MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	PDMU-11-10(P) – Auto Zone Store #4931	**TYPE AGENDA ITEM**	Advertised Public Hearing – Consent
DATE REQUESTED	09/08/11 PC	**DATE SUBMITTED/REVISED**	08/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services / Public Hearings	**AUTHORIZED BY TITLE**	John Osborne, AICP, Planning and Zoning Official
CONTACT PERSON TELEPHONE/EXTENSION	Stephanie Moreland 748-4501 ext. 3880	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Stephanie Moreland,/ Planner / 748-4501 ext. 3880
ADMINISTRATIVE APPROVAL			

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

I move to recommend approval of PDMU-11-10(P) 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 request is for approval of a Preliminary site Plan for a 7,381 square foot commercial retail establishment (auto parts store) on ±0.95 acres.
- The site is on the northeast corner of 31st Street Court East and S. R. 70 East, approximately 2,172 feet east of U.S. 301 and 620 feet west of 33rd Street East, Bradenton.
- The site is in the R/O/R (Retail/Office/Residential) Future Land Use Category (FLUC) and zoned PDMU (Planned Development Mixed Use).
- There are no wetlands or known historic or archaeological resources on the site. The site is in the X Flood Zone Category.
- Specific Approvals are requested for reduction of tree replacement sizes, east side yard setback, east perimeter buffer, and roadway buffer along 31st Street Court East.
- Staff has compatibility concerns with this use adjacent to residential uses to the north, northwest, and northeast. Residence may experience some noise impacts because the site extends farther north into the line of the existing residential uses. The design proposes mostly stormwater in the area of intrusion. Staff recommends a stipulation limiting delivery hours.

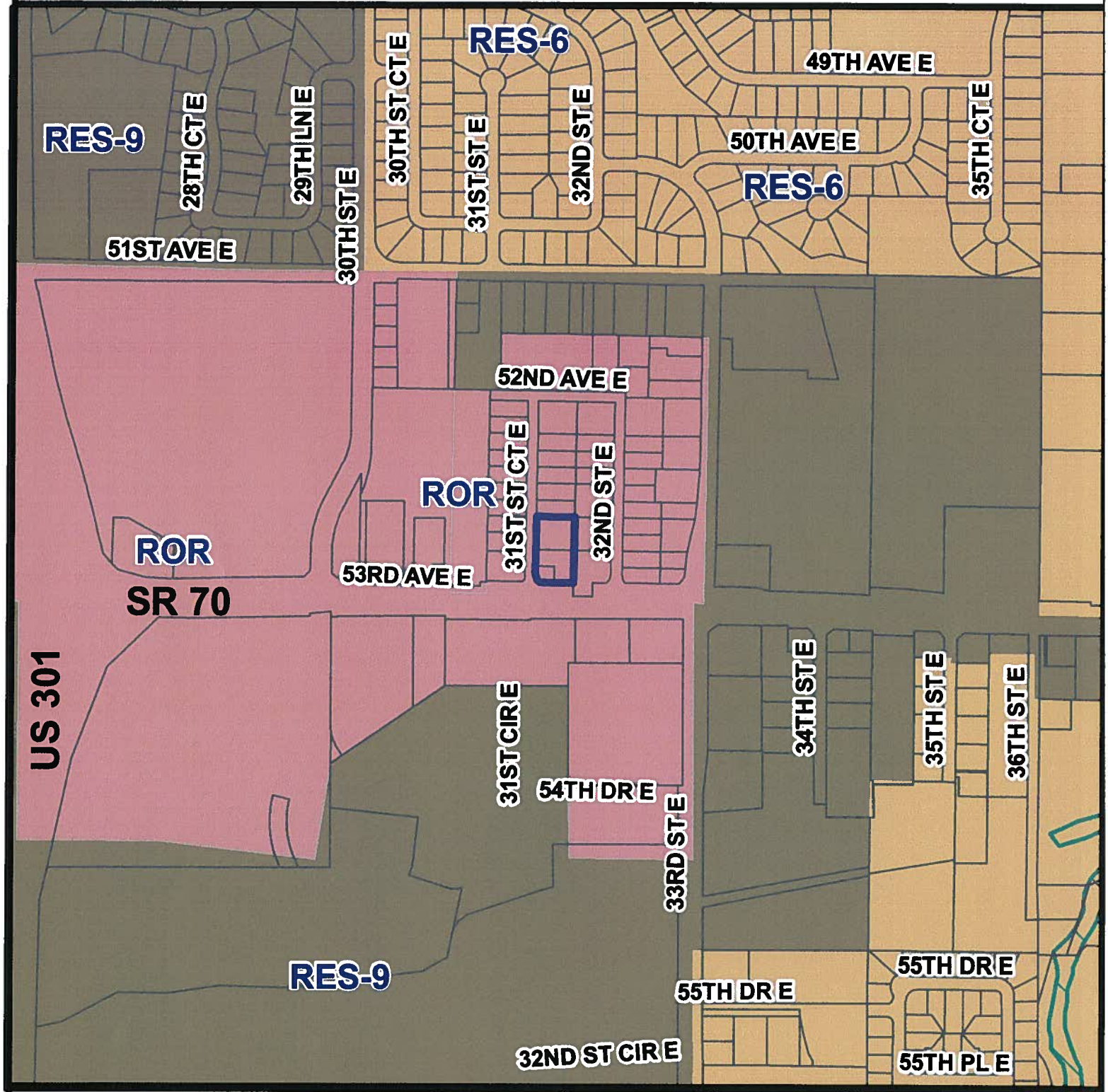
  Though there are some compatibility concerns with this request, these concerns are not to the degree that the use can be found to be incompatible with existing development patterns as the area has a mix of residential and commercial uses.
- Staff recommends approval with stipulations.

COUNTY ATTORNEY REVIEW

Check appropriate box	
☐	**REVIEWED** **Written Comments:** ☐ **Attached** ☐ **Available from Attorney (Attorney's initials: _____)**
☒	**NOT REVIEWED (No apparent legal issues.)**
☐	**NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)**
☐	**OTHER**

