required water quality monitoring program.
3. The Developer has submitted a Master Drainage Plan which has been approved by Manatee County and TBRPC.
4. The County and Developer have entered into a Fee Agreement dated February 10, 1987 regarding the advance payment of Transportation Component Impact Fees, with which the Developer is in full compliance and which shall remain in full force and effect, and is attached hereto and make a part hereof by reference as "Exhibit D". The Developer\* has obtained all impact fee credits due under this agreement.
5. The required improvements set forth in Exhibit C of R-86-323 have been constructed (Construct a second northbound to westbound left turn lane on Interstate 75 exit ramp to University Parkway).
6. The required transportation improvements set forth in Section 4, Development Conditions B(6) a., b., c., and d. of this Development Order, have been constructed by the Developer and accepted by Manatee County.

E. An application has been submitted to Manatee County and is being processed concurrently with this NOPC to revise the General Development Plan for the 604.68 acre project.

F. A notice of Public Hearing in these proceedings was duly published in The Herald and Herald Tribune, newspapers of general circulation in Manatee County, Florida, pursuant to Section 380.06(11), Florida Statutes, and Section 502.5, Manatee County Land Development Code, and proof of such publication has been duly filed in these proceedings.

G. The Board of County Commissioners of said County has received and considered the recommendation of the Manatee County Planning Commission concerning this NOPC to a Development Order pursuant to Section 380.06, Florida Statutes.

H. The Board of County Commissioners held a public hearing on ~~May 19, 2009~~ May 24, 2011 regarding the said NOPC described herein, in accordance with the requirements of The Manatee County Land Development Code (Ordinance 90-01, as amended) and the 2020 Manatee County Comprehensive Plan (Ordinance No. 89-01, as amended) and has further considered the testimony, comments, and information received at the Public Hearing.

I. Manatee County has adopted the Manatee County Comprehensive Plan which is in compliance with applicable state laws.

J. The Comprehensive Plan requires Certificates of Level of Service be issued for Water, Wastewater, Solid Waste, Parks and Recreation, Transit, Transportation, and Drainage in compliance with state requirements.

K. This Development Order is issued based on information provided by the Developer\* in the ADA\*, as amended, and information provided in the sufficiency responses, NOPC's, and ensures compliance with the Manatee County Comprehensive Plan. Subject to the Development Order conditions listed in Section 4, the County has determined that, with the required transportation improvements listed in Conditions B. (2) and (7) of this Development Order, adequate Levels of Service exist until December 30, ~~2010~~ 2012 for this project in each of these areas referenced in subsection 1.J above, except potable water which will shall be addressed in accordance with the requirements of the Comprehensive Plan.

L. The build-out date is approved for December 30, ~~2013~~ 2015

M. The proposed Development of Regional Impact regarding the property described in Section 6 herein is found to be consistent with the requirements of the previously adopted Development Orders and The Manatee County Comprehensive Plan.

N. The "Developer\*" submitted to Manatee County, Florida an ADA\* and NOPC, and sufficiency responses identified in Section 1 which are incorporated herein by reference.

O. This amended Development Order is consistent with all prior Manatee County Development Approvals\* granted pursuant thereto.

P. The real property which is the subject of this Application\* is legally described as set forth in "Exhibit A" of this Development Order.

Q. The proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.

R. The authorized agent for the Developer\* is ~~William A. Oekunzzi, 2707 First Street, Suite 1, Indian Rocks Beach, Florida 33785~~ Thomas C. McCollum, PO Box 9448, Bradenton, FL 34206.

S. The Owners\* of the property are Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-14 Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and the Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.

T. A comprehensive review of the impact generated by the development has been conducted by the departments of Manatee County, the Planning Commission, Tampa Bay Regional Planning Council (TBRPC), and the Florida Department of Community Affairs in conjunction with the original Development Order, as amended, and all notices of proposed change.

U. The Developer will be issued a Level of Service Certificate which will expire on December 30, 2012.

V. The Developer has prepared and submitted and the County has approved Construction Drawings and issued construction permits for the transportation improvements listed in Transportation Condition B.(7).

~~W. The Board of County Commissioners finds that the changes as proposed do not constitute a substantial deviation.~~

### **SECTION 3. CONCLUSIONS OF LAW**

A. Based upon the previous findings of fact and the following conditions of Development Approval\*, the Board of County Commissioners of Manatee County concluded that:

1. The Development will not unreasonably interfere with the achievement of the objectives of the Adopted State Land Development Plan applicable to the area.
2. The Development remains consistent with the report and recommendations of Tampa Bay Regional Planning Council issued on July 8, 1985, regarding DRI #103, and on May-11-9, 20112009 regarding this NOPC.
3. This Development remains consistent with the State Comprehensive Plan.
4. This Development remains consistent with the Manatee County Comprehensive Plan and Land Development Code.

B. That these proceedings have been duly conducted pursuant to applicable laws and regulations, and based upon the record in these proceedings, the Developer\* is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.

C. That the review by the County, the TBRPC, and other participating agencies and interested citizens reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order and the ADA\*. To the extent that the ADA\* is inconsistent with the terms and conditions of this Order, the terms and conditions of this Order shall prevail. A summary of the development covered by this development order is included as Table 1.

D. The Board of County Commissioners finds that the changes as proposed do not constitute a Substantial Deviation. Pursuant to Section 380.06(19), Florida Statutes, the Developer has submitted clear and convincing evidence to rebut the presumption that the changes proposed by this NOPC and approved pursuant to Ordinance 11-16 are a Substantial Deviation.

~~Pursuant to Section 380.06(19), Florida Statutes, the changes proposed pursuant to the NOPC submitted on March 27, 2009 March 16, 2011 and approved with conditions pursuant to Ordinance 11-07 11-16 are presumed not to be a substantial deviation however have been rebutted and determined to not constitute a Substantial Deviation requiring further Development of Regional Impact Review Substantial Deviation.~~

#### **SECTION 4. DEFINITIONS**

The definitions contained in Chapter 380, Florida Statutes and in the Manatee County Land Development Code and Comprehensive Plan shall apply to this Development Order in addition to those listed herein. The following capitalized terms used herein shall have the following meanings:

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 most recent Highway Capacity Manual, 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. Acceptable Level of Service for links and intersections in Sarasota County, Florida, shall mean Level of Service "C" on an average daily basis ("D" on a peak hour basis), which shall be measured as provided in this paragraph. Where a link or intersection in Sarasota County is operating at Level of Service "D" on an average daily basis ("E" on a peak hour basis) on the effective date of this Ordinance, then the Acceptable Level of Service in Sarasota County for that link or intersection shall mean Level of Service "D" on an average daily basis ("E" on a peak hour basis).

B. "Application\*" and "Application for Development Approval\*" or "ADA" shall mean Cooper Creek Center's Development of Regional Impact Application for Development Approval\*, and the NOPC submitted on July 26, 1996, and revised on March 31, 1997 and August 19, 1997, the NOPC, submitted on January 27, 1999, the NOPC submitted on January 9, 2002, the NOPC submitted on May 17, 2005, ~~and the NOPC submitted on March 26, 2009, and the NOPC submitted on March 16, 2011~~(included as "Exhibit G").

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 (BMP list of approved practices by Board resolution for Special Overlay Districts-Evers Reservoir and Lake Manatee Watershed Areas).

D. "Conceptual Master Plan\*" shall mean a graphic depiction of the development shown on Revised "Map H", last revised on ~~July 27 2005~~ April, 2011, for the Cooper Creek Center, and attached hereto as "Exhibit B".

E. "Conservation Area\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.

F. "County Transportation Authority\*" shall be defined as the Planning Department in cooperation with Manatee County's Transportation Department, or whatever County entity is responsible for roadway approvals.

G. "Developer\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-4I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.

H. "Development Approval\*" shall mean any approval for development granted through the Preliminary and Final Site Plan\*, Preliminary and Final Subdivision Plat process, and construction drawing approval where site plans are not required, and all its conditions of approval.

I. "Development Order" shall mean the Ordinance Granting a Development Order for Cooper Creek Center, Ordinance ~~09-35~~ 11-16.

J. "Fee Agreement\*" shall mean the Transportation Component Impact Fee agreement by and between the County and the developer's predecessors in interest which was adopted on February 10, 1987 and is attached hereto as "Exhibit D".

K. "Funding Commitments\*" shall mean to assure the completion of any improvement required by this Development Order, or any combination of the following:

1. Binding commitments for the actual construction with a posting of a cash bond or irrevocable letter of credit 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 said improvement is within the first two years of the Manatee County Capital Improvement Plan or the first two years of the FDOT 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, whichever is sooner.

L. "Horizontal Development\*" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development\* (e.g., roadway, drainage, water, sewer, communication, utilities, etc).

M. "Master Development Plan\*" shall be defined as Revised Map H, last revised on ~~July 27 2005~~ April, 2011, incorporated as part of "Exhibit B" and made a part hereof. Development on Map H shall be limited to the total number of dwelling units and non-residential development on Table 1.

N. "Owner\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-14 Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest as to the Cooper Creek Center DRI and all its stipulations.

O. "Post Development Wetland\*" shall mean any Wetland\* area, which upon completion of the subphase, that will be a jurisdictional Wetland\* under the regulations of the Southwest Florida Water Management District or the Florida Department of Environmental Protection. This definition shall not apply to stormwater ponds or littoral shelves not required for mitigation.

P. "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.

Q. "Preservation Areas\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.

R. "Site Development Plan\*" shall be defined as any preliminary plat, final plat, Preliminary Site Plan\*, or final site plan to be submitted for consideration of approval pursuant to the LDC.

S. "Traffic Study\*" shall mean a report presented by the Developer\*, pursuant to the provisions of Section 380.06, F.S. and Rule 9J-2.045 F.A.C., using a methodology acceptable to the County Transportation Authority\*, the Tampa Bay Regional Planning Council, the Florida Department of Community Affairs, and the Florida Department of Transportation. Such study will be designed to determine if the proposed development will reduce daily or peak hour Level of Service\* on any of the roadway segments or intersections within the Transportation Impact Area\*, to below an Acceptable Level of

Service\*. Any such Traffic Study\* shall include traffic to be generated by the proposed Phase or Sub-Phase, existing traffic, and traffic anticipated from prior Development Approvals\* cumulatively.

T. "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 Acceptable Level of Service\*. This area will be determined in conjunction with any traffic study required for Development Approval after December 30, 2007. This area is generally depicted on Map J which was submitted with the ADA. This area will be revised as appropriate, based on a new Traffic Study\*.

U. "Vertical Development\*" shall mean and shall be deemed to include the construction of new residential units and non-residential units or the reconstruction or addition to any structure.

V. "Warranted\*" shall mean a determination by the County 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.

W. "Wetland\*" shall mean any wetland under the jurisdictional limits defined by Chapter 40D-4.021, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined within Chapter 40D-4, F.A.C., and implemented by the Southwest Florida Water Management District.

X. The definitions contained in Chapter 380, Florida Statutes, shall apply to this Development Order.

## **SECTION 5. DEVELOPMENT CONDITIONS**

A.(1) Approved Development Totals and development authorized for construction pursuant to this D.O. are as set forth in Table 1. Building Permits for non-residential development and Final Plats (or Building Permits if platting is not required) for residential shall be obtained prior to December 30, ~~2010~~2015.

A.(2) Development may occur anywhere on site provided all conditions of this Development Order are adhered to and it is concurrent with all necessary infrastructure improvements.

A.(3) The Developer\* has demonstrated the availability of adequate infrastructure, including roads, parks, transit, waste water service, solid waste service, fire, police, and other emergency services and will be issued a revised Level of Service Certificate which will expire December 30, ~~2010~~2012. Concurrency for potable water will be addressed at the Final Site Plan approval, pursuant to the Manatee County Comprehensive Plan Policies 2.4.1.2. and 2.4.1.5.

A.(4) Tradeoffs between the land uses set forth in Table 1 may be granted by the Board of County Commissioners with an amendment to the General Development Plan

approved by the Board along with a traffic study addressing any changes in trip generation, distribution, average queue length at intersections, and any mitigation necessary as a result of the tradeoff (Note: If the trip generation estimates as a result of the tradeoff are less than or equal to what was previously approved, a traffic study shall still be required to address the change in entering and exiting percentages, and consequently other measures of effectiveness). The Board and staff have not reviewed any such "tradeoff" and have not determined whether any "tradeoff" is appropriate. Any proposal for a "tradeoff" shall be reviewed for compliance with the provisions of this Development Order, the Manatee County Land Development Code, and the Manatee County Comprehensive Plan. The developer shall also be required to demonstrate that 1) the quantities of solid waste generated, potable water consumed, and wastewater, and 2) the impacts to the County Parks, Transit Services, EMS, and Sheriff, in the event of any tradeoffs, are less or meet County standards in effect at the time of tradeoff. The Developer\* shall give DCA and the Tampa Bay Regional Planning Council notice of its intent to trade off land uses at least 15 days prior to the County's approval of any such trade off. The Notice shall identify the resulting impacts of the trade off in terms of land use, traffic generation, potable water, wastewater, solid waste, and affordable housing. In addition, the DRI ~~annual~~biennial report shall include information indicating cumulative amounts of development which have been approved by the County as of the ~~annual~~biennial report date and the resulting impacts on traffic generation, potable water, wastewater, solid waste, and affordable housing. Following the County's approval of any such trade off, the County shall provide to the Department of Community Affairs and TBRPC a copy of said approval. An amendment to applicable provisions of this Development Order pursuant to an NOPC or Substantial Deviation proceeding shall not be necessary or required to approve a "trade off" pursuant to this condition.

The following limitations shall apply to any tradeoff:

1. Residential uses shall not be increased nor decreased by more than 200 dwelling units. 680 to 1,080 Dwelling Units
2. The mix of approved uses shall not be increased nor decreased by more than 49,000 square feet of General Commercial or Office. 725,000 to 823,000 square feet for General Commercial and 91,000 to 189,000 Square Feet for Office
3. Hotel uses shall not be increased or decreased by more than 75 motel rooms. 175 to 325 Rooms.
4. School uses shall not be increased ~~or decreased~~ by more than ~~20,000~~ 6,000 square feet (~~20,000-0~~ to 26,000 Square Feet). A decrease of school use may result in a corresponding increase in office use.

**TABLE 1  
COOPER CREEK CENTER  
PROJECT SUMMARY**

<b>TYPE OF DEVELOPMENT:</b>	Multi-use
<b>LOCATION:</b>	Northwest quadrant of I-75 and University Parkway, in southeastern Manatee County
<b>TOTAL DEVELOPMENT AREA:</b>	<b>604 Acres</b>
Residential	317.2 Acres
Commercial/Hotel/School◆ <sup>1</sup>	131.5 Acres
Office/School	30 Acres
Open Space (Roads, Right-of-Way, Conservation, Preservation, Floodway, etc.)	124.98 Acres

	Development Totals	
Residential	767 d.u.	
Commercial ◆ (1) <sup>1 2 3</sup>	774,000 Sq. Ft.(1)	
Office◆ <sup>1 3</sup>	140,000 Sq. Ft.	
Motel	250 Rooms	
School <sup>3</sup>	<del>26,000</del> 0 to 20,000 Sq. Ft.	
P.M. Peak Trips (net external)	2,817 Trips	
<b>BUILD-OUT DATE</b>	December 30, <del>2013</del> 2015	

◆ — May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.

(1) — Includes one existing communication antennae structure.

<sup>1</sup> — May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.

<sup>2</sup> — Includes one existing communication antennae structure.

<sup>3</sup> May include up to an additional 6,000 sq. ft. of school upon corresponding decrease of office and/or commercial uses.

- A.(5) Existing agricultural uses on the property, in whole or in part, as an approved secondary use are hereby granted until development commences on the applicable section or portion of the site.
- A.(6) Any excess infrastructure capacity constructed to potentially serve development beyond that described in Condition A.(1) shall be at the developer's risk and shall not be construed to vest additional Vertical Development\* construction rights.

### TRANSPORTATION CONDITIONS

- B.(1) All residential development which does not have a Final Plat approval (or building permit if platting is not required) and all non-residential development which does not have a building permit prior to December 30, ~~2013~~2015 shall be subject to review and approval of a transportation analysis pursuant to Section 380.06 Florida Statutes and issuance of a transportation level of service certificate pursuant to the Manatee County Land Development Code. Completed.
- B.(2) Maintenance of Acceptable Level of Service\* on intersections or in the Study Area to be determined consistent with methodologies in accordance with Section 380.06, Florida Statutes shall be verified by the developer to the satisfaction of the County Transportation Authority\* as part of each ~~annual~~biennial report as required by Subsection 380.06(18), Florida Statutes.
- B.(3) There shall be no approvals granted as to development beyond that specified in Table 1 unless the transportation improvements required have been completed or such improvements are determined as not warranted under the Traffic studies\*.
- B.(4) The Developer\* shall continue to demonstrate continuous progress towards building permit applications for the development totals set forth in Table 1. Continuous progress shall mean Final Plat approval (or the issuance of building permits if a Final Plat is not required) for 200 residential lots or dwelling units and the issuance of building permits for at least 50,000 square feet of non-residential use. Failure to demonstrate such progress may require a revised and updated Traffic Study\* to demonstrate that Acceptable Levels of Service\* are still projected to exist at the time building permits are issued. The determination that a revised and updated Traffic Study\* is required shall be made by the Board of County Commissioners at a public hearing with notice to the developer, upon recommendation by the Planning Director.
- B.(5) The Developer\* shall provide for a bus bay area acceptable to Manatee County at one location within each commercial land use area and at one location on University Parkway near the project entrance at time of Development. (This condition provides the Transportation Management System required by TBRPC).
- B.(6) The Developer\* shall implement, at their expense, the following specified safety transportation improvements.