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

FUTURE LAND USE



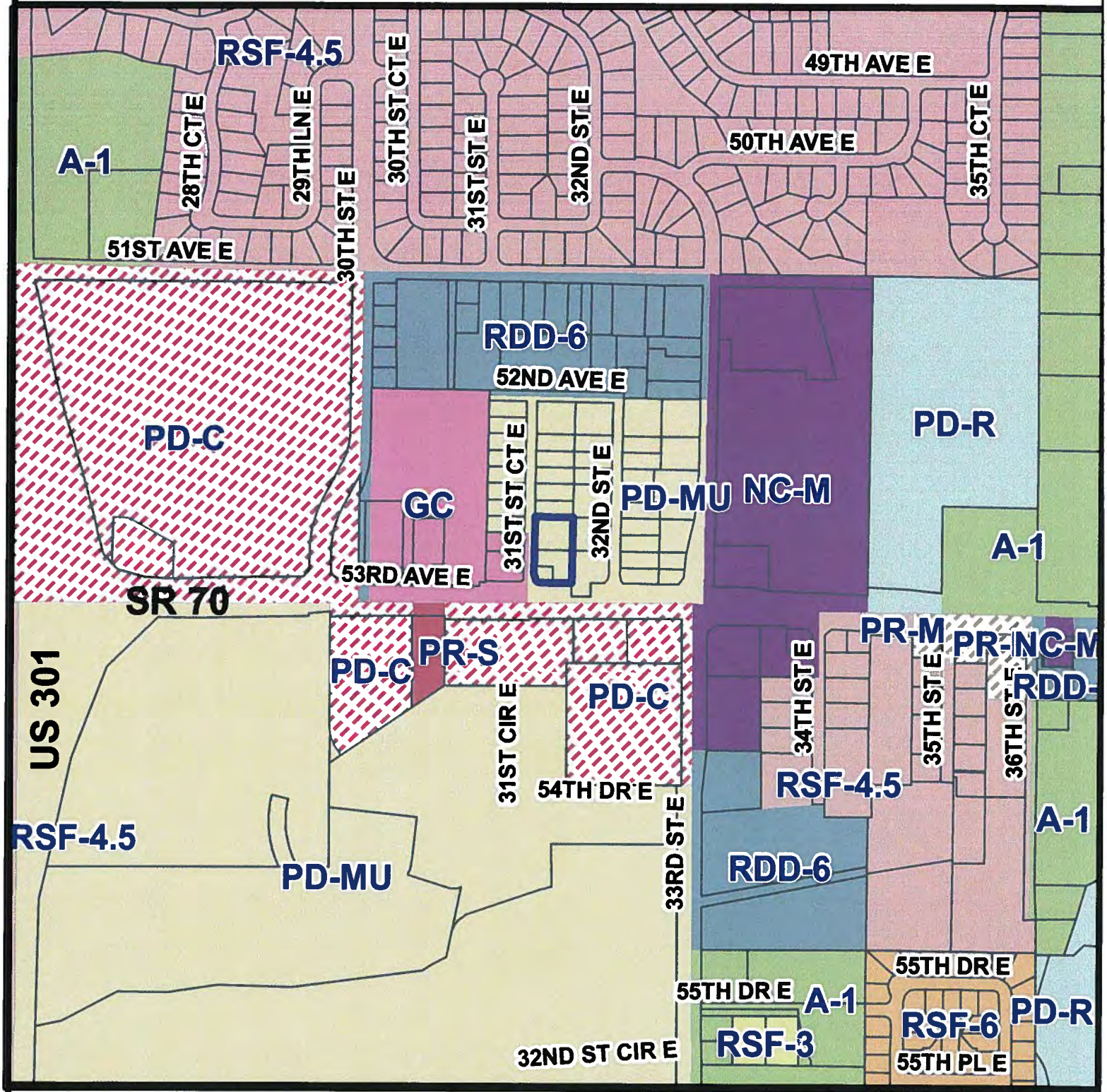
Parcel ID #(s) 1686500008, 1686700004, 1686600006

Manatee County
Staff Report Map

Map Prepared 6/22/2011
1 inch = 535 feet

Project Name:	Latreille-Jeanes Property Investment / AutoZone
Project #:	PDMU-11-10 (P)
DTS#:	20110180
Proposed Use:	Retail
S/T/R:	Sec 8 Twn 35 Rng 18
Acreage:	0.95
Existing Zoning:	PD-MU
Existing FLU:	ROR
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	GAP CREEK
Commissioner:	Robin DiSabatino

ZONING



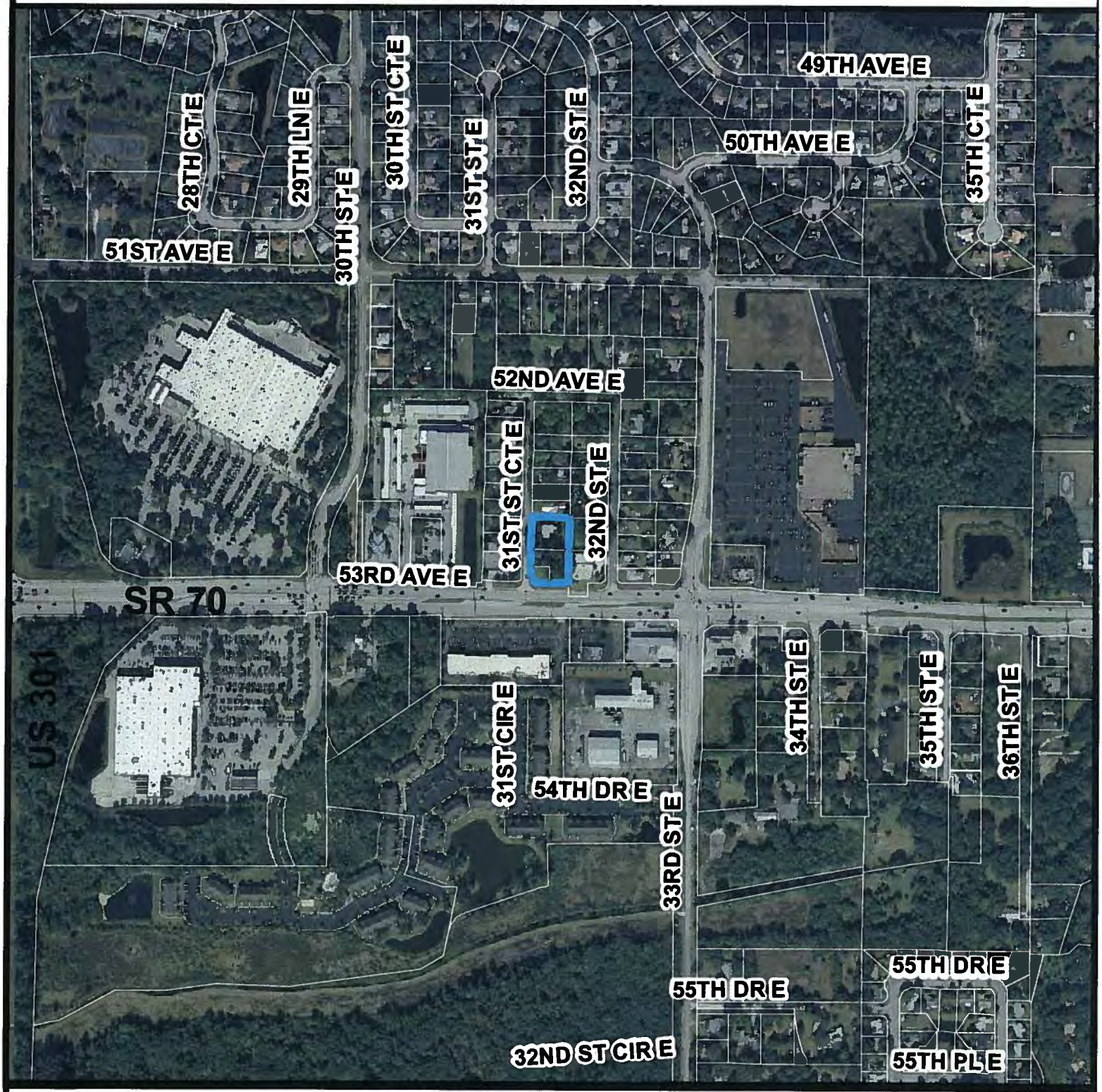
Parcel ID #(s) 1686500008, 1686700004, 1686600006

Manatee County
Staff Report Map

Map Prepared 6/22/2011
1 inch = 535 feet

Project Name:	Latreille-Jeanes Property Investment / AutoZone
Project #:	PDMU-11-10 (P)
DTS#:	20110180
Proposed Use:	Retail
S/T/R:	Sec 8 Twn 35 Rng 18
Acreage:	0.95
Existing Zoning:	PD-MU
Existing FLU:	ROR
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	GAP CREEK
Commissioner:	Robin DiSabatino

AERIAL



Parcel ID #(s) 1686500008, 1686700004, 1686600006

Manatee County
Staff Report Map

Map Prepared 6/22/2011
1 inch = 535 feet

Project Name:	Latreille-Jeanes Property Investment / AutoZone
Project #:	PDMU-11-10 (P)
DTS#:	20110180
Proposed Use:	Retail
S/T/R:	Sec 8 Twn 35 Rng 18
Acreage:	0.95
Existing Zoning:	PD-MU
Existing FLU:	ROR
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	GAP CREEK
Commissioner:	Robin DiSabatino

P.C. 9/8/2011

PDMU-11-10(P) – AUTO ZONE STORE #4931

An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

P.C.: 9/8/2011 **B.O.C.C.: 10/06/2011**

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 APPROVAL of the Preliminary Site Plan No. PDMU-11-10(P) with Stipulations A.1–A.4, B.1-B.2, and C.1; ADOPTION of the Findings for Specific Approval; and GRANTING Specific Approval for an alternative to LDC Sections 603.11.4.3, 714.8.7, 715.3.2, and 715.3.4, as recommended by staff.

PROJECT SUMMARY	
CASE#	**PDMU-11-10(P) DTS# 20110180**
PROJECT NAME	**Auto Zone Store #4931**
APPLICANT(S):	**Lucien C. & Grace C. Latreille, and Jeanes Property Investment, LLC**
EXISTING ZONING:	**PDMU (Planned Development Mixed Use)**
PROPOSED USE(S):	**Commercial retail establishment – Auto parts store.**
CASE MANAGER:	**Stephanie Moreland**
STAFF RECOMMENDATION:	**Approval**

DETAILED DISCUSSION

The 0.95± acre site consists of Lots 14, 15, and 16 of Central Gardens Subdivision. Together the lots have approximately 105 feet of frontage along S.R.70 East and 278 feet along 31st Street Court East. Two of the lots are vacant. An existing single-family residence (to be demolished) occupies Lot 16. According to information from the Neighborhood Services Department, no mitigation will be required for the depletion of affordable housing stock.

The site is in the R/O/R (Retail/Office/Residential) Future Land Use Category (FLUC). The R/O/R FLUC lists retail commercial in the range of potential uses for consideration. The site is within a commercial node. Development in the R/O/R FLUC is not required to meet standards for commercial locational criteria (i.e. located within 1,500 feet of two functionally classified roadways).

The site was rezoned to PDMU in 1989. PDMU permits retail commercial and is compatible and consistent with the R/O/R FLUC.

The site plan shows one structure in the eastern part of the site with associated parking north, south, and west of the building.

Eight-foot wide sidewalks exist along the north side of S.R.70 East, adjacent to the southern boundary of the site. There is a four-foot wide sidewalk along the west side of 31st Street Court East. No sidewalk is required along the east side with this project.

There will be perimeter and interior landscaping around vehicle use areas, as well as landscaping in perimeter and roadway buffers.

The project is in the X Flood Zone Category. There are no wetlands on the site. There are no known historic or archaeological resources on the site.

The applicant requests Specific Approval for the following:

- A reduction in tree replacement sizes

  Replacement tree calipers will be three or four inches rather than the required three, five, or seven inches. Staff believes the smaller size trees grow faster and provide canopy sooner.

- Reduction of the east side yard setback.

  Due to the relatively small size of the corner lot, the building will be constructed nine feet from the east property line to accommodate parking, buffers, and drive aisles. Staff believes the proposed design will minimize any potential adverse impacts (noise) on adjacent residential properties to the east.

- Reduction of the east perimeter buffer from fifteen to nine feet.

  The site is constrained by its size, location, and required Code dimensions for parking space depth and drive aisle widths. The perimeter buffer to the east is nine feet wide. Staff recommends approval and believes the smaller buffer with enhanced landscaping will also provide adequate screening for the adjacent residences.

- Reduction of the roadway buffer along 31st Street Court East.

  31st Street Court East does not meet current County standards for an urban standard road (curb and gutter). Additional right-of-way of five feet is required to meet a 25-foot half width. To accommodate the dedication of right-of-way on the small site and other required improvements, the roadway buffer is reduced to five feet. Staff recommends approval.

Staff has the following concerns:

- The site has no direct access to S.R.70 East. Comprehensive Plan Policy 2.10.3.2 requires commercial uses have direct access from a street which is classified on the Roadway Functional Classification Map as collector or higher. To provide adequate access to the site, the design shows two entrances on 31st Street Court East, (a local road connecting S.R.70 East) and cross access to the east to the adjacent commercial use (Window Décor and Designs Inc.) and 32nd Street East.

- The site is adjacent to single-family residences to the north, northwest, and northeast. There is potential for noise impacts on the adjacent residential uses because the northern part of the site extends farther north (into the line of existing residential uses) than other existing commercial sites in the immediate area. Most of the area of intrusion will be a stormwater pond and landscaped buffer. The remaining area is for a drive aisle, dumpster, loading zone, and two parking spaces.

- Store operation hours are indicated to be between the hours of 8 a.m. – 10 p.m., Monday through Saturday and 8 a.m. - 7 p.m. on Sundays. These hours extend into the evening times when residences are expected to be at home.

A six-foot high opaque fence will be installed along the north and part of the east property lines adjacent to residential uses. Enhanced landscaping will be installed along the north, west, and east perimeters.

The proposed commercial building is designed to have no windows or doors on the east side and will be constructed approximately 92 and 72 feet from the adjacent residences to the north and east respectively. The new building will align with the existing retail establishment to the west.

Because the access points are south of the residential line, commercial traffic should not have to intrude into the residential area. Additionally, staff recommends a stipulation limiting delivery times to daytime hours.

Though staff has these compatibility concerns with this use adjacent to residential development to the north and east, these concerns are not to the degree that the use can be found to be incompatible with existing development patterns as there are other existing commercial retail uses along S.R.70, to the south, east, and west which make it suitable to consider this site for a commercial use.

Staff recommends approval with stipulations.

SITE CHARACTERISTICS AND SURROUNDING AREA	
ADDRESS:	**3111 53rd Ave East**
GENERAL LOCATION:	**Northeast corner of 31st Street Court East, approximately 2,172 feet east of the intersection of U.S. 301 and S.R.70 East.**
ACREAGE:	**0.95± acres**
EXISTING USE(S):	**Vacant land and single-family residence**
FUTURE LAND USE CATEGORY(S):	**R/O/R (Retail/Office/Residential)**
FLOOR AREA RATIO (FAR):	**0.18**
SPECIAL APPROVAL(S):	**N/A**
OVERLAY DISTRICT(S):	**N/A**
SPECIFIC APPROVAL(S):	**1. To allow smaller tree replacement sizes. 2. To allow a reduced side yard setback. 3. To allow reduced landscaped buffers along the east property lines. 4. To allow a reduced roadway buffer along 31st Street Court East.**
SURROUNDING USES & ZONING	
NORTH	**Single-family residences zoned PDMU.**
SOUTH	**Across S.R. 70 East, is a commercial retail establishment (Cedar Plaza) zoned PDC (Planned Development Commercial).**
EAST	**Commercial retail establishment (Window Décor and Design Inc.) zoned PDMU. To the northeast is a single-family residence zoned PDMU.**
WEST	**Commercial retail establishment (Advance Auto Parts) zoned GC (General Commercial) and single-family residence (northwest) zoned PDMU.**

SITE DESIGN DETAILS		
BUILDING SQUARE FOOTAGE:	**7,381 square foot building.**	
MINIMUM SETBACKS:	**(Corner Lot)** **Fronts** **Sides**	**30'/35'*** **15'** ***31st Street Court East**
OPEN SPACE:	**20% required and provided**	
ACCESS:	**31st Street Court East**	
FLOOD ZONE(S)	**X (Panel 120153 0352 C, revised 7/15/92)**	
AREA OF KNOWN FLOODING	**No**	
UTILITY CONNECTIONS	**County water and sewer**	
ENVIRONMENTAL INFORMATION		
Overall Wetland Acreage:	**None**	
Proposed Impact Acreage:	**None**	

NEARBY DEVELOPMENT

NON-RESIDENTIAL

PROJECT	SQ. FT.	F.A.R.	FLUC	YEAR APPROVED
Advance Discount Auto Parts	6,719	0.22	R/O/R	1997
Cedar Plaza	28,000	0.13	R/O/R	1990
Window Decor	3,696	0.19	R/O/R	2003

POSITIVE ASPECTS

- Commercial retail sales and services will provide convenience for nearby residents, motorists, and visitors in the area.
- The site is in an area where there is a mix of commercial and residential uses.