- a. Signalize the intersection of University Parkway and Cooper Creek Boulevard. The signal shall be of the mast arms type. Completed.
- b. Provide a westbound right-turn deceleration lane on University Parkway, at the intersection with Cooper Creek Boulevard. The turning lane length shall be 500 feet. Completed.
- c. Provide an additional southbound left-turn lane on Cooper Creek Boulevard at the intersection with University Parkway. The resulting dual left-turn lanes shall have a queue length component of 225 feet each. The Southbound right-turn lane queue length should be 150 feet. The dual left-turn lanes shall be supplemented by guiding pavement markings to provide turning lane separation (2-ft long dashed lines with 4-ft gaps to channelize turning traffic). Completed.
- d. Add one right hand, northbound to eastbound turn lane from Honore Avenue to Cooper Creek Boulevard, approximately 400 feet in length. Completed
- e. Add one eastbound to northbound left turn lane from University Parkway to Cooper Creek Boulevard adjacent to the existing left turn lane prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.

B.(7) The Developer\* shall evaluate the need for traffic safety and circulation improvements with each PSP\*. Manatee County shall review and evaluate the information submitted by the Developer\* and reserve the right to require additional safety and circulation improvements such as turn lanes, signals, signal timing, and pavement markings.

## ENVIRONMENT

### Air Quality

C.(1) 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.

### Water Quality, Wetlands\* and Drainage

D.(1) In order to protect water quality in the Braden River watershed and the Evers Reservoir Watershed, there shall be no degradation of water quality by stormwater exiting the site. All stormwater discharges to the Braden River shall be required to meet all state water standards and criteria as defined in Chapters 62-302, and 62-25, F.A.C., as well as Manatee County requirements.

D.(2) The Developer\* shall continue to conduct the approved comprehensive surface water quality and quantity monitoring program approved by the County ~~and the Planning Department in accordance with Exhibit H.~~ The program shall continue through one year beyond project buildout. The County may require that the program may be extended beyond buildout if conditions are observed that would

require additional monitoring. All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority. All monitoring reports shall be submitted to the TBRPC with each biennial report and to Manatee County, the City of Bradenton, and any other agency requesting a copy.

Any changes to the Surface Water Quality Monitoring Program Criteria, as outlined in ~~"Exhibit H"~~, shall be submitted to the City of Bradenton and TBRPC for review and comment, and approval by Manatee County.

Should Manatee County adopt a Comprehensive Evers Reservoir Watershed Surface Water Quality Monitoring Program and the Developer\* participates in this Comprehensive Surface Water Quality Monitoring Program, then the Developer\*, with the approval by Manatee County and TBRPC, may terminate the required Surface Water Quality Monitoring Program contained in this Development Order.

- D.(3) The Developer\* shall continue to conduct the comprehensive ground water quality and quantity monitoring program as previously approved by ~~PLANNING-Building and Development Services Department .DEPARTMENT and attached as Exhibit H.~~ The program shall continue through one year beyond project buildout. All monitoring reports shall be submitted to TBRPC with each biennial report and to Manatee County, the City of Bradenton, and any other agency requesting a copy.

Any changes to the Groundwater Quality Monitoring Program Criteria shall be submitted to the City of Bradenton and TBRPC for review and comment, and approval by Manatee County.

All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by that approved authority.

- D.(43) The Developer\* shall be responsible for Operation and Maintenance for all portions of the Surface Water Management System, except for those portions which are dedicated to and accepted by the County.
- D.(54) All development shall be subject to the requirements of Chapter 40D-4, F.A.C. All Wetlands\* in the entire 604.68 acre development shall be subject to the requirements of Section 719 of the Manatee County Land Development Code or as otherwise approved by Manatee County.
- D.(65) Impacts to Wetlands\*, Preservation Areas\*, and Conservation Areas\* shall be mitigated in accordance with Table 3. Mitigation shall be required prior to the completion of the parcel in which the impact occurs.

a. **Preservation and Conservation Areas\***

Preservation and Conservation Area\* shall comprise of all SWFWMD jurisdictional wetlands, in addition to other areas as delineated on Exhibit C.

The Conservation Areas\* on site encompass approximately 51.96 acres as indicated on the attached Revised Preservation/Conservation Map dated July 28, 1999, Exhibit C. All Conservation Areas\* shall remain undisturbed or mitigated.

There shall be no impact to those Wetlands\* encompassing approximately 16.41 acres, indicated as Preservation Areas\* on the attached Revised Preservation/Conservation Map, dated July 28, 1999, Exhibit C. Impacts authorized pursuant to state and federal permits approved prior to the effective date of this development order and impacts for necessary infrastructure (such as roads, utility lines, recreational trails, and paths, as provided by TBRPC policy) may be allowed.

b. **Wetland Areas\***

Wetlands created as a result of flood storage compensation shall be credited as mitigation lands if acceptable to the Planning Building and Development Services Department and other permitting agencies.

As required by Manatee County Comprehensive Plan Policy 3.3.1.5, the Developer\* shall provide buffers around all Post-Development Wetlands\*. Variable width buffers may be approved in accordance with Section 719.11.1 of the Land Development Code.

Mitigation security for impacts to wetlands, preservation, and conservation areas shall be required in accordance with applicable County Ordinances.

All herbaceous mitigation areas and littoral shelves used for mitigation shall be monitored ~~annual~~biennially~~annually~~ -after planting for a period of three years. Forested mitigation areas shall be monitored annually for at least five years. Monitoring shall include survival rates, species diversity composition, spreading, and exotic species encroachment. Additional planting may be required to maintain an 85 percent survival of planted species at the end of three years.

All Post Development Wetlands\*, Conservation and Preservation Areas\*, and their buffers shall be protected by a recorded conservation easement to Manatee County, as a separate easement document acceptable to Manatee County, and shall be shown on any Preliminary and Final Site Plans and Subdivision Plats. Deed restrictions shall be included that prohibit development activity and removal of native vegetation in the conservation easement unless approved by the County and any permitting agency or agencies with jurisdiction. Any replanting within the buffer shall be with flora native to the Braden River area of Manatee County.

Each ~~annual~~biennial report shall include the results of the mitigation monitoring. The report shall also include information on what Conservation Areas\* and

Preservation Areas\* have been impacted and the steps taken to mitigate the impacts and the results of the mitigation monitoring.

**TABLE 3**

**COOPER CREEK CENTER  
MINIMUM WETLAND\*, PRESERVATION, AND CONSERVATION AREA\*  
MITIGATION RATIOS**

AREAS	MITIGATION RATIOS*	
	HERBACEOUS	FORESTED
TBRPC Preservation & Conservation Area*	2:1	3:1
Wetlands*	2:1 ♦	4:1 ♦

If an area falls under two categories, then the most restrictive mitigation ratio shall apply.

♦ May be reduced in accordance with the Manatee County Land Development Code and Comprehensive Plan.

• Ratio is Mitigated Wetland\*: Disturbed Wetlands\*. Transplantation may be used for mitigation, if approved by the PLANNING-BUILDING AND DEVELOPMENT SERVICES DEPARTMENT and SWFWMD. Mitigation ratios shall be as approved by those agencies. For the purposes of this section, transplantation shall be considered creation, not enhancement.

\* Mitigation ratios for Wetland\* and Conservation Areas\* may include enhancement as mitigation technique. Enhancement for impacts to TBRPC Conservation Areas\* shall be provided at a minimum ratio of 6:1.

D.(7) The stormwater management systems shall be designed, constructed, and maintained to meet or exceed applicable requirements of the adopted Manatee County Comprehensive Plan and Chapter 62-4, 62-25, 40D-4, 40D-40, 40D-400 F.A.C. The stormwater management system within the Evers Reservoir watershed shall treat stormwater to Outstanding Florida Waters standard. Stormwater treatment shall be provided by biological filtration where required by the Master Drainage Plan as referenced as "Exhibit I".

D.(8) The Developer\* shall not seek permits for, or otherwise implement, any point source discharges of pollutants into the Braden River or its tributaries. Stormwater is not point source discharge as defined today, and no re-definition of point source discharges shall create a requirement that existing storm water discharges be prohibited under this section.

FLOODPLAINS

E.(1) All habitable portions of structures shall be constructed above the 100-year floodplain, and in accordance with local, state, and federal requirements.

E.(2) Any encroachment of the 100-year floodplain or floodway shall be mitigated in accordance with FEMA and Manatee County standards.

E.(3) No discharges to groundwater shall be permitted on-site.

### ECONOMICS

F.(1) The Cooper Creek Center development shall promote entrepreneurship and small and minority-owned business start-up, and encourage non-discriminatory employment opportunities, pursuant to Policies 21.2, State Comprehensive Plan and 2.7.2, FRSRPP, respectively.

### WILDLIFE HABITAT AND VEGETATION

G.(1) In the event that any species listed in Rule 68A-27.003 through 68A-27.005, FAC, are observed frequenting the site for nesting, feeding, or breeding, proper protection or mitigation measures shall be employed immediately in cooperation with the Florida Fish and Wildlife Conservation Commission (FWCC), the Manatee County Planning Building and Development Services Department, and the Florida Department of Community Affairs. This shall include, at a minimum, a wildlife management plan which contains information on impacts to listed species, site maintenance, fire frequency, Wetland\* management, and boundary protection. Any such plan not adopted as part of the original Development Order shall require an amendment to the Development Order.

### ARCHAEOLOGICAL AND HISTORICAL RESOURCES

H.(1) Any historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Department of State Division of Historical Resources (DHR) and treatment of such resources shall be determined in cooperation with the DHR, and Manatee County. Treatment of such resources must be completed before resource-disturbing activities are allowed to continue. A description of the project's compliance with these conditions shall be included in the subsequent ~~annual~~ biennial reports, to be submitted for review to DHR, in addition to TBRPC and Manatee County.

### WASTEWATER

I.(1) Sewer lift stations shall be designed and equipped in accordance with Manatee County's Public Works Department guidelines with several means of back-up, to provide assurance against equipment failure and discharge to the environment. These shall include:

- a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box.
- b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability.

- c. Wet wells to contain sewage line surcharges or overflows.
  - d. Emergency by-pass pumpouts for tank trucks.
  - e. 100 percent redundancy in lift station pumping equipment.
- I.(2) Wastewater services to be provided by Manatee County. The quantity reserved shall be pursuant to the CLOS.
- I.(3) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (91-39).
- I.(4) The Developer\* shall not utilize on-site wastewater treatment.

### WATER

- J.(1) The Developer\* shall require the installation of water conservation fixtures. Water saving devices shall be installed in accordance with the Florida Water Conservation Act (Section 553.14, Florida Statutes). The Developer\* shall require the use of native vegetation and Xeriscape techniques, to be used in landscaping to the greatest extent possible.
- J.(2) The Developer\* shall use only non-potable water to meet non-potable demands. For purposes of this Development Order, "non-potable" water is defined as water emanating from any source other than a public water utility. No reclaimed water shall be used within the Evers Reservoir watershed provided that if spray effluent is permitted by Manatee County and other agencies having jurisdiction, no amendment to the Development Order shall be required to allow the Developer\* to use spray effluent.
- J.(3) The Developer\* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources.

### SOLID/HAZARDOUS WASTE

- K.(1) The Developer\* shall provide to all Cooper Creek Center businesses information that:
- a. Indicates the types of wastes and materials that are considered to be hazardous and are to be stored or disposed of only in the specially-designated containers or areas;
  - b. Concerns the availability of existing companies that will accept wastes for recycle, reuse, exchange, and treatment; and
  - c. Advises of applicable statutes and regulations regarding hazardous wastes and materials.

- K.(2) The Developer\* shall notify all commercial tenants of their responsibility to comply with all the applicable sections of Title III (Community Right-to-Know Law) of the Superfund Amendment and Reauthorization Act (SARA).

### ENERGY

- L.(1) All Cooper Creek Center tenants, business, residents, etc., shall be notified in writing by the Developer\* upon occupancy, that the following related practices are encouraged:

- a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;
- b. Obtain energy audits provided by energy companies or other qualified agencies;
- c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;
- d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Cooper Creek Center construction;
- e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
- f. Reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;
- g. Institute and utilize recycling programs; and
- h. Utilize energy efficient packaging or recyclable materials.

- L.(2) The Developer\* should designate an energy officer to establish energy policies, monitor energy use, and encourage conservation for project businesses. This information shall be included in the first annual ~~annual~~ biennial report. Completed.

### RECREATION AND OPEN SPACE

- M.(1) All recreation and open space areas not dedicated to the County or other state agencies shall be maintained by the Developer\*.
- M.(2) A decrease in open space acreage shall require a substantial deviation determination conducted pursuant to Subsection 380.06(19), Florida Statutes.

## PUBLIC SAFETY

- N.(1) Sheriff and emergency medical services will be provided by Manatee County. The Developer\* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for police and emergency medical 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 shall be approved prior to the next Final Site Plan approval. Provided, however, no approval shall be delayed if the applicant submits an agreement, and it is withheld because of the County's inability or failure to determine needs or pro-rata share determination for a period exceeding 2 months after its submittal. In no event, shall the developer's payment or pro-rata share exceed impact fee amount.
- N.(2) The Cooper Creek Center development shall be designed and constructed to meet or exceed specifications of the State Fire Code - Rule 4A-3.012, FAC or be in compliance with Manatee County Comprehensive Plan and Land Development Code Requirements.

## GENERAL CONDITIONS

- O.(1) The Developer\* shall be required to adhere to any and all commitments made in Section 6 incorporated herein, unless that commitment is superseded by a Development Order Condition in which case the Development Order Condition shall prevail.
- O.(2) The Developer\* shall submit ~~annual~~biennial DRI reports in accordance with Section 380.06(18), Florida Statutes, to Manatee County, the Tampa Bay Regional Planning Council, the State Land Planning Agency, and other agencies, as may be appropriate, on or before the 9<sup>th</sup> of January ~~and each year thereafter of all even-numbered years starting in 2012~~, until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of Manatee County Planning Building and Development Services Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Director decide that further orders and conditions are necessary. The Developer\* shall be notified of any Board of County Commissioners hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, waiver, or change of any conditions, or any terms or conditions of this Development Order. The annual report shall contain the following:
- a. Any changes in the plan of development, or in the representation contained in the ADA\*, or in the phasing for the reporting yearperiod and for the next yearperiod;
  - b. A summary comparison of development activity proposed and actually conducted for the 2 years;

- c. Undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or Developer\*;
- d. Identification and intended use of lands purchased, leased, or optioned by the Developer\* adjacent to this DRI site since the amended Development Order was issued;
- e. An assessment of the Developer\*'s and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments that are contained in the Application for Development Approval\* and which have been identified by the County, the TBRPC, or the Department of Community Affairs as being significant;
- f. Any known incremental DRI Applications for Development Approval\* or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year reporting period;
- g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
- i. A statement that all persons have been sent copies of the ~~annual report~~ biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes; and
- j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer\* pursuant to Subsection 380.06(15)(f), Florida Statutes.
- k. Reports or information pursuant to stipulations D(2), D(3), D(6), F(1), H(1), and L.(2) .

O.(3) Any changes in the Development from the parameters set forth in the Application\* and this Development Order shall be governed by Subsection 380.06(19), Florida Statutes.

O.(4) The Manatee County ~~Planning~~ Building and Development Services Director or the Director's authorized designee shall be responsible for monitoring the Development and ensuring its compliance with this Development Order. The data necessary for monitoring the Development shall be generated by building permits, certificates of occupancy, approval of plats and offering statements, the ~~Annual~~ Biennial -Report, and on-site observations. The enforcement of the Terms and conditions of this Development Order shall be through such means as are authorized by Chapter 380, Florida Statutes, and through the Manatee County Land Development Code.

- O.(5) The Developer\* has elected, pursuant to Section 380.06(5)(c), Florida Statutes, to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the time the Development Order was issued on September 30, 1997. Accordingly, to the extent the provisions of Section 380.06(5)(c), Florida Statutes, affect the determination as to which rules are applicable to the Development, said election shall apply, notwithstanding any provision in this Development Order to the contrary.
- O.(6) This Development Order shall expire December 30, ~~2014~~2016. Buildout shall be completed by December 30, ~~2015~~2013. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.
- O.(7) This Ordinance shall constitute a Development Order issued in accordance with Chapter 380, Florida Statutes.
- O.(8) In the event of a Development Order appeal or other legal challenge of the Development Order by the DCA or TBRPC, the Developer shall pay all costs and fees of County Staff and attorneys the County is required to expend related to said appeal or legal challenge at the rate of the processing fee for the Development Order under the current Planning Building and Development Services Department fee schedules. Payment of all billings by the Developer related to such fees and costs shall be made within 45 days of the submittal of an invoice. Payment to County staff and County attorneys shall be at the rate of the processing fee for the Development Order under the current Planning Building and Development Services Department fee schedule, and payment shall be remitted within forty-five days of submittal of an invoice.

## **SECTION 6. DEVELOPER\* COMMITMENTS**

Developer\* commitments set forth in the attached "Exhibit F" shall be honored by the Developer\*, except as they may be superseded by specific terms of this Development Order.

## **SECTION 7. LEGAL DESCRIPTION**

Development of Cooper Creek Center shall be restricted to the 604.68 acre tract of land described by the legal description included as "Exhibit A" attached to and made a part of this Development Order.

## **SECTION 8. COMMENCEMENT OF DEVELOPMENT**

Physical development of the project not previously permitted shall commence within three (3) years of approval of this Development Order unless the time period for commencement is extended by the Board of County Commissioners; however, no Development Approval\* shall occur until the expiration of the appropriate appeal for this Development Order. If any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on testimony presented at that hearing, rescind or suspend or take other appropriate action on any and all approvals granted

herein except where the failure to carry out development is attributable to factors beyond the control of the Developer\* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of Vertical Development\* as part of an ongoing effort to prepare improved land or buildings for sale, lease, or use. Physical development has been initiated.

## **SECTION 9. RESTRICTIONS ON DOWN-ZONING**

Prior to December 30, ~~2014~~2015, the County may not down-zone or reduce the intensity or unit density permitted by this order, unless the County can demonstrate that:

A. Substantial changes in the conditions underlying the approval of the order have occurred; or

B. The order was based upon substantially inaccurate information provided by the Developer\*; or

C. The change is clearly established by the County to be essential for the public health, safety, or welfare.

Any down-zoning or reduction in intensity shall be affected only through the usual and customary procedures required by statute or ordinance for change in local land development regulations.

For the purposes of this order, the term "down-zone" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer\* by this order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the development, but is included herein to comply with Paragraph 380.06(15)(c)3, Florida Statutes.

## **SECTION 10. BINDING ORDER UPON DEVELOPER\***

This order shall be binding upon the Developer\* and Owners\*.

## **SECTION 11. COMPLIANCE WITH CODES, ORDINANCES**

All development undertaken pursuant to this order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically provided herein.

## **SECTION 12. RENDITION**

The ~~Planning Building and Development Services Department~~ Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the Board of County Commissioners approval of this Development Order to the Developer\*, the DCA, and the TBRPC.

**SECTION 13. NOTICE OF RECORDING**

The Developer\* shall record a notice of adoption of this order as required pursuant to Chapter 380, Florida Statutes, and shall furnish the Planning-Building and Development Services Department ~~Department~~ a copy of the recorded notice.

**SECTION 14. SEVERABILITY**

It is the intent of this development order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this development order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such provisions or portions shall be deemed null and void but all remaining provisions and portions of this development order shall remain in full force and effect.

**SECTION 15. EFFECTIVE DATE**

This Ordinance shall become effective upon filing of a certified copy with the Department of State and rendered to the parties specified in Section 380.07(2), Florida Statutes, which ever occurs later; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance ~~05-54~~ 11-16 during the pendency of any appeal.

**SECTION 16. RECONCILE INTO ONE DOCUMENT**

This Development Order represents a codification of the existing approvals for the project integrating those changes proposed in this ~~Substantial Deviation Determination~~ Notice of Proposed Change and approved by the Board of County Commissioners into a single Development Order for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

**~~SECTION 17. REPEAL OF PRIOR ORDINANCE~~**

~~Ordinance No. 09-3511-07 adopted by the Board of County Commissioners on May 19, 2009~~ February 10, 2011 ~~is hereby repealed and of no further force or effect.~~

**ADOPTED AND APPROVED with a quorum present and voting by the Board of County Commissioners of Manatee County, Florida this the 3<sup>rd</sup> -24<sup>th</sup> day of February, 2010**  
**May of May, 2011.**

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

**BY: \_\_\_\_\_**  
**Carol Whitmore, Chairman**

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

\_\_\_\_\_  
**Deputy Clerk**

| **EXHIBITS A, B, F, AND G, ~~AND H~~ ARE ATTACHED**

**EXHIBIT C IS NOT ATTACHED BUT IS ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 99-40, APPROVED ON SEPTEMBER 7, 1999**

**EXHIBITS D AND I ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS ATTACHMENTS TO THE PREVIOUSLY APPROVED ORDINANCE 97-23, APPROVED ON NOVEMBER 4, 1997.**

|

**"EXHIBIT H"**

**SURFACE AND GROUND WATER MONITORING PLANS  
COOPER CREEK CENTER  
DEVELOPMENT OF REGIONAL IMPACT**

This exhibit details the Surface and Ground Water Monitoring Plans required under Sections D.(2) and D.(3) of the Cooper Creek Center Development Order. The Developer\* shall develop a monitoring plan addressing the criteria listed below within six months of approval of this Development Order.

a. \_\_\_\_\_ All points of measurable surface water discharge from the property boundaries, within the Braden River Watershed, shall be monitored on a semiannual/biennial basis (wet and dry season). At each station, during each sampling event, three grab samples shall be collected, composited, and transported to an FDEP approved laboratory for chemical analysis. In addition, in-situ field parameters should be measured from the composite sample using appropriately calibrated field meters. The three grab samples encompassing the composition sample shall be collected at least twenty minutes apart.

b. \_\_\_\_\_ Parametric coverage of the monitoring plan should include the following:

- \_\_\_\_\_ specific conductance (field)
- \_\_\_\_\_ temperature (field)
- \_\_\_\_\_ dissolved oxygen (field)
- \_\_\_\_\_ pH (field)
- \_\_\_\_\_ flow rates (field)
- \_\_\_\_\_ chlorides
- \_\_\_\_\_ sulfates
- \_\_\_\_\_ fluoride
- \_\_\_\_\_ total dissolved solids
- \_\_\_\_\_ total suspended solids
- \_\_\_\_\_ ammonia
- \_\_\_\_\_ nitrate
- \_\_\_\_\_ nitrite
- \_\_\_\_\_ total Kjeldahl nitrogen
- \_\_\_\_\_ total nitrogen
- \_\_\_\_\_ orthophosphate
- \_\_\_\_\_ total phosphorous
- \_\_\_\_\_ copper
- \_\_\_\_\_ lead
- \_\_\_\_\_ zinc
- \_\_\_\_\_ mercury
- \_\_\_\_\_ nickel
- \_\_\_\_\_ arsenic
- \_\_\_\_\_ cadmium
- \_\_\_\_\_ chromium
- \_\_\_\_\_ silver

- ~~\_\_\_\_\_ total coliform~~
- ~~\_\_\_\_\_ fecal coliform~~
- ~~\_\_\_\_\_ BOD-5~~
- ~~\_\_\_\_\_ primary organics (pesticides and herbicides)~~

~~e. \_\_\_\_\_ Sampling events should be performed following storm events of sufficient intensity to create runoff. All points of measurable surface water inflow and discharge from the site should be sampled following a ½ inch or greater storm event using methodology approved by the U. S. Environmental Protection Agency for stormwater sampling associated with the NPDES permitting process. Storm event sampling should be performed twice annualbiennially, during wet (June-September) and dry (October-May) seasons, respectively.~~

~~d. \_\_\_\_\_ The Developer\* shall place a staff gauge in the Cedar Creek tributary and all other applicable sampling stations, for the purpose of obtaining volumetric flow measurements.~~

~~e. \_\_\_\_\_ The results of the monitoring program, and any modifications to the program, shall be subject to reviewed by the County, City of Bradenton, and any other agency requesting review privileges, and for approval by Manatee County and the PLANNING DEPARTMENT.~~

~~f. \_\_\_\_\_ All monitoring reports shall be submitted to TBRPC with each annualbiennial report and to Manatee County, the City of Bradenton, and any other agency requesting a copy.~~

~~Any modifications to the above listed criteria shall be subject to review by the Manatee County Planning Department, the City of Bradenton, and any other agency requesting review privileges, and shall be approved by the Manatee County Board of County Commissioners.~~

"EXHIBIT A"

LEGAL DESCRIPTION COOPER CREEK CENTER

FROM THE S.W. CORNER OF SECTION 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, BEING ON THE NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD, RUN S 89°24'05" E (WITH BEARINGS REFERRED TO GRID NORTH OF THE WEST ZONE OF THE FLORIDA STATE PLAN COORDINATE SYSTEM), ALONG THE SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 303.59 FEET TO THE POINT OF BEGINNING; THENCE N 00°20'30" W, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 36, A DISTANCE OF 5343.35 FEET; THENCE N 02°45'45" E, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 26, TOWNSHIP 35 SOUTH, RANGE 18 EAST, A DISTANCE OF 2674.17 FEET TO THE NORTH LINE OF THE S.W. 1/4 OF SAID SECTION 25; THENCE S 89°10'54" E, ALONG SAID NORTH LINE, A DISTANCE OF 2335.77 FEET TO THE WESTERLY RIGHT OF WAY LINE OF S.R. 93 (I-75, SECTION 13075-2402); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE (AND INTERSECTION RIGHT OF WAY) THE FOLLOWING EIGHT COURSES: VIZ: S 13°40'31" E, A DISTANCE OF 6145.63 FEET; AND S 09°40'31" E, A DISTANCE OF 518.74 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3180.04 FEET; AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°30'18", A DISTANCE OF 638.55 FEET; AND S 04°37'06" W, A DISTANCE OF 450.00 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 216.0 FEET; AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°40'21", A DISTANCE OF 315.44 FEET, TO THE P.T. OF SAID CURVE; AND S 88°17'27" W, A DISTANCE OF 628.42 FEET; AND N 89°25'07" W, A DISTANCE OF 298.24 FEET ; AND S 00°34'53" W, A DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE THE FOLLOWING EIGHT COURSES: VIZ: N 89°25'07" W, A DISTANCE OF 440.34 FEET; AND N 89°24'06" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5865.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 828.89 FEET, TO THE P.T. OF SAID CURVE; AND S 82°30'06" W, A DISTANCE OF 549.31 FEET; AND S 00°35'54" W, A DISTANCE OF 33.33 FEET; AND S 82°30'06" W, A DISTANCE OF 12.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5626.58 FEET, AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 795.11 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'05" W, A DISTANCE OF 220.21 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD.

CONTAINING 604.68 ACRES, MORE OR LESS.

## "EXHIBIT F"

### DEVELOPER COMMITMENTS

1. The home sites shall be clustered around the sites/ natural features. (ADA Pg 12-1)
2. Infrastructure including water, sewer and electricity, along with roadway paving, shall be in place prior to certificate of occupancy. (ADA, Pg 32-2)
3. There shall be a minimum of three percent of the original coniferous remaining after development. (Pg 12-4, S.R.)
4. Standard fugitive particulate abatement procedures shall be used to control dust prior to construction of the various phases of Cooper Creek Center. (Pg. 13-5, S.R.)
5. Manatee County Air Pollution Rules take effect at the time of construction approval and shall apply throughout the balance of construction of Cooper Creek Center. (Pg. 13-5, S.R.)
6. Temporary erosion control measures shall be employed during project construction to minimize wind and water erosion. Temporary measures may include hay bales, silt screens, grassing, mulching, floating or staked silt barriers, sandbagging, or other appropriate methods described in the FDOT Standard Specifications for Road and Bridge Construction. Dust control measures such as watering, or the use of calcium chloride shall be employed as needed. (ADA, 14-2; SR11, pg A1-10)
7. Flood elevations shall generally not be altered by the development; however, the acreages within the flood hazard zones will change due to dredge and fill activities which shall occur as part of the construction of the stormwater management system and site grading plan. (Pg. 17-1, S.R.)
8. The 25-year flood elevations of Cooper Creek shall be shifted approximately 0.5 feet higher within the project by the construction of a new bridge across Cooper Creek and encroachment down to the 10-year floodplain of Cooper Creek. (Pg. 17-1, S.R.)
9. The 100-year flood elevation shall not be increased off-site due to the additional flow capacity provided by the new auxiliary floodway to be constructed in the uplands along the northwest side of Cooper Creek. (Pg. 17-1, S.R.)
10. There shall be no significant net change in surface and groundwater at buildout. The stormwater treatment ponds shall be instrumental in replenishing the groundwater storage. (SR, pg. C1-8)
11. Clearing of existing vegetation shall be selective, emphasizing conservation of valuable existing plant materials and wetlands. (ADA, pg 12-5)
12. The applicant agrees to cooperate with the Division of Archives and Manatee County in deciding the ultimate disposition of any archaeological or historical resources found during construction. (Pg. 19-1, S.R.)

13. The project shall comply with the requirement of Chapter 62.4, 62.25, 40D-4, 41D-40, and 40D-400, FAC, concerning water quality of stormwater discharge. (SRIII, pg. 6)
14. The wastewater collection system outside the public rights-of-way shall be maintained by the owner of the property. (Pg. 21-1, S.R.)
15. Water users in the industrial park shall have individual meters in order to encourage water conservation. (Pg. 21-2, S.R.)
16. The detention areas of the proposed drainage system shall be designed to contain the runoff from a 25-year, 24-hour storm event for post-development conditions. (ADA, Pg. 22-1)
17. The project design shall consider various methods of energy efficiency and incorporate energy-conserving materials, lighting and equipment. (ADA, 25-3)
18. The proposed facilities and open space shall be owned, operated, and maintained by the Developer, its successors and assigns. (SRIV, pg. 17)
19. Permanent erosion control features, such as permanent landscaping, shall be incorporated into the project at the earliest practical time. (ADA, Pg. 14-2)
20. When practical, conveyance within the drainage system shall incorporate isolated Wetland systems and shallow grassy swales to provide for additional treatment assimilation of nutrients, and additional percolation and evaporation; and utilize shallow grassy swales for conveyance. (ADA, 15-10)
21. Alterations to the floodplain and floodway of Cooper Creek shall allow portions of the floodplain and floodway to be utilized for development or stormwater management without reducing the conveyance of Cooper Creek or causing an increase in the 100-year flood stage. (Pg. 17-6, ADA)
22. A new crossing between powerline bridge and I-75 bridge may be constructed having a flow cross section at stage 18.0 feet msl at least equal to the existing box culvert crossing under University parkway. This crossing shall be either a bridge or a triple box culvert with the center barrel 2.0 feet lower than the outer barrels to provide for passage of animals along the Cooper Creek corridor. (Pg. 22-14, ADA)
23. Natural trail or other passive recreational elements may be constructed in Subbasin A outside the banks of the creek but within the floodway. These elements shall be design not to reduce the conveyance of Cooper Creek and its floodway. (Pg. 22-14, ADA)
24. The fire flow required shall be based upon the proposed type of construction at the current recommendation of the National Board of Fire Underwriters at the time of construction. (Pg. 23-4, ADA)

25. The developer shall satisfy county and SWFWMD regulations regarding encroachments on the floodplain of Cooper Creek. (PBS&J/TBRPC meeting June 25, 1985)
26. No upland development is planned within the 25-year floodplain of the Braden River, ~~Subbasins~~Sub basins D, E, F and G. (Pg. 17-8, S.R.)
27. Four wildlife corridor areas located along the tributaries within the project shall be protected from any future development other than recreation and stormwater retention, through the use of easements and restrictive covenants. (P. 18-1, S.R. and Pg. 18-5, ADA)

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b>	PDMU-96-01(G)(R8) – Cooper Creek Center	<b>TYPE AGENDA ITEM</b>	Advertised Public Hearings - Regular
<b>DATE REQUESTED</b>	05/12/11PC	<b>DATE SUBMITTED/REVISED</b>	05/05/11
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	N/A
<b>DEPARTMENT/DIVISION</b>	Building and Development Services / Public Hearings	<b>AUTHORIZED BY TITLE</b>	John Osborne, AICP, Planning and Zoning Official
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Lisa Barrett / 748-4501 ext. 6884 DTS20100214	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Lisa Barrett / Planning Manager / 748-4501 ext. 6884
<b>ADMINISTRATIVE APPROVAL</b>			

**ACTION DESIRED**  
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

I move to recommend APPROVAL of PDMU-96-01(G)(R8) per the recommended motion in the staff report attached to this memo.

**ENABLING/REGULATING AUTHORITY**

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Manatee County Comprehensive Plan and Manatee County Land Development Code.