- The site has frontage along an arterial roadway, S.R. 70.

NEGATIVE ASPECTS

- There are residential uses to the north, northeast, and northwest which may be impacted by noise.
- The design shows access from a local road.
- The northern part of the site extends farther north into the line of existing residential uses.
- Operation hours occur when residences are expected to be at home.

MITIGATING FACTOR

- A six-foot high opaque fence shall be installed along the north and part of the east property lines adjacent to residential uses. Enhanced landscaping shall be installed along the north, west, and east perimeters.
- Commercial traffic should not have to intrude into the residential area because the site is at a corner location and the access points are south of the residential line.
- Most of the area of intrusion will be a stormwater pond and landscaped buffer.
- Delivery hours are limited to twice weekly between 8 a.m. and 5 p.m., excluding Sundays.

STAFF RECOMMENDED STIPULATIONS

A. <u>DESIGN AND LAND USE CONDITIONS</u>:

1. All roof mounted HVAC equipment shall be screened from view from adjacent roadways and residential uses. Screening shall consist of similar colors and materials consistent with the construction of the exterior finish of the buildings. Details of screening shall be submitted with the Final Site Plan.

2. All dumpsters shall be screened from view from adjacent roadways and residential uses. Screening shall consist of building materials matching the principal building on site.

3. Deliveries shall be limited to twice weekly (Monday through Saturday), between the hours of 8 a.m. and 5 p.m.

4. Prior to Final Site Plan approval, an Easement Agreement for cross access with the adjacent property to the east shall be required.

B. ENVIRONMENTAL CONDITIONS:

1. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted to the Environmental Planning Division for review prior to Final Site Plan approval.

2. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Environmental Planning Division for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:

   - Digital photographs of the well along with nearby reference structures (if existing).
   - GPS coordinates (latitude/longitude) of the well.
   - The methodology used to secure the well during construction (e.g. fence, tape).
   - The final disposition of the well – used, capped, or plugged.

C. STORMWATER CONDITIONS:

1. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Pearce Drain. Modeling shall be used to determine pre- and post-development flows.

REMAINING ISSUES OF CONCERN – NOT RESOLVED OR STIPULATED

None.

COMPLIANCE WITH LDC

Standard(s) Required	Design Proposal	Compliance		Comments
		Y	N	
BUFFERS				
10' wide along S.R. 70 East and 31st Street Court East	**10' & 5'**	**Y**		**Specific Approval required for a 5-foot wide reduced roadway buffer along 31st St. Ct. E.**
15' wide along perimeters	**15' & 9'**	**Y**		**Specific Approval required for a 9-foot wide perimeter buffer along the east boundary.**
Buffer Landscaping	**Yes**	**Y**		**Meets or exceeds minimum standards.**
SIDEWALKS				
5' sidewalk, exterior	**8' wide along S.R. 70 East &**	**Y**		**8' wide sidewalks exist along S.R.70 East and 4' wide along west side of 31st St. Ct. E. No**

	4'wide along 31st St. Ct. E.			**sidewalk is required along the east side of 31st St. Ct. E.**
ROADS & RIGHTS-OF-WAY				
24' Internal driveways (one and two-way)	**shown**	**Y**		
Dedicate ± 5 ROW on 31st St. Ct. E.	**5'**	**Y**		
Dedicate ROW on S.R. 70 E.		**Y**		**No additional R/W required on S.R. 70.**
Cross Access	**shown**	**Y**		**Cross access to adjacent property to the east.**

COMPLIANCE WITH THE LAND DEVELOPMENT CODE
Factors for Reviewing Proposed Site Plans (Section 508.6)
Planned Districts - Rezone Review Criteria (Section 603.4)

Physical Characteristics:

A part of the 0.95± acre site is vacant. The other part has an existing single-family residence to be demolished. Based on information received from the Neighborhood Services Department, the parcel is not required to mitigate for replacement of affordable housing stock.

There are no wetlands on the site.

Public Utilities, Facilities and Services:

There is a 6" water main extending to the north, on the west side of 31st Street Court East right-of-way, to 52nd Avenue East. The existing 8" gravity sewer mains extend east and west along S.R.70.

Major Transportation Facilities:

The site is approximately 2,172 feet east of U.S.301. The site has frontage along S.R.70 East, a six lane divided principal arterial roadway. The Manatee County Right-of-Way Needs Map indicates a requirement for a 150-foot right-of-way for this segment of S.R. 70. The site plan indicates S.R. 70 is 150 feet wide. The site plan indicates a five-foot right-of-way dedication for 31st Street Court East to meet the 50-foot requirement for an urban standard (curb and gutter) local road.

Compatibility:

This segment of S.R.70 East has experienced recent growth. The site is surrounded by a mix of commercial and residential uses. There is a commercial retail establishment (Cedar Plaza) to the south, across S.R.70 East. To the east and west, are commercial establishments; Window Décor and Advance Discount Auto Parts, respectively. Single-family residences are

to the north, northwest, and northeast.

Staff has the following concerns with this use adjacent to residential development:

- There is potential for noise impacts on the adjacent residential uses because the northern part of the site extends farther north (into the line of existing residential uses) than other existing commercial sites in the immediate area. The design shows most of the area of intrusion will be a stormwater pond and landscaped buffer but the remaining area is for a drive aisle, dumpster, loading zone, and two parking spaces.

- Store operation hours are indicated to be between the hours of 8 a.m.–10 p.m., Monday through Saturday and 8 a.m.- 7 p.m. on Sundays. These hours extend into the times when residences are expected to be at home. Staff recommends a stipulation limiting delivery hours to daytime hours.

To address compatibility concerns for commercial adjacent to residential uses, a fifteen (15) and nine-foot wide landscaped buffer separates the proposed commercial uses from the existing residences to the north and east. A six-foot high opaque fence will be installed in the north and part of the east perimeter buffers. Enhanced landscaping will be installed along the entire length of the north, west, and east buffers.

Additionally, the proposed commercial building will be constructed approximately 92 and 72 feet from the adjacent residences to the north and east respectively. The new building will align with the existing retail establishment to the west. The building is designed to have no window or doors or parking on the east side adjacent to residential uses. Commercial traffic should not have to pass the residences to the north and northwest because the proposed access points are south of the residential line and not in front of residential homes or driveways.

The proposed square footage and FAR are compatible with approved projects to the east and west.

Transitions:

The site has been zoned PDMU prior to the adoption of the 1990 Land Development Code. Uses along this segment of S.R.70 East are transitioning from residential to commercial uses. Planned development is appropriate because it can be designed to provide a transition between the residential and commercial uses. The R/O/R FLUC provides for a variety of residential and commercial developments.

Design Quality:

The site plan shows an existing single-family residence will be demolished. A 7,381 square foot building will be constructed in the eastern part of the site. Most of the parking spaces are shown adjacent to the west and south sides of the building, away from residential. Two parking spaces are approximately 55-feet from the north property line, adjacent to residential.

A loading zone is also shown north of the building. Delivery hours are scheduled to be one or two times a week between 8 a.m. and 5 p.m.

There are two stormwater facilities. One is in the northern part of the site and the other along the front, adjacent to S.R. 70.

Relationship to Adjacent Property:

The site extends approximately 65 feet into a residential area. Residential uses are to the north and west, across 31st Street Court East. Most of the northern part of the site will be for a stormwater pond.

To the west, across 31st Street Court East, is a commercial retail establishment (Advanced Discount Auto). This establishment is approximately 43 feet away from the nearest residence to the north.

The proposed commercial building will be constructed approximately 92 feet from the adjacent residence to the north and will align with the existing retail establishment to the west.

Across S.R.70, to the south, are other commercial retail uses (Cedar Plaza). The site's proximity to S.R.70 East and other commercial retail and service uses makes it suitable to consider this site for a commercial use.

Streets, Drives, Parking and Service Areas:

31st Street Court East is a two lane local road connecting S.R. 70, a six lane divided principal arterial. The drive aisles are designed for one and two-way traffic. LDC Section 710 requires thirty (30) parking spaces (1 space per 250 square feet of gross floor area). The site plan shows 30 parking spaces provided. One designated loading space is proposed north of the building.

Access:

The site has no direct access to S.R.70 East. Comprehensive Plan Policy 2.10.3.2 requires commercial uses have direct access from a street which is classified on the Roadway Functional Classification Map as collector or higher. To provide adequate access to the site, the design shows two entrances on 31st Street Court East, (a local road connecting S.R.70 East). The entrances are across from the existing retail commercial use to the west and not directly in front of any residential use. Because the site is at a corner location, and the access points are south of the residential line, commercial traffic should not have to intrude into the residential area.

Cross access is shown to the east connecting the drive aisle to the adjacent commercial property (Window Décor and Designs Inc.) and 32nd Street East.

Pedestrian Systems:

There are eight-foot wide sidewalks existing along S.R. 70 East and four-foot wide sidewalks along 31st Street Court East. Five and six-foot wide interior sidewalks are proposed adjacent to the south and west sides of the building.

Natural and Historic Features, Conservation and Preservation Areas:

There are no known historic or archaeological resources or existing trees on the site. 20% open space is proposed.

Intensity:

The Floor Area Ratio (FAR) of 0.18 is below the maximum FAR (0.35) allowed for the R/O/R FLUC.

Height:

The site plan indicates a maximum 35-foot building height. The actual building height is 21 feet. These heights should not create any external impacts that would adversely affect the surrounding developments.

Fences and Screening:

The site is adjacent to single-family residences to the north and east. A six-foot high opaque fence is depicted along the north and part of the east property lines. A 15-foot wide landscape buffer is proposed along the north property line. The applicant requests Specific Approval for a nine-foot wide buffer along the east boundary. Perimeter buffers with enhanced landscaping are proposed for screening.

Yards and Setbacks:

The minimum setbacks for the project in PDMU zoning district are shown in the chart below:

Yards and Setbacks				
Type	**Front**	**Front (adjacent to 31st St. Ct.)**	**North side**	**East side**
	30'	35'	15'	15'

The site plan shows the proposed structure within the required 15-foot east side yard setback. The applicant requests Specific Approval to allow a nine-foot side yard setback along the east perimeter.

Trash and Utility Plant Screens:

The site plan shows a designated area (in the north part of the site) for dumpsters. The screened dumpster enclosure is 31 feet from the north property line.

Signs:

One sign is proposed for the project at the corner of S.R. 70 East and 31st Street Court East. The sign will be reviewed with the future Building Permit.

Landscaping:

The site plan shows enhanced landscaping which exceeds the requirements of the Land Development Code. Additionally, a six-foot high opaque fence will be installed along the north and part of the east boundaries. The applicant requests Specific Approval to reduce sizes of replacement trees at planting.

COMPLIANCE WITH THE 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 is appropriate given development trends in the area. The surrounding area is characterized by a mix of agricultural, residential, and commercial uses.

Policy 2.2.1.17.1 Intent. The intent of the R/O/R is to provide for a variety of commercial, office, and residential development.

Policy 2.2.1.17.2 Range of Potential Uses. Retail, wholesale or office commercial uses which function in the market place as neighborhood, community, or region-serving.

Policy 2.2.1.17.3 Range of Potential Density/Intensity: The maximum floor area ratio for R/O/R is 0.35. A floor area ratio of 0.18 is proposed.

Policy 2.6.1.1 Compatibility. The proposed design and use is compatible with surrounding developments.

Policy 2.6.5.4 Preserve/Protect Open Space.
The site plan shows 20% open space (0.19 acres). 20% open space is required.

CONCURRENCY

CLOS APPLIED FOR: Yes
TRAFFIC STUDY REQ'D: Yes

NEAREST ROADWAY	LINK(S)	ADOPTED LOS	IMPROVEMENTS REQUIRED Y/N
S.R.70 East	From U.S. 301 to 39th St. E. (Links 3100, 3101, 3102, 3103)	D	No

REQUIRED IMPROVEMENTS: No improvements required as this project will have minimal impact on the roadway network.

Wastewater and potable water to be determined with FSP/Construction Plans

SPECIFIC APPROVALS – ANALYSES, RECOMMENDATIONS, FINDINGS

Sections 603.3 of the Land Development Code (LDC) allows the Board of County Commissioners to make specific modifications to the general zoning and subdivision regulations, where the Board of County Commissioners makes a written finding that the public purpose of the regulations is satisfied to an equivalent or greater degree.

1. **Request:**

   LDC Section 714.8.7 requires replacement tree calipers to be three, five, or seven inches depending on the size of the tree removed. The request is to allow replacement tree calipers to be three or four inches.

   Staff Analysis and Recommendation:

   Staff is in support of the request for Specific Approval for an alternative to Section 714.8.7 of the LDC to allow replacement tree sizes at 3"/4"/4" instead of 3"/5"/7". Staff believes that smaller size trees typically establish and grow faster. Therefore, they provide more tree canopy sooner. The LDC is slated to reflect the smaller replacement tree sizes with the upcoming amendment to Section 714 – Tree Protection.

   Finding for Specific Approval:

   Notwithstanding the failure of this plan to comply with the requirements of LDC Section 714.8.7, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

2. **Request:**

LDC Section 603.11.4.3 requires a side yard setback of 15 feet. The applicant requests a side yard setback of nine feet along the east perimeter.

Staff Analysis and Recommendation:

The relatively small, narrow site is at the corner of 31st Street Court East and S.R.70 East. In addition to its size, the requirement for two front yard setbacks (30' and 35') further constrains the site. The proposed building is approximately 81 feet from the north property line and meets the required 15-foot side yard setback along the northern boundary.

To accommodate required Code dimensions for parking space depth and drive aisle widths, the proposed building is setback nine feet from the east property line and 72 feet from the existing adjacent residential structure. To minimize any potential adverse impacts such as noise or glare, the building is designed to have no doors or windows on the east side and enhanced landscaping along the east property lines, adjacent to residential uses. Staff recommends approval of the proposed design.

Finding for Specific Approval:

Notwithstanding the failure of this plan to comply with the requirements of LDC Section 603.11.4.3, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because the site plan shows a superior design which meets the intent of the LDC.

3. **Request:**

LDC Section 715.3.4 requires a minimum fifteen-foot buffer width between commercial and residential uses. The applicant requests a nine-foot wide buffer along the east perimeter.

Staff Analysis and Recommendation

The site is small and narrow. To accommodate the proposed building size, its location adjacent to residential structures on two sides, and required Code dimensions for parking space depth and drive aisle widths, the perimeter buffer to the east is nine feet wide. The applicant has agreed to install a six foot tall opaque fence, extending from the northern property line to the north corner of the building. Additionally, a hedge consisting of Walter's Viburnum, Bald Cypress and Sabal Palmetto or Cabbage Palms will be installed, extending from the northeast corner of the property to the southeast corner of the building. Staff recommends approval and believes the smaller buffer with enhanced landscaping will also provide screening for the adjacent residences. The utilization of taller trees will help to break up the building's mass on the east side.

Finding for Specific Approval:

Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.4, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because adequate screening is provided which meets the intent of the LDC.