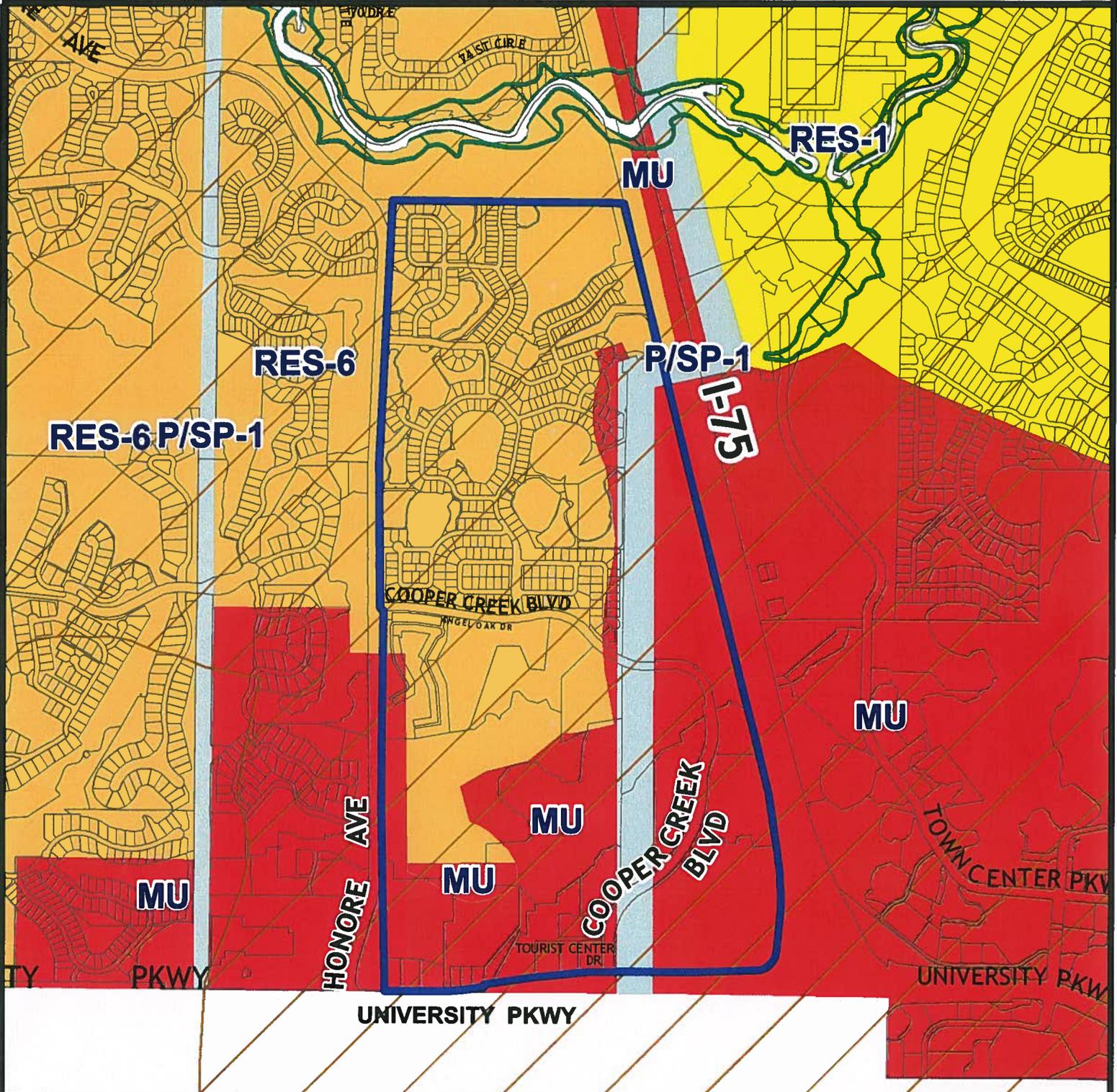
**BACKGROUND/DISCUSSION**

- This request is for an amendment to the Cooper Creek General Development Plan and Zoning Ordinance.
- Cooper Creek is a DRI (Development of Regional Impact). Accompanying the GDP amendment is an amendment to the DRI as a Notice of Proposed Change (or NOPC) and a Land Development Code Text Amendment to add a right-in/out along University Parkway.
- This request is for:
  1. AN AMENDMENT TO THE DEVELOPMENT ORDER TO EXTEND THE BUILD OUT DATE AND EXPIRATION DATES PURSUANT TO PREVIOUSLY APPROVED EXTENSIONS GRANTED WITH SENATE BILL 1752;
  2. ALLOW NON-RESIDENTIAL BUILDINGS CONSTRUCTED IN PARCELS H, I AND J ALONG UNIVERSITY PARKWAY TO HAVE A SETBACK OF 30 FEET;
  3. AMEND THE LANDSCAPED BUFFER WIDTHS ALONG UNIVERSITY PARKWAY AND COOPER CREEK PARKWAY;
  4. ADD A NEW ACCESS POINT TO UNIVERSITY PARKWAY;
  5. AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; AMEND STIPULATIONS TO FACILITATE THESE CHANGES.
- Staff recommends approval of the requests, with the exception of the request for the variable width buffer along University Parkway.
- The current Zoning Ordinance requires a 50-foot wide landscape buffer along University Parkway, but allows the buffer to be decreased to a minimum of 20 feet and increased in other areas in order to preserve existing native vegetation.
- The development is within the Entranceway of Manatee County and as such, LDC Section 737.5.1.1 requires a minimum 20-foot wide landscape buffer along all arterial and collector street frontages for projects within the Entranceway.
- The applicant requests the buffer be "flexible" allowing the Director or Planning and Zoning Official to grant alternative landscaping plans with approval of future Final Site Plans.
- The request by the applicant is vague. A "flexible" buffer can mean as little as 0' and will not be known until future site plans are submitted, and approved administratively.
- Staff does not support this request. The applicant has failed to demonstrate how this proposal meets or satisfies the public purpose and intent of the Comprehensive Plan and LDC regulations relative to "Entranceway" buffers to an equivalent degree.
- Staff has significant concerns about the approval of this request. Doing so will set the trend for similar requests throughout the county along our Entranceways; dramatically altering the image of the county for the local traveler or new visitors. That "sense of place" unique to our county could be lost.
- Staff recommends alternative language for the landscape buffers along University Parkway, maintaining the 50 to 20-foot wide buffer.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input checked="" type="checkbox"/>	<b>REVIEWED</b> <b>Written Comments:</b> <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Available from Attorney (Attorney's initials: SAS)
<input type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
Staff report		n/a	
<b>COST:</b>	n/a	<b>SOURCE (ACCT # &amp; NAME):</b>	n/a
<b>COMMENTS:</b>		<b>AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)</b>	

# FUTURE LAND USE



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center  
 Project #: PDMU-96-01 (G)(R8)  
 DTS#: 20110069  
 Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
 Acreage: 604.68  
 Existing Zoning: PD-MU  
 Existing FLU: RES-6, MU, P/SP-1  
 Overlays: ST  
 Special Areas: NONE

CHH: NONE  
 Watershed: WPE  
 Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
 Commissioner: Donna Hayes

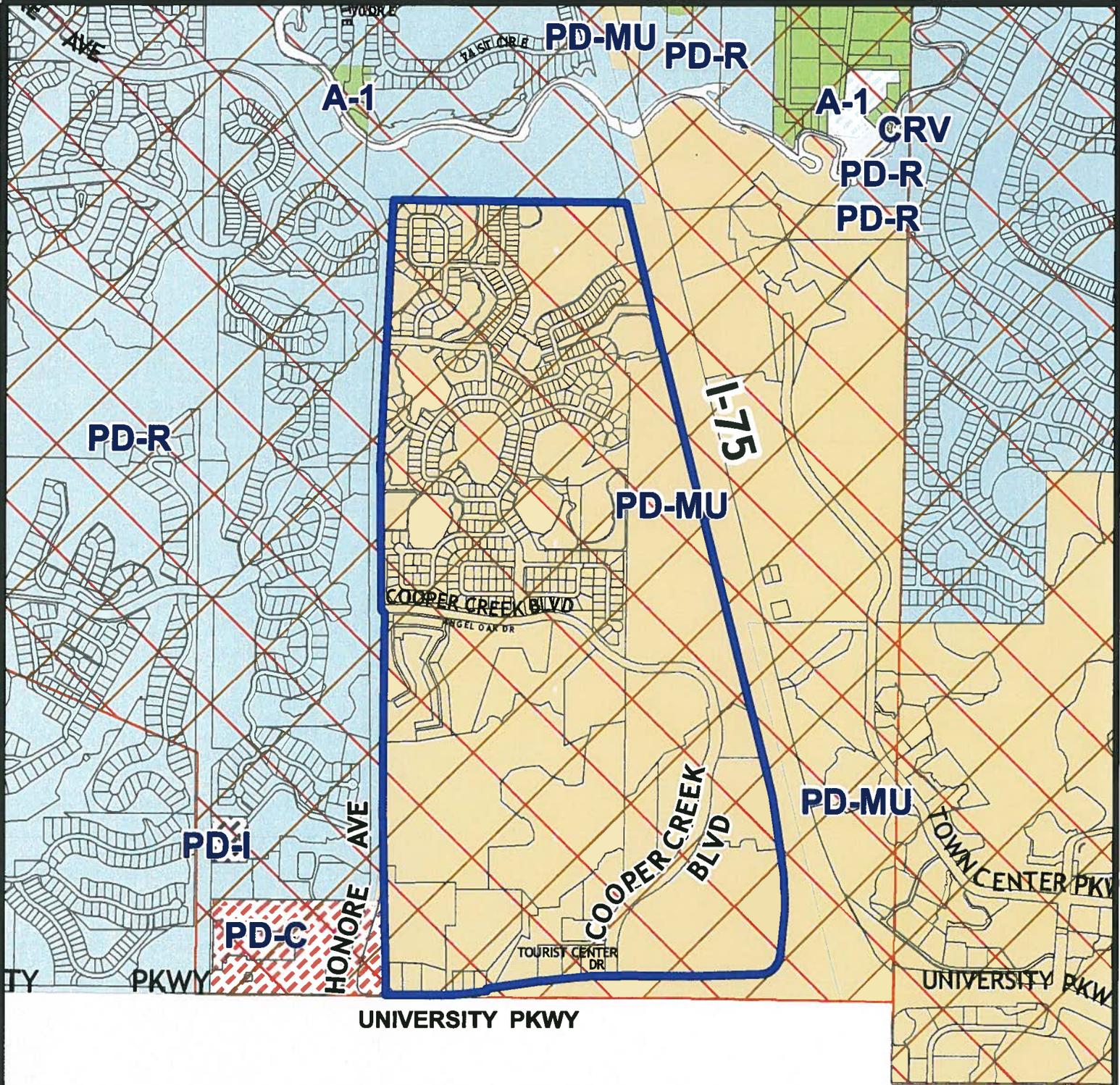


Manatee County  
 Staff Report Map  
 Map Prepared 4/19/2011  
 1 inch = 1,393 feet

### Overlay

 Evers Watershed (WPE)

# ZONING



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center  
 Project #: PDMU-96-01 (G)(R8)  
 DTS#: 20110069  
 Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
 Acreage: 604.68  
 Existing Zoning: PD-MU  
 Existing FLU: RES-6, MU, P/SP-1  
 Overlays: ST  
 Special Areas: NONE

CHH: NONE  
 Watershed: WPE  
 Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
 Commissioner: Donna Hayes

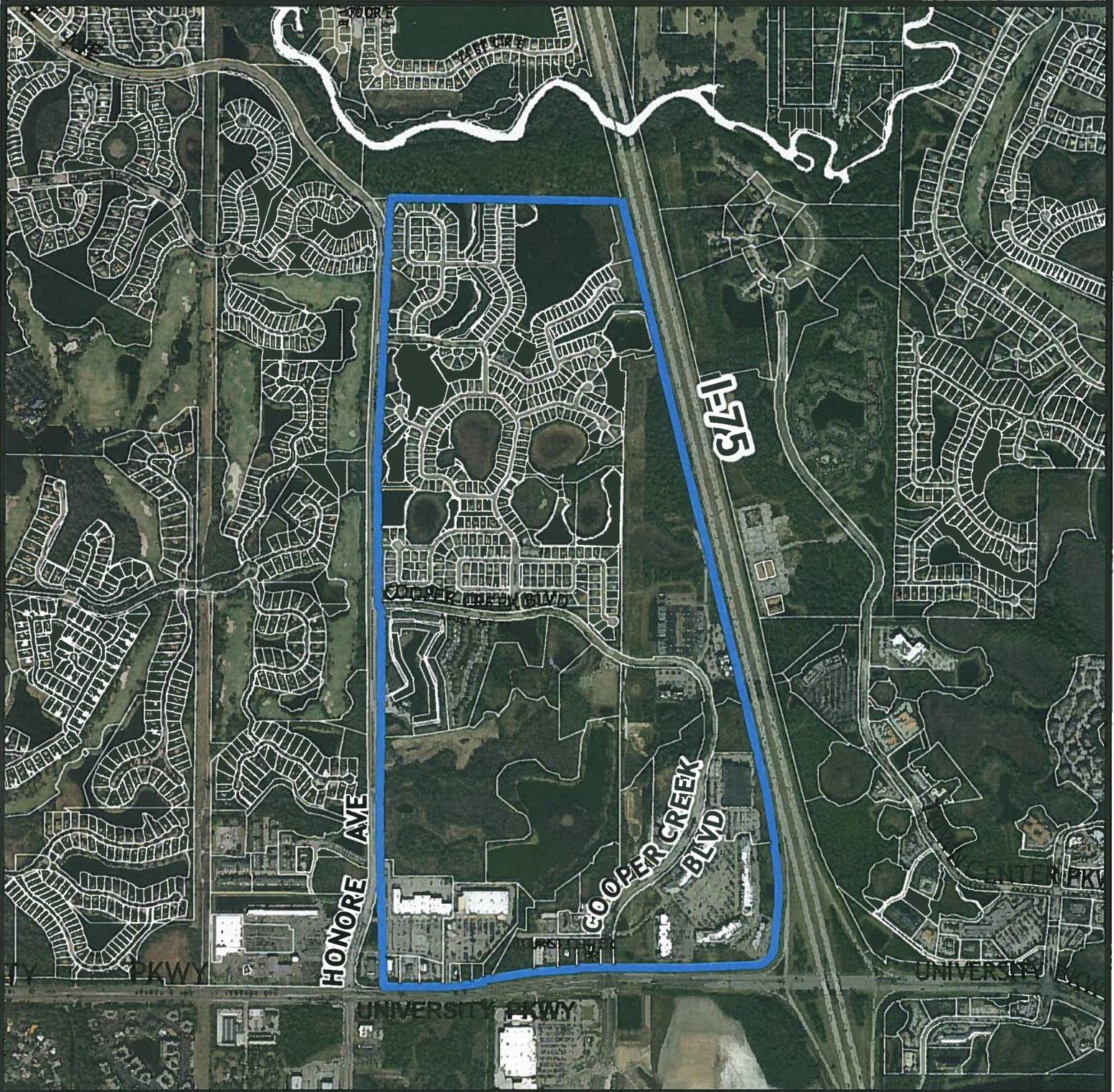


Manatee County  
 Staff Report Map  
 Map Prepared 4/19/2011  
 1 inch = 1,393 feet

### Overlay

-  Special Treatment
-  Evers Watershed (WPE)

# AERIAL



Parcel ID #(s) Multiple

Project Name: Cooper Creek Center  
Project #: PDMU-96-01 (G)(R8)  
DTS#: 20110069  
Proposed Use: Mixed Use

S/T/R: Sec 36,25 Twn 35 Rng 18  
Acreage: 604.68  
Existing Zoning: PD-MU  
Existing FLU: RES-6, MU, P/SP-1  
Overlays: ST  
Special Areas: NONE

CHH: NONE  
Watershed: WPE  
Drainage Basin: MIDDLE BRADEN, COOPER CREEK  
Commissioner: Donna Hayes



Manatee County  
Staff Report Map

Map Prepared 4/19/2011

1 inch = 1,393 feet

P.C. 5/12/11

**PDMU-96-01(G)(R8) – COOPER CREEK CENTER**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE PDMU-96-01(G)(R-6) AND (R7) TO AMEND THE DEVELOPMENT ORDER TO EXTEND THE BUILD OUT DATE AND EXPIRATION DATES PURSUANT TO PREVIOUSLY APPROVED EXTENSIONS GRANTED WITH SENATE BILL 1752; TO ALLOW NON-RESIDENTIAL BUILDINGS CONSTRUCTED IN PARCELS H, I AND J ALONG UNIVERSITY PARKWAY TO HAVE A SETBACK OF 30 FEET; TO AMEND THE LANDSCAPED BUFFER WIDTHS ALONG UNIVERSITY PARKWAY AND COOPER CREEK PARKWAY; ADD A NEW ACCESS POINT TO UNIVERSITY PARKWAY; AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; AMEND STIPULATIONS TO FACILITATE THESE CHANGES; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE. COOPER CREEK IS GENERALLY LOCATED NORTHWEST OF UNIVERSITY PARKWAY AND I-75 INTERSECTION (604.68 ± ACRES).**

**P.C.: 05/12/11**

**B.O.C.C.: 05/24/11**

**RECOMMENDED MOTION:**

**Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, I move to recommend APPROVAL of Manatee County Zoning Ordinance PDMU-96-01(G)(R8); and APPROVAL of the General Development Plan with conditions; GRANTING Special Approval for a project in the MU (Mixed Use) Future Land Use Category, in the WPE (Watershed Protection-Evers) and ST (Special Treatment) Overlay Districts, and within the Entranceway; ADOPTING the Findings for Specific Approval; and DENYING Specific Approval for alternatives to LDC Sections 737.5.1.1 and 715.3.2.c.1.a of the Land Development Code, as recommended by staff.**

<b>PROJECT SUMMARY</b>	
<b>CASE#</b>	<b>PDMU-96-01(G)(R8) - (DTS #20110069)</b>
<b>PROJECT NAME</b>	<b>Cooper Creek</b>
<b>APPLICANT(S):</b>	<b>Benderson Development Company, LLC</b>
<b>EXISTING ZONING:</b>	<b>PDMU/WPE/ST (Planned Development Mixed Use/ Watershed Protection-Evers/Special Treatment Overlay District)</b>
<b>PROPOSED USE(S):</b>	<b>Amendment to GDP to add a right in/right out driveway on University Parkway and amendments to the conditions of approval to allow a flexible buffer on University Parkway and Cooper Creek Boulevard, and reduced setbacks for building on Commercial Parcels H, I and J.</b>
<b>CASE PLANNER:</b>	<b>Lisa Barrett, Planning Manager</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL W/ DENIAL OF THE REQUEST FOR SPECIFIC APPROVAL FOR THE VARIABLE WIDTH BUFFERS</b>
<b>DETAILED DISCUSSION</b>	
<p><b>The request is for an amendment to the General Development Plan (GDP) and Zoning Ordinance for the Cooper Creek Development of Regional Impact (DRI). Accompanying the GDP revision is the NOPC (Notice of Proposed Change) request for the DRI.</b></p> <p><b><u>Request #1:</u></b>  <b>Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.</b></p> <p><b>The buildout date and expiration date of the current development order, Ordinance 11-07 recognized the 3 year extension granted under Senate Bill (SB) 380.06 (19)b(14) c granted in 2007, as well as the 2 year extension granted under SB 360 passed in 2010. The additional 2 years to be added to the buildout and expiration dates are the result of</b></p>	

**an additional 2-year extension granted under recently adopted SB 1752. SB 360 and 1752 have granted a total of 4 additional years, to both the Development Order for the DRI and the Zoning Ordinance for the GDP.**

**Staff has no objections as the extensions have already been granted. The revision just brings the documents up-to-date with what has already been approved.**

**Request #2:**

**Amend the GDP to permit an additional right in/right out access from University Parkway.**

**In support of the new access point, the traffic consultant has provided data to show the new access will relieve traffic congestion and dangerous turning movements occurring at the intersection of Cooper Creek Boulevard and Tourist Boulevard. Staff supports the request.**

**In order to permit this new access point, in addition to the change to the GDP and Map H for the Cooper Creek DRI, the LDC must also be amended. Ordinance 11-17, amending LDC Section 741.3.2, Access Point to University Parkway, will also accompany the GDP and NOPC requests. The Interlocal Agreement between Manatee County and Sarasota County which governs the access points permitted along University Parkway (a limited access thoroughfare) will also need to be approved by both Manatee and Sarasota Counties. It is anticipated that the Agreement will be amended by the Manatee County Board of County Commissioners at the same hearings as the GDP, NOPC, and LDC text amendment on May 24<sup>th</sup>, 2011.**

**Request #3:**

**Allow non-residential buildings constructed in Parcels H, I, and J along University Parkway to have a setback of 30 feet.**

**The applicant requests the following language – shown in strike-thru/underline:**

**P.(13) The following conditions shall apply to development in Parcels H, I, J, and K:**

- b. Height and setback limitations are as follows:**
  - Motels located in Parcels I&J shall not exceed 75 feet in height and shall maintain a minimum setback of 75' from all streets and rights-of-way. Motels located elsewhere shall be limited to 45 feet in height.**
  - Office buildings (Parcel K) shall not exceed 45 feet in height and shall maintain a minimum setback of 40' from I-75, with a 2:1 ratio additional setback for each one foot of height above 35 feet.**
  - Other commercial buildings shall maintain a minimum setback of 75' from I-75, ~~University Parkway~~, Honore Ave, and shall not exceed 45 feet in height. Commercial buildings in Parcels H, I and J shall maintain a minimum setback of 30 feet from University Parkway.**

The proposed changes to the setbacks are to allow the build-out of the commercial parcels fronting on University. The requested 30 ft. setback is consistent with the setback required for commercial buildings adjacent to arterial roadways in the Planned Development Commercial Zoning District.