4. **Request:**

LDC Section 715.3.2 requires a minimum ten-foot wide roadway buffer. The applicant requests a five-foot wide roadway buffer along 31st Street Court East.

Staff Analysis and Recommendation

The site is small and narrow and abuts a local road which doesn't meet current County standards. The applicant requests Specific Approval to accommodate a five-foot right-of-way dedication which is required to meet a 25-foot half width along 31st Street Court East.

Finding for Specific Approval:

Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.2, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because right-of-way is being provided.

ATTACHMENTS

1. **Applicable Comprehensive Plan Policies**
2. **Request for Specific Approval**
3. **Copy of Newspaper Advertising**

APPLICABLE COMP PLAN POLICIES		
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, and the development of a high quality environment for living, working, or visiting.

Policy:	2.2.1.17.2	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.

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] Implementation Mechanism(s): a) Maintain setback, screening, buffering, and other appropriate mitigation techniques in land development regulations. b) Planning Department review of development approvals to ensure policy compliance.
Policy:	2.6.1.2	Require the use of planned unit development, in conjunction with the mitigation techniques described in policy 2.6.1.1, for projects where project size requires the submittal of a site development plan in conformance with the special approval process in order to achieve compatibility between these large projects and adjacent existing and future land uses.
Policy:	2.6.2.1	Limit location of new residential development and residential support uses adjacent to intensive and incompatible agricultural operations.
Policy:	2.10.3.2	Require that all proposed small and medium commercial uses can be directly accessed from at least one roadway shown on the Roadway Functional Classification Map as collector or higher, at time of issuance of a development order. An exception shall be made for neotraditional projects that have commercial uses located internally to the project and whose main project access is located on a road designated as a collector or higher. An exception shall be made for DRI's and Large Project developments that have mixed uses with a residential component and meet minimum development characteristics to have commercial uses located internally to neighborhoods if the main neighborhood access is located on a road designated

as a collector or higher.

CAVOLI Engineering, Inc.
Consulting Civil Engineers

5824 Bee Ridge Road, #325
Sarasota, FL 34233-5065
(941) 927-3647
Fax: (941) 927-3646
email: cavoliengineer@aol.com

8 June 2011

Manatee County Board of County Commissioners
c/o: Ms. Stephanie Moreland
Manatee County Planning Department
1112 Manatee Avenue West
Bradenton, FL 34205

Subject: AUTOZONE #4931
PRELIMINARY SITE PLAN – SPECIFIC APPROVAL LETTER
APPLICATION NO.: 20110180

Dear Ms. Moreland:

The following specific approvals are requested for the subject project:

1. The required Building Setback on the east side of the property is required to be 15'. We are reqeusting specific approval for a 9' building setback to accommodate the narrow site constraints from east to west. The building has been pushed as far south as possible to stay away from the single family residence abutting the northern portion of the property. In addition, there are no doors or windows proposed on the east side of the building.
2. The required Landscape Buffer on the east side of the property is required to be 15'. We are requesting spcific approval for a 9' enhanced landscape buffer to accommodate the narrow site constriants from east to west. The building has been pushed as far south as possible to stay away from the single family residence abutting the northern postion of the property. The storm water management basin as well as enahnced landscaping has been added to the northern limits where the building is not located. In addition, a 6' high opaque fence is proposed between the property and the singel family residence with landscaping on the ease side of the fence.
3. The required Landscape Buffer on the west side of the property is required to be 10'. We are requesting specific approval for a 5' landscape buffer to accommodate the required 5' right-of-way dedication that the County is requiring to meet a 25' half along 31st Street Court East.
4. Specific Approval is requested for an alternative to Section 714.8.7 of the LDC to allow tree replacement sizes of 3"/4"/4" in place of 3"/5"/7". Staff supports this request, as the revised Section 714 of the LDC reflects these sizes but has not yet been adopted by the Board.

We would appreciate your approval of these requested items in an effort to accommodate site constraints that cannot be met by the proposed development. Please contact our office if you have any questions or require any additional information.

Very truly yours,
CAVOLI Engineering, Inc.

John F. Cavoli, P.E.

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/ SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 nondiscrimination 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

08/17/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR
DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 Publication: August 17, 2011

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	Z-11-06 – Sheila D. Leach/Sweetberries Rezone	**TYPE AGENDA ITEM**	Advertised Public Hearing – Consent
DATE REQUESTED	09/08/11 PC	**DATE SUBMITTED/REVISED**	08/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building & Development Services/Public Hearings	**AUTHORIZED BY TITLE**	John Osborne, AICP, Planning and Zoning Official
CONTACT PERSON TELEPHONE/EXTENSION	Rossina Leider / 748-4501 ext. 6859 DTS # 20110215	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Rossina Leider / Sr. Development Review Specialist / 748-4501 ext. 6859
ADMINISTRATIVE APPROVAL			

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

I move to recommend approval of Z-11-06 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 is a straight rezone for 0.17 ± acres (part of a ± 0.57 acre parcel) located at 4500 Manatee Avenue West, Bradenton from RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre) to the General Commercial (GC) Zoning District.
- The majority of the overall parcel (0.40 ± acres) has had commercial zoning (GC) since 1990 (Implementation of Land Development Code) and has been used for an eating establishment. In 1989, Manatee County offered "commercial zoning" to the area subject to rezone (0.17 acres) as part of the "County wide rezone process" and the owner had to apply within a 3-year time frame. The owner did not apply for a rezone at that time.
- The area subject to rezone has been used as an overflow parking area and outdoor sitting area for the above referenced eating establishment.
- The site is surrounded to the east, south, and west by a mix of commercial and office uses and zoning.
- The Future Land Use Category for this property is Residential, 6 dwelling units per acre (RES-6).
- The site meets commercial locational criteria (i.e. site within 1,500 feet of two functionally classified roadways - Manatee Avenue West and 43rd Street West- designated as Collector or higher) and is eligible to be considered for commercial zoning.
- Developments within the GC Zoning District are limited to 50,000 gross building square feet per project. The maximum Floor Area Ratio (FAR) in the GC zoning district is 0.25 (without Special Approval). Based on the maximum FAR allowed on RES-6 (0.23) the overall parcel (0.57 acres) could accommodate a 6,103 ± square foot building (1,668 ± square foot on the 0.17 ± acre portion of the site subject to rezone) except for a mini-warehouse use which allows a maximum 0.35 FAR (8,748 ± square foot building).
- The 0.57 ± acre site (overall parcel) meets the 7,500 square foot minimum lot requirements for the GC zoning district.
- All requirements of GC zoning district and LDC provisions regarding compatibility, buffering, and lighting will be assessed with future site plan.
- Staff recommends approval.

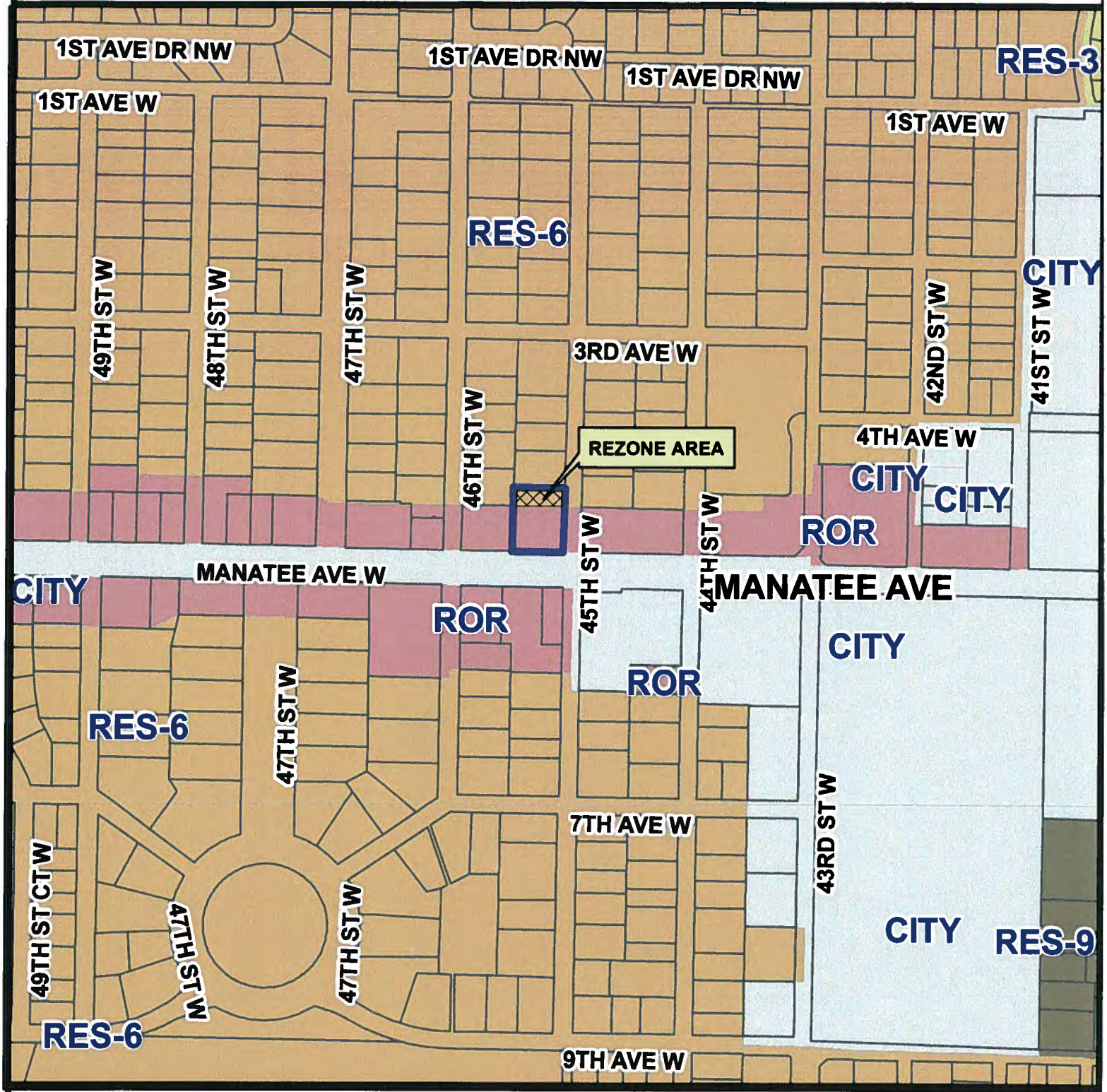
COUNTY ATTORNEY REVIEW

Check appropriate box	
☐	**REVIEWED** **Written Comments:** ☐ **Attached** ☐ **Available from Attorney (Attorney's initials:)**
☒	**NOT REVIEWED (No apparent legal issues.)**

☐	**NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)**
☐	**OTHER**

ATTACHMENTS: (List in order as attached)		**INSTRUCTIONS TO BOARD RECORDS:**	
Staff report for Z-11-06		n/a	
COST:	n/a	**SOURCE (ACCT # & NAME):**	n/a
COMMENTS:		**AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)**	

FUTURE LAND USE



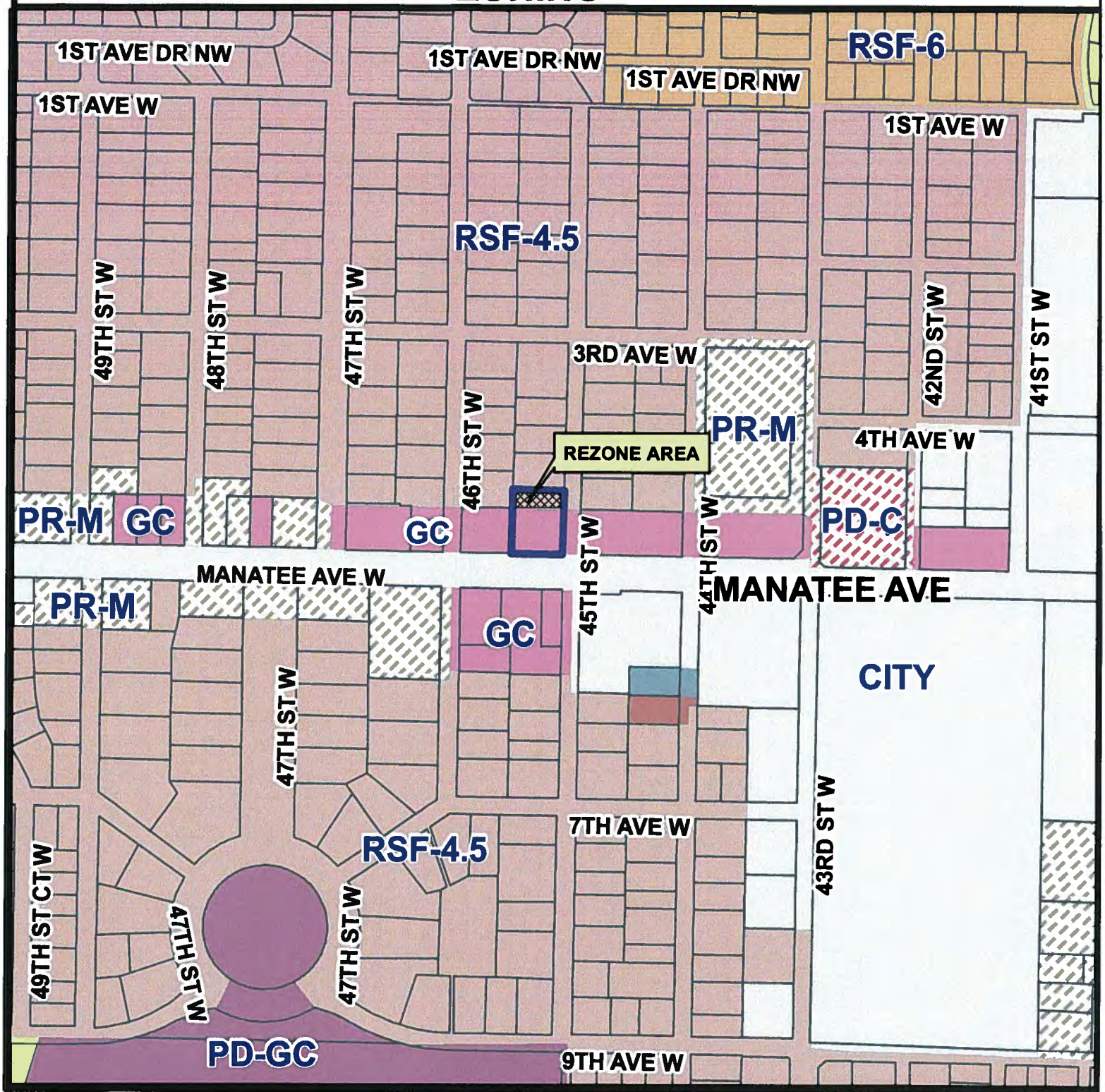
Parcel ID #(s) 3626600005

Manatee County
Staff Report Map

Map Prepared 8/15/2011
1 inch = 83,333 feet

Project Name:	Sweetberries Rezone
Project #:	Z-11-06
DTS#:	20110215
Proposed Use:	Rezone
S/T/R:	Sec 28 Twn 34 Rng 17
Acreage:	Rezone - 0.17 Total - 0.57
Existing Zoning:	GC, RSF-4.5
Existing FLU:	ROR, RES-6
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	MANATEE RIVER BL DAM
Commissioner:	John Chappie