Staff has no objection, however, in light of staff's recommendation for alternative language to Request #4, pertaining to roadway buffer widths, staff recommends the following language to clarify the 30 foot setback:

P.(13) The following conditions shall apply to development in Parcels H, I, J, and K:

- b. Height and setback limitations are as follows:
  - Motels located in Parcels I&J shall not exceed 75 feet in height and shall maintain a minimum setback of 75' from all streets and rights-of-way. Motels located elsewhere shall be limited to 45 feet in height.
  - Office buildings (Parcel K) shall not exceed 45 feet in height and shall maintain a minimum setback of 40' from I-75, with a 2:1 ratio additional setback for each one foot of height above 35 feet.
  - Other commercial buildings shall maintain a minimum setback of 75' from I-75, ~~University Parkway~~, Honore Ave, and shall not exceed 45 feet in height. Commercial buildings in Parcels H, I and J shall maintain a minimum setback of 30 feet from University Parkway, unless otherwise restricted by buffer widths as stated in Condition P.(13).g. below.

**Request #4:**

**Amend the landscape buffer widths along University Parkway and Cooper Creek Parkway.**

**The applicant requests to amend the existing language within the Zoning Ordinance as shown in the following strike-thru/underline format:**

P.(13) The following conditions shall apply to development in Parcels H, I, J, and K:

- g. Landscape buffers along I-75, University Parkway, Honore Ave, and Cooper Creek Blvd shall be as follows:

Roadway	Buffer Width
University Parkway:	<del>50 feet</del> <u>Variable*</u>
I-75:	<del>50 feet</del>
Honore Avenue:	30 feet
Cooper Creek Blvd.:	<del>20 feet</del> <u>**Variable*</u>

\* ~~Excludes buffer requirements for the Cooper Creek water body~~As approved by Planning Official.

~~\*\* Both sides of roadway.~~

This buffer area may be increased in areas for purposes of preserving significant trees or tree clusters on site, in exchange for reducing a corresponding area of the required buffer along the same roadway where no significant trees or tree clusters will be impacted. ~~However, in no instance, shall the minimum buffer width be reduced to less than 20 feet along any roadway.~~ Existing native trees, shrubs, and ground covers within the buffers shall be preserved to the maximum extent possible.

Sufficient area around the trees and appropriately designed tree wells shall be required as determined by a registered Landscape Architect to reasonably guarantee their survival. Existing native trees, shrubs, and ground covers within the buffer shall be preserved, to the maximum extent possible. Roadway and screening buffers may be enhanced and created consistent with Section 715 and 737 of the Manatee County LDC.

**The applicant requests the buffer be “flexible” allowing the Director or Planning and Zoning Official to grant alternative landscaping plans with approval of future Final Site Plans, allowing for clustering of landscaping and reduction of the landscape buffer width. The current Zoning Ordinance requires a 50-foot wide landscape buffer along University Parkway, but allows the buffer to be decreased to a minimum of 20 feet and increased in other areas in order to preserve existing native vegetation. The Cooper Creek DRI is within the Entranceway of Manatee County and as such, LDC Section 737.5.1.1 requires a minimum 20-foot wide landscape buffer along all arterial and collector street frontages for projects within the Entranceway.**

**In 1999, staff recommended and the Board approved the 50-foot wide landscape buffer along University Parkway due to a significant increase in the commercial and office space approved at that time. Staff recommended the buffer to reduce potential adverse visual impacts along I-75 and University Parkway.**

**In this request, the applicant is referring to “flexible or variable buffer” adjacent to University Parkway and Cooper Creek Boulevard. However, the minimum dimension appears to be as little as none. The applicant is also indicating that these buffer widths are more appropriately addressed with administrative reviews of individual Final Site plans. Staff does not concur. As previously indicated, the requirement to impose specific buffers as part of development approvals tracked with recognition of the need to maintain vegetative integrity within our “Entranceways” and especially in areas of intense development. Vegetation in informal masses is the intent to frame views for the motorists. Our native landscapes provide the local character and offers the best opportunities for these views. Native vegetation is prevalent in these areas; preserving its existence adjacent to our roadways provides that “sense of place” unique to Manatee County. To sustain the mature urban tree canopy, the existing requirement of 50-foot buffers affords the proper area to preserve this vegetation resource.**

**Although the owner/applicant is known for providing formal and intricate landscapes, they typically reflect a preponderance of non-native or exotic species, requiring a heavy maintenance and watering regiment. This proposal, coupled with the developer's typical intricately detailed exotic designs appear counterintuitive to policies and goals of the Manatee County Comprehensive Plan and Land Development Code:**

### **Comprehensive Plan**

**Objective: 2.9.4 Community Image: Develop an aesthetically pleasing environment which enhances the image of Manatee County as a high quality community in which to live, work and visit.**

**Policy: 2.9.4.1 Maintain all interstate connectors as "Entranceways" to permit implementation of special landscaping, project design, and signage control criteria to achieve a boulevard image and positive sense of place.**

**Policy: 2.9.4.6 Reduce noise and pollution, promote an aesthetically pleasing environment, and promote water conservation through the use of native landscaping materials. Landscaping requirements shall allow a choice of:**

- 1) Planting of native vegetation, guaranteeing that at least 50% of all plantings incorporated in an approved landscape plan for any project after development consists of native vegetation suitable to that site; or**
- 2) Guaranteeing that at least 60% of all post-development vegetation is indigenous to Manatee County.**

**Policy: 3.2.3.3 Require the use of native xeric plants in post development landscaping...**

### **Manatee County Land Development Code**

#### **Section 737. Entranceways**

##### **Section 737.5.1 Landscaping**

**All required landscape areas and buffers shall retain existing native vegetation to the greatest extent possible. Existing trees and shrubs meeting the minimum standards set forth in Section 715 may be counted towards fulfilling the landscaping requirements. All required landscape buffers shall be shown on any site plan or plat as a landscape easement and duly recorded as such after Final Site Plan approval.**

**A previous approval of a master signage plan considered the need to provide for visibility. Aside from the actual sign placement, consideration was also given to removing vegetation for allowing better sight lines and view sheds. This proposal now contemplates additional view sheds, perpendicular to the buffer; 100 feet wide. These view sheds are proposed in seven different locations to entirely expose individual**

**buildings. These too represent significant adverse impacts to the vegetated buffer.**

**As previously suggested, staff has significant concerns about the approval of this request. Doing so will set the trend for similar requests throughout the county along our Entranceways; dramatically altering the image of the county for the local traveler or new visitors. That “sense of place” unique to our county could be lost.**

**Staff recommends the following language:**

- g. Landscape buffers along I-75, University Parkway, Honore Ave, and Cooper Creek Blvd shall be as follows:

<b>Roadway</b>	<b>Buffer Width</b>
University Parkway:	50 feet <u>variable to 20 feet*</u>
I-75:	50 feet
Honore Avenue:	30 feet
Cooper Creek Blvd.:	20 feet <u>variable to 10 feet**</u>

\* ~~Excludes buffer requirements for the Cooper Creek water body~~  
 \*\* ~~Both sides of roadway.~~

~~\*This buffer area may be increased in areas for purposes of preserving significant trees or tree clusters on site, in exchange for reducing a corresponding area of the required buffer along the same roadway where no significant trees or tree clusters will be impacted. However, in no instance, shall the minimum buffer width be reduced to less than 20 feet along any roadway University Parkway. The reduction to 10 feet along Cooper Creek Blvd. is intended to be the exception rather than the rule. Existing native trees, shrubs, and ground covers within the buffers shall be preserved to the maximum extent possible.~~

~~Sufficient area around the trees and appropriately designed tree wells shall be required as determined by a registered Landscape Architect to reasonably guarantee their survival. Existing native trees, shrubs, and ground covers within the buffer shall be preserved, to the maximum extent possible. Roadway and screening buffers may be enhanced and created consistent with Section 715 and 737 of the Manatee County LDC.~~

Existing native trees, shrubs, and ground covers within the buffer shall be preserved, to the maximum extent possible. Roadway and screening buffers may be enhanced and created consistent with Section 715 and 737 of the Manatee County LDC.

**In conclusion, staff recommends approval of Requests #1 thru #3, #3 with additional language for clarification, and denial of Request #4, variable roadway buffers.**

<b>SITE CHARACTERISTICS AND SURROUNDING AREA</b>	
<b>GENERAL LOCATION:</b>	Generally north of University Parkway, west of I-75, and east of Honore Avenue
<b>SIZE:</b>	604.68 ± acres
<b>EXISTING USE(S):</b>	Mixed Use – residential, commercial, office
<b>FUTURE LAND USE CATEGORY:</b>	MU (Mixed Use)
<b>SPECIAL APPROVAL(S):</b>	Project within the WPE and ST Overlays and the Entranceway
<b>OVERLAY DISTRICT(S):</b>	WPE and ST
<b>SPECIFIC APPROVAL(S):</b>	Entranceway Buffer- Section 737.5.1.1. and roadway buffer Section 715.3.2.c.1.a
<b>SURROUNDING USES &amp; ZONING</b>	
<b>NORTH</b>	Vacant land zoned PDR/WP-E/ST approved for single-family residences in Riva Trace
<b>SOUTH</b>	Across University Parkway, is a shopping center in an approved mixed use DRI in Sarasota County
<b>EAST</b>	I-75
<b>WEST</b>	University Park Country Club DRI and a shopping center zoned PDR/PDC/WP-E/ST
<b>SITE DESIGN DETAILS</b>	
<b>OPEN SPACE:</b>	Minimum required open space not changing from previous approvals.
<b>RECREATIONAL AMENITIES:</b>	Not changing from previous approvals
<b>RECREATIONAL ACREAGE:</b>	Not changing from previous approvals
<b>BUFFERS:</b>	Requesting to allow for flexible buffer (from currently required 50 ft. on University Parkway and 20 ft. on Cooper Creek Boulevard).
<b>ACCESS:</b>	University Parkway, Honore Avenue, Cooper Creek Blvd.

<b>FLOOD ZONE(S)</b>	<b>Zones X and AE with Base Flood Elevations between 16' and 21.6' above MSL and the regulatory floodway of Cooper Creek per FIRM Panel 120153 0365C, revised 7/15/92</b>
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**CONCURRENCY**

**The proposed amendment to buffers, setbacks, and access has no impact on existing concurrency reservations.**

**Cooper Creek DRI has an existing CLOS. CLOS-02-067 will expire on 12/30/2012 (which includes extensions granted with Resolution 07-180, Resolution-09-089).**

**SPECIFIC APPROVALS – ANALYSES, RECOMMENDATIONS, FINDINGS**

**Applicant Request(s):**

- 1. Alternative to LDC Section 737.5.1.1 and 715.3.2.c.1.a pertaining to required roadway buffers.**

**Staff Analysis and Recommendation**

The applicant proposes to allow the Director or Planning and Zoning Official to administratively approve alternative buffer width and design from the Entranceway and Landscaping requirements of the LDC (Section 737 and Section 715). See Specific Approval letter request attached to this staff report.

Staff does not support this request. The applicant has failed to demonstrate how this proposal meets or satisfies the public purpose and intent of the Comprehensive Plan and LDC regulations relative to "Entranceway" buffers to an equivalent degree.

**Staff Analysis and Recommendation:**

Staff recommends denial of the request for the reasons delineated in the information within this report.

**Finding for Specific Approval**

This plan fails to comply with the requirements of LDC Sections 715 and 737, the Board finds the public purpose and intent of the LDC regulations relative to buffers are not satisfied to an equivalent degree. This is because the reduction in buffer widths coupled with the 100 feet "view sheds" undermines the integrity

of the intent of the LDC to provide for “Entranceway”.

The Board finds that the public purpose and intent of LDC Sections 737.5.3 and 715.3.2.c.1.a have not been satisfied to an equal or greater degree as proposed.

**ATTACHMENTS**

- 1. Applicable Comprehensive Plan Policies**
- 2. Request for Specific Approval**
- 3. Copy of Newspaper Advertising**
- 4. Ordinance PDMU-96-01(G)(R8)**

**APPLICABLE COMP PLAN POLICIES**

<b>Policy:</b>	<b>2.1.2.7</b>	<b>Review all proposed development for compatibility and appropriate timing. This analysis shall include:</b> <ul style="list-style-type: none"><li>○ consideration of existing development patterns,</li><li>○ types of land uses,</li><li>○ transition between land uses,</li><li>○ density and intensity of land uses,</li><li>○ natural features,</li><li>○ approved development in the area,</li><li>○ availability of adequate roadways,</li><li>○ adequate centralized water and sewer facilities,</li><li>○ other necessary infrastructure and services.</li><li>○ limiting urban sprawl</li></ul>
<b>Policy:</b>	<b>2.2.1.21</b>	<b>MU: Establish the Mixed-Use future land use category as follows:</b>
<b>Policy:</b>	<b>2.2.1.21.1</b>	<b>Intent: To identify, textually in the Comprehensive Plan's goals, objectives, and policies, or graphically on the Future Land Map, areas which are established as major centers of suburban/urban activity and are limited to areas with a high level of public facility availability along expressways. Also, to provide incentives for, encourage, or require the horizontal or vertical integration of various residential and non-residential uses within these areas, achieving internal trip capture, and the development of a high quality environment for living, working, or visiting.</b>
<b>Policy:</b>	<b>2.2.1.21.2</b>	<b>Range of Potential Uses (see Policies 2.1.2.3 - 2.1.2.7, 2.2.1.5): Retail, wholesale, office uses, light industrial uses, research/corporate uses, warehouse/ distribution, suburban or urban residential uses, lodging places, recreational uses, public or semi-public uses, schools, hospitals, short-term agricultural uses, other than special agricultural uses, agriculturally-compatible residential uses, and water-dependent uses.</b>
<b>Policy:</b>	<b>2.2.1.21.3</b>	<b>Range of Potential Density/Intensity:</b>  <b>Maximum Gross Residential Density:</b> <b>9 dwelling units per acre</b>

**Maximum Net Residential Density:  
20 dwelling units per acre**

**Maximum Floor Area Ratio: 1.0**

**Maximum Square Footage for Neighborhood,  
Community, or Region-Serving Uses:  
Large (300,000sf)**

**Policy: 2.2.1.21.4**

**Other Information:**

**a) All projects require special approval and are subject to the criteria within b, c, d below, unless all the following are applicable:**

- 1. The proposed project consists of a single family dwelling unit located on a lot of record which is not subject to any change in property boundary lines during the development of the proposed land use, and**
- 2. The proposed project is to be developed without generating a requirement for either subdivision review, or final site or development plan review, or equivalent development order review.**

**b) Non-Residential uses exceeding 150,000 square feet of gross building area (region-serving uses) may be considered only if consistent with the requirements for large commercial uses, as described in this element.**

**c) Development in each area designated with the Mixed Use category shall:**

**contain the minimum percentage of at least three of the following general categories of land uses;**

- 10 %Residential,**
- 10 %Commercial / Professional,**
- 10 %Light Industrial / Distribution.**

- 5 %Recreation / Open Space,

- 3 %Public / Semi Public,

d) Access between these uses shall be provided by roads other than those shown on the Major Thoroughfare Map Series of this Comprehensive Plan or alternative vehicular and pedestrian access methods acceptable to the County:

(e) Development or redevelopment within the area designated under this category shall not be required to achieve compliance with the commercial locational criteria described in Objectives 2.10.4.1 and 2.10.4.2 of this element.

**Objective: 2.9.1**

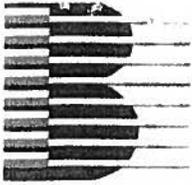
**Strong Communities: Create and maintain communities which are characterized by their:**

- connection, integration, and compatibility with surrounding land uses,
- community spaces and focal points,
- protection of the natural environment,
- connection and integration of pedestrian, bicycle, and vehicular systems,
- usable open spaces, and public access to water features,
- unifying design elements and features,
- variety of housing stock,
- pedestrian oriented structures, and pedestrian friendly design,
- connection to recreational facilities, schools, adjacent neighborhoods, employment opportunities and commercial uses.

**Policy: 2.9.1.6**

**Promote the use of unifying design elements and features.**

<b>Objective:</b>	<b>2.9.4</b>	<b>Community Image: Develop an aesthetically pleasing environment which enhances the image of Manatee County as a high quality community in which to live, work and visit.</b>
<b>Policy:</b>	<b>2.9.4.1</b>	<b>Maintain all interstate connectors as “Entranceways” to permit implementation of special landscaping, project design, and signage control criteria to achieve a boulevard image and positive sense of place.</b>
<b>Policy:</b>	<b>2.9.4.6</b>	<b>Reduce noise and pollution, promote an aesthetically pleasing environment, and promote water conservation through the use of native landscaping materials. Landscaping requirements shall allow a choice of:</b>  <b>1) Planting of native vegetation, guaranteeing that at least 50% of all plantings incorporated in an approved landscape plan for any project after development consists of native vegetation suitable to that site; or</b> <b>2) Guaranteeing that at least 60% of all post-development vegetation is indigenous to Manatee County.</b>
<b>Policy:</b>	<b>3.2.3.3</b>	<b>Require the use of native xeric plants in post-development landscaping. [See Policies 3.3.2.2 and 3.2.3.4]</b>



April 8, 2011

Mr. John Osborne, Planning and Zoning Official  
Manatee County Planning Department  
P.O. Box 1000  
Bradenton, FL 34206-1000

Re: PDMU-96-01(G) (R8) DTS App. No.: 20110067  
Specific Approval Request Cooper Creek Center  
BDCL #2400

Dear John:

In accordance with Section 603.3.2 of the Land Development Code, please see below our request for Specific Approval to allow for alternatives to Section 737.5.3.1.1 Entranceway buffer requirements (for University Parkway) and Section 715, landscape buffer requirements of the Land Development Code in order to allow a alternative Landscape Design for a Planned Development project:

**1. Section 737.5.1.1. – Entranceway Buffer**  
Section 737.5.1.1. reads as follows:

*737.5.1.1. Buffer. A minimum twenty (20) foot wide landscaped buffer strip shall be required along all arterial and collector street frontages adjacent to the project, including along all highways and interstates. Those projects which receive access from frontage roads adjacent to the arterial/collector road shall provide this buffer. However, site locations internal to the development and not adjacent to the arterial/collector shall not be required to provide this buffer.*

*Minimum Requirements. Landscaped buffers shall consist of at least one (1) decorative or canopy tree, meeting the requirements of Section 715, [to] be planted every twenty-five (25) feet on center. In addition, hedges, shrubs and berms shall be used to achieve sixty (60) percent opacity at a height of five (5) feet.*

The applicant requests relief from the standards above for the ability to cluster the landscaping in strategic areas, in order to provide visibility for the commercial project, and to allow flexibility in design. The Cooper Creek Center (AKA the Shoppes at University Town Center) is extremely well landscaped, with overall landscaping exceeding the LDC minimum standards. While the entranceway requirements are designed to create a pleasing entranceway, the linear nature of the requirements does not recognize the ability to cluster and provide areas of landscaping that may occur in a large master planned community, such as the Cooper Creek Center.

Commercial and Industrial Properties • Offices • Plazas • Apartments • Hotels • Self Storage



BENDERSON DEVELOPMENT COMPANY, LLC. • 8441 Cooper Creek Blvd., University Park, FL 34201 • 941/359-8303 • FAX 941/359-1836 •

The Alternative Buffer Exhibit provided shows areas of opportunity where additional landscaping has already been or could be provided or enhanced along University Parkway (Areas 1 and 3), within the Commercial Center (Area 2) and along the Cooper Creek Boulevard corridor (Area 4). In these locations, additional plantings may include shrubbery, ornamental plants and landscaping which do not hide the commercial center, but rather compliments the overall design and is consistent with the master theming plan approved for the Center. Other strategic areas which merit enhancement may also be identified.

**2. Section 715– Roadway Buffers**

Section 715.3.2.C.1.A reads as follows:

***Roadway Buffers.***

*Required for multi-family and non-residential projects along all roadways.*

- A. Reverse frontage lots shall be provided adjacent to major thoroughfares. A twenty (20) foot wide buffer shall be provided along rear property lines abutting right-of-way. Additional lot depth of twenty (20) feet shall be provided to accommodate such buffer when adjacent to collectors, arterials or other thoroughfares.*

The applicant seeks relief from the requirement to have a minimum buffer of twenty (20') ft. in a linear fashion adjacent to the University Parkway and Cooper Creek Boulevard. As noted above, the intent is to allow flexibility and clustering of landscape areas, as determined at site plan approval by the Planning Director.

Thank you for your quick attention to this matter. Please contact me at 941-359-8303 or via email at [betsybenac@benderson.com](mailto:betsybenac@benderson.com) if you have any questions in regards to this request, or the Alternative Buffer Exhibit as submitted.

Sincerely,  
**BENDERSON DEVELOPMENT COMPANY, LLC**

Betsy Benac  
Senior Project Planner

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**Copy of Newspaper Advertising**

**Bradenton Herald**

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Planning Commission of Manatee County will conduct a Public Hearing on Thursday, May 12, 2011 at 9:00 a.m. at the Manatee County Government Administrative Center, 1st Floor Chambers, 112 Manatee Avenue West, Bradenton, Florida to consider, act upon, and forward a recommendation to the Board of County Commissioners on the following matters:

**MANATEE COUNTY ORDINANCE 11-16 (DRI #14) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County RI #14 a/k/a Tampa Bay Regional Planning Council BRPC DRI #103); providing findings of fact; providing for conclusions of law; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation from the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.

Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.

Amend Map H to permit an additional right in/right out access from University Parkway.

Amend General Conditions, Section O.(2), to allow Biennial Reports in conformance with Section 380.06(18), Florida Statutes (as amended).

Any other revisions deemed necessary or appropriate during the public hearing process.

Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been compiled with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(Z)(G)(R8) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcels H, I and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**Z-11-04 - DTS20110062 - PARKWAY LAND TRUST #1/302 COMMERCIAL REZONE**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee County Land Development Code), relating to zoning within the unincorporated area; providing for a rezoning of approximately 0.6 acres north of US 301 and approximately 1,200 feet west of Erie

Road, Parrish from the RSF-1 (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description; providing for severability; and providing an effective date.

All interested parties are invited to appear at this public hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission and entered into the record.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Planning Commission of Manatee County will conduct a Public Hearing on Thursday, May 12, 2011 at 9:00 a.m. at the Manatee County Government Administrative Center, 1st Floor Chambers, 1112 Manatee Avenue West, Bradenton, Florida to consider, act upon, and forward a recommendation to the Board of County Commissioners on the following matters:

**Sarasota Herald Tribune**

**MANATEE COUNTY ORDINANCE 11-16 (DRI #14) - COOPER CREEK CENTER**  
An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council BRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation from the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been compiled with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(Z)(G)(R8) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcels H, I and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**Z-11-04 - DTS20110062 - PARKWAY LAND TRUST #1/302 COMMERCIAL REZONE**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the official zoning atlas (Ordinance No. 90-01, the Manatee

County Land Development Code relating to zoning within the unincorporated area; providing for a rezoning of approximately 0.6 acres north of US 301 and approximately 1,200 feet west of Erie Road, Parrish from the RSF (Residential Single-Family, 1 Dwelling Unit per Acre) to the GC (General Commercial) zoning district; setting forth findings; providing a legal description; providing for severability; and providing an effective date.

All interested parties are invited to appear at this public hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission and entered into the record.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org)

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

**Americans With Disabilities:** The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA should contact Kaycee Ellis at 742-5800 TDD ONLY 742-5802 and wait 60 seconds, or FAX 745-3790.

**THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**  
**MANATEE COUNTY PLANNING COMMISSION**  
Manatee County Building and Development Services Department  
Manatee County, Florida

Date of pub: April 27, 2011

**MANATEE COUNTY ORDINANCE NO. PDMU-96-01(G)~~(R-5)~~(R-6)(R-8)  
COOPER CREEK CENTER**

**AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING ORDINANCE PDMU-96-01(G)~~(R-5)~~(R-6) and AND (R7) TO ~~AMEND TABLE 1 TO IMPLEMENT THE TRADEOFF MECHANISM OF THE COOPER CREEK DRI TO INCREASE GROSS FLOOR AREA FOR OFFICE, SCHOOL OF SPECIAL EDUCATION, AND COMMERCIAL USES AND DECREASE THE NUMBER OF RESIDENTIAL UNITS~~ TO AMEND THE DEVELOPMENT ORDER TO EXTEND THE BUILD OUT DATE AND EXPIRATION DATES PURSUANT TO PREVIOUSLY APPROVED EXTENSIONS GRANTED WITH SENATE BILL 1752; TO ALLOW NON-RESIDENTIAL BUILDINGS CONSTRUCTED IN PARCELS H, I AND J ALONG UNIVERSITY PARKWAY TO HAVE A SETBACK OF 30 FEET; TO PROVIDE FOR A FLEXIBLE AMEND THE LANDSCAPE BUFFER WIDTHS LANDSCAPED BUFFER ALONG UNIVERSITY PARKWAY AND COOPER CREEK PARKWAY; ADD A NEW ACCESS POINT TO UNIVERSITY PARKWAY; INCORPORATE THE MASTER SIGN PLAN; AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; ADD A NEW ACCESS POINT TO HONORE AVENUE UNIVERSITY PARKWAY; AMEND STIPULATIONS TO FACILITATE THESE CHANGGNES; AND PROVIDE AN EFFECTIVE DATE.**

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

**Section 1. AMENDMENT AND RESTATEMENT OF ORDINANCE NO. PDMU-96-01(G)~~(R-3)~~(R-6) and PDMU-96-01(R7). Ordinances PDMU-96-01(G)~~(R-3)~~ 56 and (R7) are 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 05-54, as amended, Section 380.06F.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 of said County, after considering the testimony, evidence, documentation, application to amend the General Development Plan, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission, concerning the application to amend

the General Development Plan ~~which is approved for to~~ allow 767 dwelling units, ~~915,000-774,000~~ sq. ft. of commercial space ~~(including a 250 room motel units)~~, ~~160,000-140,000~~ sq. ft. of office space, ~~up to 26,000~~ (which includes up to ~~26,000~~ sq. ft. for schools of special education), and a communications tower on 1 acre.

- B. The Board of County Commissioners held ~~a public hearing s~~ on ~~April 21, 2009~~ May 24, 2011 regarding the proposed General Development Plan Amendment 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.
- C. The proposed amended and restated General Development Plan and Zoning Ordinance regarding the property described in Section 3 herein is found to be consistent with the requirements of Manatee County Ordinance No. 97-01 (the 2020 Manatee County Comprehensive Plan), as amended.

#### **Section 4. GENERAL DEVELOPMENT PLAN**

- A. The General Development Plan, dated ~~April 2011~~ April 2009, entitled Cooper Creek Center, is hereby APPROVED to allow 767 dwelling units, ~~915,000-774,000~~ sq. ft. of commercial space, ~~(including 250 motel units)~~, ~~160,000-140,000~~ sq. ft. of office space ~~(which includes up to 26,000 sq. ft. for schools of special education)~~ (which may include 6,00 square feet of special education), ~~767 dwelling units~~, and one communications tower, with the following conditions and modifications included herein in Section ~~2.4~~.
- B. The previous ~~development order~~ Zoning Ordinances [PDMU-96-01(G)(R6) and PDMU-96-01(G)(R7)] for Cooper Creek, which ~~was were~~ adopted ~~on December 1, 2005~~ February on December 1, 2005, ~~April 21, 2009 and February 23, 2010, respectively,~~ 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.
- C. With Ordinance PDMU-96-01(G)(R7), the Board of County Commissioners hereby grants Specific Approval from compliance with Section 737, Entrancesways, and specifically in Section 737.5.3, Signs, and Section 724, Signs, specifically Sections 724.6.4.2; 724.6.4.1.8.3; 724.6.4.1.8.4; and 724.6.4.1.4 to enable the Master Sign Plan attached hereto as Exhibit K to be approved. Ordinance No. PDMU-96-01(G)(R6) is hereby amended in Stipulation P(P (13)) regarding stipulations as to signs for the non-residential development.

~~The Board of County Commissioners hereby grants Specific Approval from compliance with Section 737, Entranceways, and specifically in Section 737.5.1.1. to allow a flexible width buffer in the entrance way on University Parkway, and Section 715.3.2.c.1.A to allow an alternative roadway buffer on Cooper Creek Boulevard and University Parkway.~~

**C.D. CONDITIONS**

- A.(1) Approved Development Totals and development authorized for construction pursuant to this Zoning Ordinance are as set forth in Table 1. All Final Plats (or Building Permits if platting is not required) for residential development and all building permits for non-residential development shall be approved or issued prior to ~~December 30, 2010~~ December to December 30, 2015.
- A.(2) Existing agricultural uses on the property, in whole or in part, as an approved secondary use are hereby granted until development commences on the applicable section or portion of the site.
- A.(3) Preliminary and Final Site Plan Applications shall be reviewed for compliance with this Ordinance 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 Ordinance or are not inconsistent with this Ordinance.

**TABLE 1  
COOPER CREEK CENTER  
PROJECT SUMMARY**

<b>TYPE OF DEVELOPMENT:</b>	Multi-use	
<b>LOCATION:</b>	Northwest quadrant of I-75 and University Parkway, in southeastern Manatee County	
<b>TOTAL DEVELOPMENT AREA:</b>		<b>604.68 Acres</b>
Residential		317.2 Acres
Commercial/Motel/Communications Tower/School of Special Education		132.5 Acres
Office/School of Special Education		30 Acres
Open Space (Roads, Right-of-Way, Conservation, Preservation, Floodway.)		124.98 Acres
Residential Units	767 d.u.	
Commercial◆ (1)(2)	915,000774,000 sq. ft. (1)(2)(3) <sup>(1),(2),(3)</sup>	
Office◆	160,000140,000 sq. ft. (3) <sup>(1),(3)</sup>	
Motel	250 Rooms	
School	20,000 sq. ft. <sup>(3)</sup>	
P.M. Peak Trips (net external)	2,832 Trips	
<b>BUILD-OUT DATE</b>	December 30, <del>2011</del> 2015	

◆ <sup>(1)</sup> May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.

~~(1)~~ includes gross floor area for Motel

~~(2)~~ <sup>(12)</sup> includes one existing communication antenna tower.

~~(3)~~ <sup>(23)</sup> includes up to a total of 26,000 square feet for Schools of Special Education May include up to an an additional 6,000 sq. ft. of school upon corresponding decrease of

office and/or commercial uses. is permitted within the total square footage allotted for commercial

- A.(4) Any excess infrastructure capacity constructed to potentially serve development beyond that described in Condition A.(1) shall be at the developer's risk and shall not be construed to vest additional Vertical Development\* construction rights.

### **TRANSPORTATION CONDITIONS**

- B.(1) Reserved.
- B.(2) Maintenance of Acceptable Level of Service\* on intersections or in the Study Area to be determined consistent with methodologies in accordance with Section 380.06, Florida Statutes shall be verified by the developer to the satisfaction of the County Transportation Authority\* as part of each annual report as required by Subsection 380.06(18), Florida Statutes.
- B.(3) There shall be no approvals granted as to development beyond that specified in Table 1 unless the transportation improvements required have been completed or such improvements are determined as not warranted under the Traffic studies\*.
- B.(4) The southern access to Honore Avenue in Parcel G shall be as far south as possible and approved by the County at time of Final Site Plan approval.
- B.(5) The Developer\* shall provide for a bus bay area acceptable to Manatee County at one location within each commercial land use area and at one location on University Parkway near the project entrance at time of Development. (This condition provides the Transportation Management System required by TBRPC) (Completed).
- B.(6) The Developer\* shall implement, at their expense, the following specified safety transportation improvements:
- a. Signalize the intersection of University Parkway and Cooper Creek Boulevard. The signal shall be of the mast arm type. Completed.
  - b. Provide a westbound right-turn deceleration lane on University Parkway, at the intersection with Cooper Creek Boulevard. The turning lane length shall be 500 feet. Completed.
  - c. Provide an additional southbound left-turn lane on Cooper Creek Boulevard at the intersection with University Parkway. The resulting dual left-turn lanes shall have a queue length component of 225 feet each. The southbound right-turn lane queue length should be 150 feet. The dual left-turn lanes shall be supplemented by guiding pavement markings to

provide turning lane separation (2-ft long dashed lines with 4-ft gaps to channelize turning traffic). Completed.

- a. Add one, northbound to eastbound right-turn lane from Honore Avenue to Cooper Creek Boulevard, approximately 400 feet in length, prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.
  - b. Add one eastbound to northbound left turn lane from University Parkway to Cooper Creek Boulevard adjacent to the existing left turn lane, prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.
- B.(7) The Developer\* shall evaluate the need for traffic safety and circulation improvements with each PSP\*. Manatee County shall review and evaluate the information submitted by the Developer\* and reserve the right to require additional safety and circulation improvements such as turn lanes, signals, signal timing, and pavement markings.
- B.(8) Cross-access shall be provided for vehicular traffic and pedestrians between Parcel F and the property to the west, between Honore Avenue and Parcel F. If, when the parcel to the west is approved, cross access from that site to Parcel F is not required, then the cross access for this site shall no longer be required. Completed.
- B.(9) Parcel D shall include right-of-way and the construction of a street to the northern property line to facilitate a future inter-neighborhood tie. The appropriate location shall be determined at time of Preliminary Site Plan approval and coordinated with the parcel to the north. Completed
- B.(10) Passive traffic calming devices (e.g., landscaped traffic islands, pavement textures changes, etc.) shall be utilized on local residential streets at interneighborhood ties, intersections, and on lengthy straight sections of local roadways, subject to approval by Manatee County. Completed
- B.(11) The eastern right turn-in, right turn-out along University Parkway from Parcel H as identified on the GDP, shall be subject to approval and the conditions of the amended interlocal agreement with Sarasota County for University Parkway. Completed
- B.(12) The cross-access between Parcels H and I shall be subject to approval by Planning Department, SWFWMD, and other reviewing agencies. Completed
- B.(13) With each Final Site Plan approved after approval of PDMU-96-01(G)(~~R-5~~)(R-5) the applicant shall reserve as much right-of-way as practical to accommodate a 250 foot half right-of-way for the future expansion of I-75. No site improvements shall

be located within this reserved right-of-way area. With respect to the approved FSP [PDMU-96-01(R-2)/FSP-01-130(R)] for the two (2) 35,000 square foot office buildings, the applicant shall submit a revised Final Site Plan to show that no buildings shall be located within the right-of-way reservation area.

## **ENVIRONMENT AND NATURAL RESOURCES**

### **Air Quality**

- C.(1) 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.

### **Water Quality, Wetlands\* and Drainage**

- D.(1) In order to protect water quality in the Braden River Watershed and the Evers Reservoir Watershed, there shall be no degradation of water quality by stormwater exiting the site. All stormwater discharges to the Braden River shall be required to meet all state water standards and criteria as defined in Chapters 62-302, and 62-25, F.A.C., as well as Manatee County requirements.
- D.(2) The Developer\* shall continue to conduct the approved comprehensive surface water quality and quantity monitoring program approved by the County and the ~~Planning Department~~ in accordance with Exhibit H to Class I water quality standards. The program shall continue through one year beyond project buildout. The County may require that the program may be extended beyond buildout if conditions are observed that would require additional monitoring. All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority.

Any changes to the Surface Water Quality Monitoring Program Criteria, as outlined in Exhibit H, shall be submitted to the City of Bradenton and TBRPC for review and comment, and approval by Manatee County.

Should Manatee County adopt a Comprehensive Evers Reservoir Watershed Surface Water Quality Monitoring Program and the Developer\* participates in this Comprehensive Surface Water Quality Monitoring Program, then the Developer\*, with the approval by Manatee County and TBRPC, may terminate the required Surface Water Quality Monitoring Program contained in this rezone ordinance.

- D.(3) The Developer\* shall continue to conduct the comprehensive ground water quality and quantity monitoring program as previously approved by PLANNING

DEPARTMENT and attached as Exhibit H. The program shall continue through one year beyond project buildout.

All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority.

- D.(4) The Developer\* shall be responsible for Operation and Maintenance for all portions of the Surface Water Management System, except for those portions which are dedicated to and accepted by the County.
- D.(5) The entire development shall be subject to the requirements of Chapter 40D-4, F.A.C. All Wetlands\* in the entire 604.75± acre development shall be subject to the requirements of Section 719 of the Manatee County Land Development Code or as otherwise approved by Manatee County.
- D.(6) Impacts to Wetlands\*, Preservation Areas\*, and Conservation Areas\* shall be mitigated in accordance with Table 3. Mitigation shall be required prior to the completion of the parcel in which the impact occurs.

a. **Preservation and Conservation Areas\***

Preservation and Conservation Area\* shall comprise of all SWFWMD jurisdictional wetlands, in addition to other areas as delineated on Exhibit C.

The Conservation Areas\* on site encompass approximately 51.96 acres as indicated on the attached Revised Preservation/Conservation Map dated July 28, 1999, Exhibit C. All Conservation Areas\* shall remain undisturbed or mitigated.

There shall be no impact to those Wetlands\* encompassing approximately 16.41 acres, indicated as Preservation Areas\* on the attached Revised Preservation/Conservation Map dated July 28, 1999, Exhibit C. Impacts authorized pursuant to state and federal permits approved prior to the effective date of this development order and impacts for necessary infrastructure (such as roads, utility lines, recreational trails, and paths, as provided by TBRPC policy) may be allowed.

b. **Wetland Areas\***

Wetlands created as a result of flood storage compensation shall be credited as mitigation lands if acceptable to the Planning Department and other permitting agencies.

As required by Manatee County Comprehensive Plan Policy 3.3.1.5, the Developer\* shall provide buffers around all Post-Development Wetlands\*. Variable width buffers may be approved in accordance with Section 719.11.1 of the Land Development Code.

Mitigation security for impacts to wetlands, preservation and conservation areas shall be required in accordance with applicable County Ordinances.

All herbaceous mitigation areas and littoral shelves used for mitigation shall be monitored annually after planting for a period of three years. Forested mitigation areas shall be monitored annually for at least five years. Monitoring shall include survival rates, species diversity composition, spreading, and exotic species encroachment. Additional planting may be required to maintain an 85 percent survival of planted species at the end of three years.

All Post Development Wetlands\*, Conservation and Preservation Areas\*, and their buffers shall be protected by a recorded conservation easement to Manatee County, as a separate easement document acceptable to Manatee County, and shall be shown on any Preliminary and Final Site Plans and Subdivision Plats. Deed restrictions shall be included that prohibit development activity and removal of native vegetation in the conservation easement unless approved by the County and any permitting agency or agencies with jurisdiction. Any replanting within the buffer shall be with flora native to the Braden River area of Manatee County.

Each ~~annual~~-biennial report shall include the results of the mitigation monitoring. The report shall also include information on what Conservation Areas\* and Preservation Areas\* have been impacted and the steps taken to mitigate the impacts and the results of the mitigation monitoring.

**TABLE 3 COOPER CREEK CENTER  
MINIMUM WETLAND\*, PRESERVATION, AND CONSERVATION AREA\*  
MITIGATION RATIOS**

AREAS	MITIGATION RATIOS*♦	
	HERBACEOUS	FORESTED
TBRPC Preservation & Conservation Area*	2:1	3:1
Wetlands*	2:1♦	4:1♦

If an area falls under two categories, then the most restrictive mitigation ratio shall apply.

♦May be reduced in accordance with the Manatee County Land Development Code and Comprehensive Plan.

\*Ratio is Mitigated Wetland\*: Disturbed Wetlands\*. Transplantation may be used for mitigation, if approved by ~~PLANNING DEPARTMENT~~ Manatee County and SWFWMD. Mitigation ratios

shall be as approved by those agencies. For the purposes of this section, transplantation shall be considered creation, not enhancement.

\* Mitigation ratios for Wetland\* and Conservation Areas\* may include enhancement as mitigation technique. Enhancement for impacts to TBRPC Conservation Areas\* shall be provided at a minimum ratio of 6:1.

D.(7) The stormwater management systems shall be designed, constructed, and maintained to meet or exceed applicable requirements of the adopted Manatee County Comprehensive Plan and Chapters 62-4, 62-25, 40D-4, 40D-40, or 40D-400, F.A.C. The stormwater management system within the Evers Reservoir watershed shall treat stormwater to Outstanding Florida Waters standard. Stormwater treatment shall be provided by biological filtration where required by the Master Drainage Plan as referenced as Exhibit I.

D.(8) The Developer\* shall not seek permits for, or otherwise implement, any point source discharges of pollutants into the Braden River or its tributaries. Stormwater is not point source discharge as defined today, and no re-definition of point source discharges shall create a requirement that existing stormwater discharges be prohibited under this section.

D.(9) Any proposed underground petroleum storage tanks shall be located in accordance with Chapter 62-762 & 62-761.500 ,FAC, as amended. These tanks shall include at a minimum, double-walled tanks with interstitial monitoring, double-walled integral piping, dispenser sumps, submersible pump sumps, automatic tank gauging, in-line leak detectors with automatic shutoff, sump sensors, and dispenser tilt sensors.

## **FLOODPLAINS**

E.(1) All habitable portions of structures shall be constructed above the 100-year floodplain, and in accordance with local, state, and federal requirements.

E.(2) Any encroachment of the 100-year floodplain or floodway shall be mitigated in accordance with FEMA and Manatee County standards.

E.(3) No discharges to groundwater shall be permitted on-site.

## **ECONOMICS**

F.(1) The Cooper Creek Center development shall promote entrepreneurship and small and minority-owned business start-up, and encourage non-discriminatory employment opportunities, pursuant to Policies 21.2, State Comprehensive Plan and 2.7.2, FRSRPP, respectively.

### **WILDLIFE HABITAT AND VEGETATION**

- G.(1) In the event that any species listed in Rule 68A-27.003 through 68A-27.005, FAC, are observed frequenting the site for nesting, feeding, or breeding, proper protection or mitigation measures shall be employed immediately in cooperation with the Florida Fish and Wildlife Conservation Commission (FFWCC), the Manatee County ~~Planning Department~~, and the Florida Department of Community Affairs. This shall include, at a minimum, a wildlife management plan which contains information on impacts to listed species, site maintenance, fire frequency, Wetland\* management, and boundary protection.

### **ARCHAEOLOGICAL AND HISTORICAL RESOURCES**

- H.(1) Any historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Department of State Division of Historical Resources (DHR) and treatment of such resources shall be determined in cooperation with the DHR, and Manatee County. Treatment of such resources must be completed before resource-disturbing activities are allowed to continue. A description of the project's compliance with these conditions shall be included in the subsequent annual reports, to be submitted for review to DHR, in addition to Manatee County.

### **WASTEWATER**

- I.(1) Sewer lift stations shall be designed and equipped in accordance with Manatee County's Public Works Department guidelines with several means of back-up, to provide assurance against equipment failure, and discharge to the environment. These shall include:
- a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box.
  - b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability.
  - c. Wet wells to contain sewage line surcharges/overflows.
  - d. Emergency by-pass pumpouts for tank trucks.
  - e. 100 percent redundancy in lift station pumping equipment.
- I.(2) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (98-28).
- I.(3) The Developer\* shall not utilize on site wastewater treatment.

- I.(4) Prior to any submittals to the Manatee County Development Review Committee, the Developer\* shall provide a Conceptual Master Plan\* for sanitary sewer for approval by the Planning Department. The sanitary sewer Conceptual Master Plan\* shall show the extent of the sewer lines that shall be provided to serve the Development\*, including all source and discharge points. The plan shall also show all off-site sewer facilities that are required to be extended for this Development\* along with stub-outs for unserviced land holdings.

## **WATER**

- J.(1) The Developer\* shall require the installation of water conservation fixtures. Water saving devices shall be installed in accordance with the Florida Water Conservation Act and Xeriscape (Section 553.14, Florida Statutes), and native vegetation or xeriscape techniques, shall be used in landscaping to the greatest extent possible.
- J.(2) The Developer\* shall use only non-potable water to meet non-potable demands. For purposes of this rezone ordinance, "non-potable" water is defined as water emanating from any source other than a public water utility. The use of reclaimed water in the portions of the site which do not drain to the Braden River shall be investigated. No reclaimed water shall be used within the Evers Reservoir watershed provided that if spray effluent is permitted by Manatee County and other agencies having jurisdiction, no amendment to the Development Order shall be required to allow the Developer\* to use spray effluent.
- J.(3) The Developer\* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources.
- J.(4) The Developer\* shall enter into a participation agreement with Manatee County to provide the appropriate utilities within the Honore Avenue right-of-way.

## **SOLID WASTE**

- K.(1) The Developer\* shall provide to all Cooper Creek Center businesses information that:
  - a. Indicates the types of wastes and materials that are considered to be hazardous and are to be stored or disposed of only in the specially-designated containers or areas;
  - b. Concerns the availability of existing companies that will accept wastes for recycle, reuse, exchange, and treatment; and
  - c. Advises of applicable statutes and regulations regarding hazardous wastes and materials.

- K.(2) The Developer\* shall notify all commercial tenants of their responsibility to comply with all the applicable sections of Title III (Community Right-to-Know Law) of the Superfund Amendment and Reauthorization Act (SARA).

### **ENERGY**

- L.(1) All Cooper Creek Center tenants, business, residents, etc., shall be notified in writing by the Developer\* upon occupancy, that the following related practices are encouraged:
- a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;
  - b. Obtain energy audits provided by energy companies or other qualified agencies;
  - c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower, except for food service establishments;
  - d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Cooper Creek Center construction;
  - e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
  - f. Reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;
  - g. Institute and utilize recycling programs; and
  - h. Utilize energy efficient packaging or recyclable materials.

### **RECREATION AND OPEN SPACE**

- M.(1) All recreation and open space areas not dedicated to the County or other state agencies shall be maintained by the Developer\*.
- M.(2) A decrease in open space acreage shall require a substantial deviation determination conducted pursuant to Subsection 380.06(19), Florida Statutes.
- M.(3) Prior to the first final plat approval for the residential sub-phase, unless specifically waived or deferred by Manatee County, a local park site (minimum 10 acres) shall be dedicated to Manatee County at a location acceptable to the County. Impact fee credits may be granted pursuant to the Land Development

Code. Access to the park site shall be provided via a public road, constructed to County standards. Completed.

- M.(4) Community focal points shall be provided in all phases of the residential development and be located within walking distance of the residents they are intended to serve.
- M.(5) The single-family residential phases of the project (north of Cooper Creek Boulevard) shall contain at least 7 acres of usable park area, as generally depicted on Exhibit J. Pedestrian walkways associated with this open space area shall be located in an upland area of at least 15 feet in width, exclusive of lots or other required buffers or greenbelts. Open space vistas of lakes and wetlands from streets shall be substantially consistent with the design of Exhibit J.
- M.(6) The multi-family component shall contain a recreational area of at least 1 acre and include a commercial grade tot lot.

#### **PUBLIC SAFETY**

- N.(1) Sheriff and emergency medical services will be provided by Manatee County. The Developer\* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for police and emergency medical 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 shall be approved prior to the next Final Site Plan approval. Provided, however, no approval shall be delayed if the applicant submits an agreement, and it is withheld because of the County's inability or failure to determine needs or pro-rata share determination for a period exceeding 2 months after its submittal. In no event, shall the developer's payment or pro-rata share exceed impact fee amount.
- N.(2) The Cooper Creek Center development shall be designed and constructed to meet or exceed specifications of the State Fire Code - Rule 4A-3.012, FAC or in compliance with the Manatee County Land Development Code requirements.

#### **DEVELOPER COMMITMENTS**

- O.(1) The Developer\* shall be required to adhere to any and all commitments made in the attached Exhibit F, incorporated herein, unless that commitment is superseded by a Development Order Condition in which case the Development Order Condition shall prevail.

## **GENERAL CONDITIONS**

- P.(1) With each Preliminary and Final Site Plan submittal, a Development Land Use Summary Table shall be provided to include the number of units and square footages that have Preliminary or Final Site Plan approval.
- P.(2) If, prior to the time permanent fire protection facilities in this area of the county are needed by the Fire District, and a station is needed, the developer shall enter into an agreement to contribute a pro-rata share of the cost of a site for, and of constructing and equipping a fire protection facility if required by the Fire Department with the appropriate Final Site Plan approval. Completed per agreement dated October 24, 2005.
- P.(3) Unless specifically modified with this approval, or subsequent approvals, development in the project shall comply with all requirements of the Land Development Code. Modifications, as provided for in the Land Development Code, may be approved administratively by the Director may be considered on a case by case basis.

## **Residential Development**

- P.(4) Single-family development within Cooper Creek Center shall comply with the standards of the Land Development Code, except as follows:
- a. The minimum lot width for all single-family residences shall be 52 feet. These lots widths shall not consist of more than 25 percent of the total units in the development. The minimum lot width for all other single-family residential units shall be 60 feet.
  - b. The minimum front yard building setback for residences with side loaded garages shall be 20 feet. The minimum front yard building setbacks for all other residences shall be 25 feet.
  - c. The minimum building setback for all other side yards in the development shall be 7.5 feet, provided lots that are less than 60 feet wide may be developed with side yard setbacks of 6 feet. These shall not comprise of more than 50 percent of the single-family residential component of the project and shall be identified as a phase(s) of development with the Preliminary and Final Site Plans.
  - d. The minimum pavement width for all one-way street segments around cul-de-sacs which serve less than seven lots shall be 20 feet.
- P.(5) Multi-family development shall comply with the following minimum setback requirement:

Front: 25'

Side: 10'  
Rear: 25'  
Between Buildings: 20'  
Waterfront: 30'

- P.(6) 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. Buildings shall be positioned to maximize the distance between the residential units and the noise source. The use of existing vegetation, earthen berms, decorative walls, and significant landscape buffering should be provided between the residential units and the noise source.
- P.(7) All residential development in Parcels A, A-1, B, and G adjacent to Cooper Creek Boulevard shall be designed as reverse frontage in accordance with the requirements of Section 907.7.4 of the Land Development Code. Multi-family buildings within 75 feet of Cooper Creek Boulevard, Honore Avenue, and single-family parcels shall not exceed 2 stories in height.
- P.(8) Prior to Final Plat approval (or Final Site Plan if a plat is not required) for the 101<sup>st</sup> residential unit in any residential parcel or combined parcels, a second means of access, pursuant to Section 712.2.8, Diagram A, number 1 or 2 of the Land Development Code, shall be provided.
- P.(9) Prior to Final Plat approval (or Final Site Plan, if a plat is not required) for the 101<sup>st</sup> residential unit, Cooper Creek Boulevard shall be extended westward to Honore Avenue.
- P.(10) On or before December 30, 2002, construction of all segments of Honore Avenue shall have commenced, with completion of each segment to occur not later than 12 months following commencement of that segment. Commencement and completion of construction of portions of Honore Avenue shall be accelerated as follows:
- a. Prior to Final Plat approval (or Final Site Plan, if a plat is not required), for the 101<sup>st</sup> residential unit, commencement of construction of that portion of Honore Avenue from University Parkway to Cooper Creek Blvd, to county standards, as defined herein, shall commence, with completion to occur prior to receipt of a Certificate of Occupancy for such 101<sup>st</sup> residential unit or other units constructed thereafter.
  - b. Prior to Final Plat approval (or Final Site Plan, if a plat is not required), for any portion of Parcels B, D, or E, as shown on the General Development Plan, commencement of construction of that portion of Honore Avenue from Cooper Creek Boulevard to the southern boundary line of the Nelson Tract, to county standards, as defined herein, shall commence, with

completion to occur on or before receipt of a Certificate of Occupancy for any residential unit within Parcel B, D, or E.

Honore Avenue shall be constructed as a 2-lane divided roadway, with 4-foot wide bicycle lanes, and 5-foot wide sidewalks on each side, from University Parkway to the then unconstructed portion of Honore Avenue (the University Parkway extension adjacent to Tracts N-1 West and N-1 East of University Park Country Club). Manatee County shall review and approve all design and construction plans for Honore Avenue.

The Developer shall be entitled to receive transportation impact fee credit for:

- i. The value of land used for drainage, stormwater detention, and discharge for Honore Avenue improvements, not to exceed \$100,000; and
- ii. the entire cost of design and construction of roadway, drainage, bicycle, sidewalk, and other related or required amenities, for that portion of Honore Avenue constructed north of the northern access into Parcel H (The commercial tract at the northeast corner of U. Pkwy and Honore), to the then-unconstructed portion of Honore Avenue (the University Park extension adjacent to Tracts N-1 West and N-1 East of University park Country Club).

In addition, Developer shall be entitled to receive transportation impact fee credits for that portion of the cost of design and construction of roadway, drainage, sidewalk, bicycle, and other related or required improvements for that portion of Honore Avenue constructed south of the northern access into Parcel H to University Parkway. The amount of such transportation impact fee credits shall equal either:

- a. The entire cost for the scope of work described herein, provided that Developer obtains, at its sole cost and expense, the area for drainage, stormwater retention, and discharge as is necessary to construct that portion of Honore Avenue from the southern boundary line of the Nelson Tract, northwesterly to the eastern edge of the then-unconstructed portion of Honore Avenue (the University Park Extension adjacent to Tracts N-1 West and N-1 East of University Park Country Club), or
- b. The difference in cost for such scope of work between a 2-lane residential roadway and the roadway ultimately constructed by Developer between University parkway and the northern access into Parcel H.

Developer shall provide notice of whether the County will be required to provide for land to accommodate drainage, stormwater retention, and discharge for the

segment of Honore Avenue north of the Developer's property holdings on or before one year following the effective date of this ordinance.

Transportation impact fee credits shall not be given for necessary safety improvements.

No further development approval shall be granted after December 30, 2003, until Honore Avenue is completed. (Completed)

Transportation impact fee credits shall be available to other legal entities with the same controlling interest as the developer. Allocation of credits shall be at the discretion of the developer.

- P.(11) School impacts from this development shall be determined prior to Final Site Plan approval for the first residential subphase using appropriate methodology acceptable to the School Board and Developer based upon standards utilized by the School Board. The Developer shall be responsible for providing all public school facilities so identified or otherwise fully offsetting the identified impacts. Measures for addressing and offsetting such impacts may include, without limitation, conveyance of land for school facility site(s), or pro-rata contribution to the cost of such sites. (Completed)

### **Non-Residential Development**

- P.(12) All conditions, with the exception of condition 8, of PDR/PDI/PDC-86-16(P)(R2), as amended, shall apply to the 307,500 square foot retail outlet center, previously identified as subphase 1-A of Phase 1 (See attachment G).

- P.(13) The following conditions shall apply to development in Parcels H, I, J, and K:

- a. The sides of all non-residential and multi-family 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 including 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 Planning Director. Design elements shall be reviewed for compliance by staff with future plan submittals.
- b. Height and setback limitations are as follows:
  - Motels located in Parcels I&J shall not exceed 75 feet in height and shall maintain a minimum setback of 75' from all streets and rights-of-way. Motels located elsewhere shall be limited to 45 feet in height.

- Office buildings (Parcel K) shall not exceed 45 feet in height and shall maintain a minimum setback of 40' from I-75, with a 2:1 ratio additional setback for each one foot of height above 35 feet.
- ~~Other commercial buildings shall maintain a minimum setback of 75' from I-75, University Parkway, Honore Ave, and shall not exceed 45 feet in height. (Commercial buildings in Parcels H, I and J shall maintain a minimum setback of 30 feet from University Parkway, unless otherwise restricted by buffer widths as stated in Condition P.(13).g. below. -~~
- c. All building facades shall exhibit an aesthetically attractive appearance. 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, or corrugated metal shall not be permitted facing any roadway or adjacent property. The applicant shall verify compliance with this provision prior to Final Site Plan approval and Certificate of Occupancy. 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.
- d. 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 adjacent to I-75, Cooper Creek Blvd., University Parkway, or Honore Avenue unless they are not visible from a height of five feet at the edge of pavement, to be determined at time of Certificate of Occupancy.
- e. Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade and maintain all building setbacks along I-75, Cooper Creek Blvd., University Parkway, and Honore Avenue.
- f. Rooftop mechanical equipment shall not be visible from I-75. All rooftop mechanical equipment shall be screened from view from I-75, Cooper Creek Blvd, University Parkway, Honore Avenue, and adjacent properties. Screening shall be provided by materials consistent with the standards of the Entranceway.
- g. Landscape buffers along I-75, University Parkway, Honore Ave, and Cooper Creek Blvd shall be as follows:

<b>Roadway</b>	<b>Buffer Width</b>
University Parkway:	_____50 feet <u>variable to 20 feet*</u>
I-75:	_____50 feet
Honore Avenue:	_____30 feet
Cooper Creek Blvd.:	20 feet <u>variable to 10 feet**</u>

~~\* Excludes buffer requirements for the Cooper Creek water body~~

~~\*\* Both sides of roadway.~~

~~This buffer area may be increased in areas for purposes of preserving significant trees or tree clusters on site, in exchange for reducing a corresponding area of the required buffer along the same roadway where no significant trees or tree clusters will be impacted. However, in no instance, shall the minimum buffer width be reduced to less than 20 feet along any roadway University Parkway. The reduction to 10 feet along Cooper Creek Blvd. is intended to be the exception rather than the rule. Existing native trees, shrubs, and ground covers within the buffers shall be preserved to the maximum extent possible.~~

~~Sufficient area around the trees and appropriately designed tree wells shall be required as determined by a registered Landscape Architect to reasonably guarantee their survival. Existing native trees, shrubs, and ground covers within the buffer shall be preserved, to the maximum extent possible. Roadway and screening buffers may be enhanced and created consistent with Section 715 and 737 of the Manatee County LDC.~~

Existing native trees, shrubs, and ground covers within the buffer shall be preserved, to the maximum extent possible. Roadway and screening buffers may be enhanced and created consistent with Section 715 and 737 of the Manatee County LDC.

- h. To further enhance the preservation of existing trees and buffer areas, a trade-off mechanism may be approved by the Planning Director to reduce the number of landscape islands in the parking areas of the development in exchange for the preservation of existing trees or wooded areas that may otherwise be cleared.
- i. The landscape buffer in Parcel K adjacent to the FP&L easement across from the residential parcels shall be a minimum width of 20 feet unless specifically otherwise approved by the Manatee County with approval of the Final Site Plans. Director of Planning. Native shrubs and trees within the buffer shall be preserved. Evergreen trees of a native specie shall be planted in those areas where the base of trees closer than 30 feet apart do not already exist. All outdoor storage shall be screened from the residential subphases by material which is 100 percent opaque. Exceptions may include limited access to parking in the eastern ½ of the FP&L easement for Parcel K (between Wetland T and the section line), and Parcel J provided that the parking will not be visible from any residential lot. Lighting within the parking lot shall comply with Section 709.2.3 of the Land Development Code.

~~Signs shall comply with the following in addition to the requirements of the Land Development Code:~~

- ~~1. All signs along Cooper Creek Blvd., north of the Cooper Creek crossing shall be ground signs, not to exceed 8 feet in height, and limited to one sign at each entrance to the development.~~
- ~~2. Free Standing signs along University Parkway, Honore Avenue, Cooper Creek Blvd, and I-75 shall be limited to one pole sign per parcel (as identified on Map H), per street frontage, as identified on the GDP. Additional permitted signs shall be limited to ground signs. All signage must provide concealment of main support structure (e.g. pole) between 20 and 100% of sign width with materials consistent with those in the development.~~

i. All signage for the Cooper Creek DRI shall be permitted as shown on the attached Master Signage Plan and Key Legend, Exhibit "K" and as described below (dimensions represent proposed height):

Signs along Cooper Creek Boulevard (North of Tourist Center Drive)

D-1: Freestanding Directional – 10 feet 6 inches

G-1: Freestanding Ground Sign – 12 feet 0 inches

Signs along University Parkway

W-2: Gateway Entrance Sign (University Consumer Square)

W-3: Gateway Entrance Sign (The Shoppes at University Center)

P-1: Freestanding Pylon Sign – 25 feet 0 inches

P-2: Freestanding Pedestal Sign – 25 feet 0 inches

P-1B: Freestanding Pylon Sign – 35 feet 0 inches

Signs along Honore Avenue

W-2: Gateway Entrance Sign (University Consumer Square)

D-1: Freestanding Directional Sign – 10 feet 6 inches

G-1: Freestanding Ground Sign – 12 feet 0 inches

P-1: Freestanding Pylon Sign – 25 feet 0 inches

Signs along University Parkway (South of Tourist Center Drive)

P-1B: Freestanding Pylon Sign – 35 feet 0 inches

W-3: Gateway Entrance Sign (The Shoppes at University Center)

P-1: Freestanding Directional Sign – 25 feet 0 inches

Signs along I-75

P-2: Freestanding Pedestal Sign – 25 feet 0 inches

P-3: Freestanding High Rise Sign – 100 feet 0 inches

P-1A: Freestanding Pylon Sign – 20 feet 0 inches

In addition to the above, the following shall be met:

1. Any additional sign proposed other than that shown on the approved Master Sign Plan attached as Exhibit K shall require an amendment to the Cooper Creek General Development Plan and Zoning Ordinance at an advertised public hearing, unless otherwise permitted in the LDC.
  2. No signs shall be permitted within public rights-of-way.
  3. Proposed signs shall not conflict with existing and proposed landscaping to the maximum extent possible:
    - i. ~~Natural Resources (NRD) Environmental Planning shall review individual sign permits to assist in determining optimal location for signs:~~
      - a.i. Within roadway buffers to allow maximize visibility of signs, while minimizing removal of existing trees.
      - b.i. Internal, wall, and perimeter signs to ensure placement of signs and to give consideration to existing landscaping to prevent unnecessary pruning or trimming of vegetation to maintain sign visibility.
      - c.i. And sign footers to ensure minimal impacts to root zones.
  4. Signs shall be set back a minimum of 5' from all property lines with the exception of the Message Center Sign (LED sign), which shall be set back a minimum of 12'.
  5. All proposed signage along I-75 and University Parkway shall be no closer than two hundred feet apart.
  6. All existing free-standing signage shall be improved or modified to match proposed signage materials.
  7. No signs shall be permitted in the floodways, conservation areas, or wetlands, other than those signs permitted elsewhere in the LDC (i.e., conservation signs).
  8. Signage shall be placed so it does not conflict with vehicular clear zones. FDOT Indices and clear zone requirements shall be met.
- k. Appropriate bicycle parking facilities with the inverted "U" style rack shall be provided for each individual non-residential project. These facilities shall be available at all structures in the development and be conveniently located to the entrances of the primary structures and in clear view of the main entries.
- l. Safe and efficient cross access for automobiles, bicycles, and pedestrians shall be provided to and through all parcels. A minimum of 5 foot wide sidewalks, pedestrian ways, or pedestrian/bikeway corridors shall be provided to facilitate internal pedestrian circulation within the development, including outparcels.

- m. Chain link fences are prohibited in non-residential parcels within 300 feet of Cooper Creek Blvd, University Parkway, I-75, and Honore Ave. Outdoor storage areas shall be enclosed in an area attached to the main structure. Areas shall be enclosed utilizing design elements and materials reflective of the main structure or decorative metal fences and grilles.
- n. Drive-through windows for the outparcels shall incorporate coverings for service windows that are structurally and architecturally integrated into the design of the buildings.

P.(14) Commercial development located within Parcel H shall be limited to retail sales establishments, eating establishments (including drive-thru), banks (including drive-thru), business service establishments, health services, motels, offices, car washes, dry cleaners, personal service establishments, repair service establishments, neighborhood and community serving motor vehicle repair, and building materials establishments.

**DEFINITIONS** Note: An asterisk (\*) 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 most recent Highway Capacity Manual, 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. Acceptable Level of Service for links and intersections in Sarasota County, Florida, shall mean Level of Service "C" on an average daily basis ("D" on a peak hour basis), which shall be measured as provided in this paragraph. Where a link or intersection in Sarasota County is operating at Level of Service "D" on an average daily basis ("E" on a peak hour basis) on the effective date of this Ordinance, then the Acceptable Level of Service in Sarasota County for that link or intersection shall mean Level of Service "D" on an average daily basis ("E" on a peak hour basis).
- B. "Application\*" and "Application for Development Approval\*" or "ADA" shall mean Cooper Creek Center's Development of Regional Impact Application for Development Approval\* and the NOPC submitted on July 26, 1996, and amended on April, 1997 and August 20, 1997, the NOPC submitted on January 27, 1999, the NOPC submitted on January 9, 2002, the NOPC submitted on May 17, 2005, and the NOPC submitted on March 27, 2009, the NOPC submitted on

2010 and the NOPC submitted on March 16, 2011 -included as Exhibit "G" in the Development Order.

- 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 (BMP list of approved practices by Board Resolution for Special Overlay Districts-Evers Reservoir and Lake Manatee Watershed Areas).
- D. "Conceptual Master Plan\*" shall mean a graphic depiction of the development shown on "Map H", last revised on "~~April 2005~~ April 2011", for the Cooper Creek Center DRI.
- E. "Conservation Area\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.
- F. "County Transportation Authority\*" shall be defined as the Planning Department in cooperation with Manatee County's Transportation Department, or whatever County entity is responsible for roadway approvals.
- G. "Developer\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-4 Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.
- H. "Development Approval\*" shall mean any approval for development granted through the Preliminary and Final Site Plan\* or the Preliminary and Final Subdivision Plat process, and construction drawing approval where site plans are not required.
- I. "Development Order" shall mean the Ordinance Granting a Development Order for Cooper Creek Center, Ordinance-~~05-54~~ 11-16.
- J. "Fee Agreement\*" shall mean the Transportation Component Impact Fee agreement by and between the County and the developer's predecessor's in interest, which was adopted on February 10, 1987.
- K. "Funding Commitments\*" shall mean to assure the completion of any improvement required by this Development Order, or any combination of the following:

1. Binding commitments for the actual construction with a posting of a cash bond or irrevocable letter of credit 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 said improvement is within the first two years of the Manatee County Capital Improvement Plan or the first two years of the FDOT 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 and 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, whichever is sooner.
- L. "General Development Plan\*" shall be defined as the site plan for PDMU-96-01, last revised on April-~~2009~~ 2011, incorporated as part of "Exhibit B" and made a part hereof. Development on the General Development Plan shall be limited to the total number of dwelling units and non-residential development on Table 1.
- M. "Horizontal Development\*" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development\* (e.g., roadway, drainage, water, sewer, communication, utilities, etc).
- N. "Owner\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-4 Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest as to the Cooper Creek Center DRI and all its stipulations.
- O. "Post Development Wetland\*" shall mean any Wetland\* area, which upon completion of the subphase, that will be a jurisdictional Wetland\* under the regulations of the Southwest Florida Water Management District or the Florida Department of Environmental Protection. This definition shall not apply to stormwater ponds or littoral shelves not required for mitigation.

- P. "Preliminary Site Plan\*" (PSP\*) shall mean 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.
- Q. "Preservation Areas\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.
- R. "Site Development Plan\*" shall be defined as any preliminary plat, final plat, Preliminary Site Plan\*, or final site plan to be submitted for consideration of approval pursuant to the LDC.
- S. "Traffic Study\*" shall mean a report presented by the Developer\*, pursuant to the provisions of Section 380.06, F.S. and Rule 9J-2.045 F.A.C., using a methodology acceptable to the County Transportation Authority\*, the Tampa Bay Regional Planning Council, the Florida Department of Community Affairs, and the Florida Department of Transportation. Such study will be designed to determine if the proposed development will reduce daily or peak hour Level of Service\* on any of the roadway segments or intersections within the Transportation Impact Area\*, to below an Acceptable Level of Service\*. Any such Traffic Study\* shall include traffic to be generated by the proposed Phase or Sub-Phase, existing traffic, and traffic anticipated from prior Development Approvals\* cumulatively.
- T. "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 Acceptable Level of Service\*. This area will be determined with the traffic study required for development approval after December 30, 2002. This area is generally depicted on Map J which was submitted with the ADA. This area will be revised as appropriate, based on a new Traffic Study\*.
- U. "Vertical Development\*" shall mean and shall be deemed to include the construction of new residential units and non-residential units or the reconstruction or addition to any structure.
- V. "Warranted\*" shall mean a determination by the County 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.
- W. "Wetland\*" shall mean any wetland under the jurisdictional limits defined by Chapter 40D-4.021, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined within Chapter 40D-4, F.A.C., and implemented by the Southwest Florida Water Management District.

**Section 5. LEGAL DESCRIPTION.**

FROM THE S.W. CORNER OF SECTION 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, BEING ON THE NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD, RUN S 89°24'05" E (WITH BEARINGS REFERRED TO GRID NORTH OF THE WEST ZONE OF THE FLORIDA STATE PLAN COORDINATE SYSTEM), ALONG THE SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 303.59 FEET TO THE POINT OF BEGINNING; THENCE N 00°20'30" W, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 36, A DISTANCE OF 5343.35 FEET; THENCE N 02°45'45" E, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 26, TOWNSHIP 35 SOUTH, RANGE 18 EAST, A DISTANCE OF 2674.17 FEET TO THE NORTH LINE OF THE S.W. 1/4 OF SAID SECTION 25; THENCE S 89°10'54" E, ALONG SAID NORTH LINE, A DISTANCE OF 2335.77 FEET TO THE WESTERLY RIGHT OF WAY LINE OF S.R. 93 (I-75, SECTION 13075-2402); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE (AND INTERSECTION RIGHT OF WAY) THE FOLLOWING EIGHT COURSES: VIZ: S 13°40'31" E, A DISTANCE OF 6145.63 FEET; AND S 09°40'31" E, A DISTANCE OF 518.74 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3180.04 FEET; AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°30'18", A DISTANCE OF 638.55 FEET; AND S 04°37'06" W, A DISTANCE OF 450.00 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 216.0 FEET; AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°40'21", A DISTANCE OF 315.44 FEET, TO THE P.T. OF SAID CURVE; AND S 88°17'27" W, A DISTANCE OF 628.42 FEET; AND N 89°25'07" W, A DISTANCE OF 298.24 FEET ; AND S 00°34'53" W, A DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE THE FOLLOWING EIGHT COURSES: VIZ: N 89°25'07" W, A DISTANCE OF 440.34 FEET; AND N 89°24'06" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5865.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 828.89 FEET, TO THE P.T. OF SAID CURVE; AND S 82°30'06" W, A DISTANCE OF 549.31 FEET; AND S 00°35'54" W, A DISTANCE OF 33.33 FEET; AND S 82°30'06" W, A DISTANCE OF 12.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5626.58 FEET, AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 795.11 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'05" W, A DISTANCE OF 220.21 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD.

CONTAINING 604.68 ACRES, MORE OR LESS.

**Section 6. 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 24th~~21<sup>st</sup>~~ day of ~~April, 2009~~ May, 2011.

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

**BY:**

~~Dr. Gwendolyn Y. Brown, Chairman~~

Carol Whitmore, Chairman

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

**BY: \_\_\_\_\_  
Deputy Clerk**

**Exhibit "B" is attached**

**Exhibits C, F, G, H, I, & J are not attached, but are on File with the Clerk of the Court.**

**Exhibit K (Master Sign Plan) per Ordinance No. PDMU-96-01(G)(R-7)  
Is not attached; but is on file with the Clerk of the Court.**