ZONING



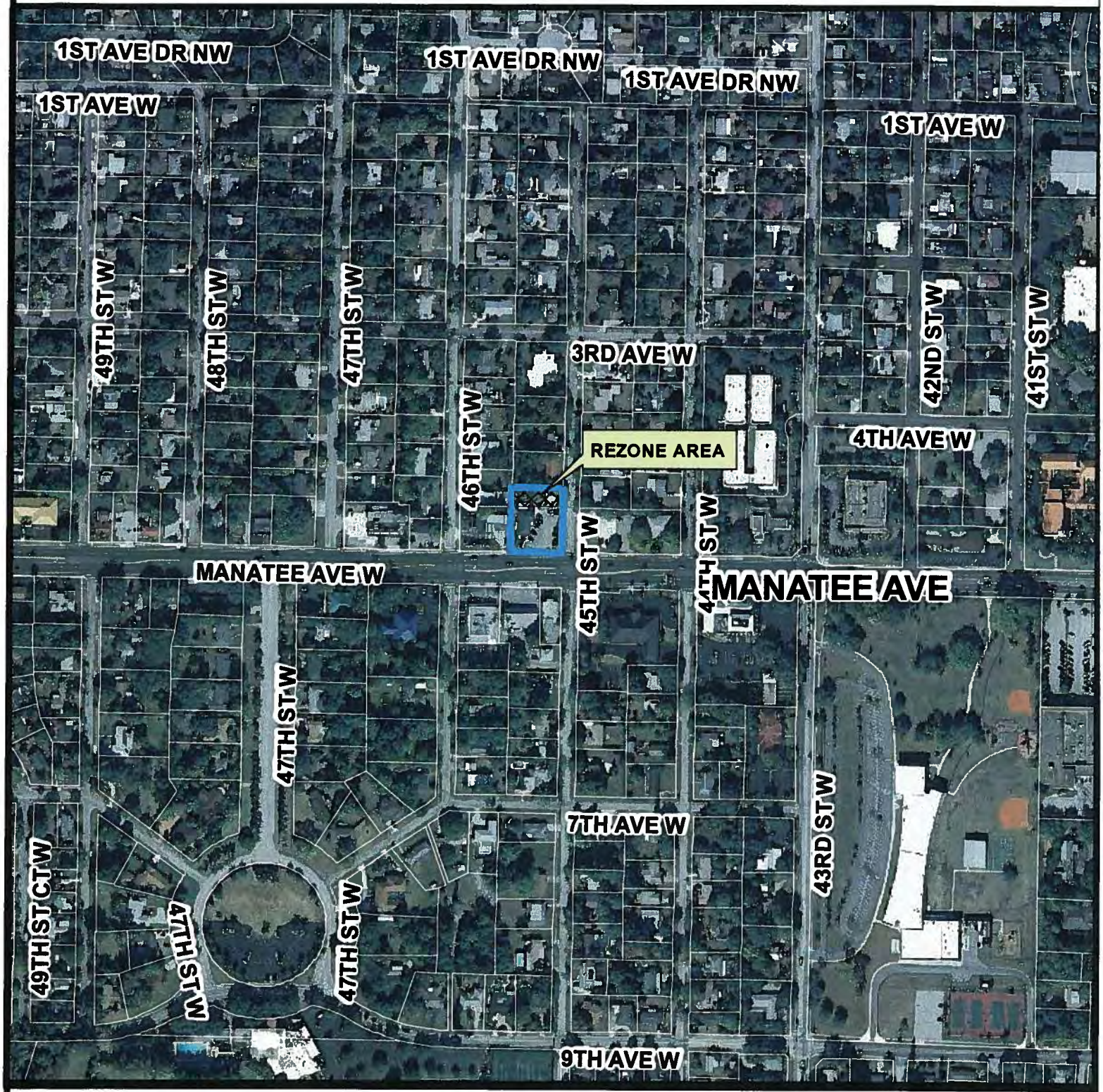
Parcel ID #(s) 3626600005

Manatee County
Staff Report Map

Map Prepared 8/15/2011
1 inch = 83,333 feet

Project Name:	Sweetberries Rezone		
Project #:	Z-11-06		
DTS#:	20110215		
Proposed Use:	Rezone		
S/T/R:	Sec 28 Twn 34 Rng 17		
Acreage:	Rezone - 0.17 Total - 0.57		
Existing Zoning:	GC, RSF-4.5	CHH:	NONE
Existing FLU:	ROR, RES-6	Watershed:	NONE
Overlays:	NONE	Drainage Basin:	MANATEE RIVER BL DAM
Special Areas:	NONE	Commissioner:	John Chappie

AERIAL



Parcel ID #(s) 3626600005

Manatee County
Staff Report Map

Map Prepared 8/15/2011
1 inch = 83,333 feet

Project Name:	Sweetberries Rezone
Project #:	Z-11-06
DTS#:	20110215
Proposed Use:	Rezone
S/T/R:	Sec 28 Twn 34 Rng 17
Acreage:	Rezone - 0.17 Total - 0.57
Existing Zoning:	GC, RSF-4.5
Existing FLU:	ROR, RES-6
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	MANATEE RIVER BL DAM
Commissioner:	John Chappie

P.C. 09/08/2011

Z-11-06 – SHEILA D. LEACH/SWEETBERRIES REZONE (DTS # 20110215)

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 0.17 acres (part of a 0.57 ± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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.: 09/08/2011 **B.O.C.C.: 10/06/2011**

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-11-06, as recommended by staff.

PROJECT SUMMARY	
CASE#	**Z-11-06 (DTS # 20110215)**
PROJECT NAME	**Sweetberries Rezone**
APPLICANT(S):	**Sheila D. Leach**
PROPOSED ZONING:	**GC (General Commercial)**
EXISTING ZONING:	**RSF-4.5 (Residential Single-Family – 4.5 Dwelling Units per acre)**
CASE MANAGER:	**Rossina Leider**
STAFF RECOMMENDATION:	**APPROVAL**

DETAILED DISCUSSION

The request is for a rezone of approximately 0.17 acres (7,253 square feet) from RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre) to GC (General Commercial). The site is located on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, approximately 700 feet west of 43rd Street West, and is part of a ± 0.57 acre parcel (Parcel ID 3626600005).

The overall parcel (0.57 acres) includes half of Lot 35, Lot 36, Lot 37 (southern portion) and Lot 38 (northern portion) of Morningside Subdivision. Since before 1987, the referenced lots constitutes the overall parcel.

The implementation of the Land Development Code in 1990 changed the zoning of the overall parcel as follow:

- The southern portion (0.40 acres) was rezoned from C-1A (Resort Commercial) to GC (General Commercial). It is in the R/O/R (Retail/Office/Residential) FLUC, and is being used for an eating establishment.
- The northern portion (51-foot wide stripe subject to rezone, ± 0.17 acres) was rezoned from PR (Professional Office) to RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre). In 1989, Manatee County offered "commercial zoning" to this area as part of the "County wide rezone process" and the owner had to apply within a 3-year time frame. The owner did not apply for a rezone at that time.

  The area subject to rezone is in the RES-6 (Residential, 6 dwelling units per acre) FLUC, and is being used as an overflow parking and outdoor sitting area for the above referenced eating establishment approximately since 1999.

The existing RSF-4.5 zoning district is intended to provide for single-family residential and residential support uses. The proposed GC zoning district is intended to provide a variety of retail uses and services in free-standing parcels or shopping centers to serve the community's general commercial needs.

The RES-6 FLUC lists neighborhood commercial uses for consideration in the range of potential uses, with a maximum Floor Area Ratio (FAR) of 0.23, subject to commercial location criteria. The site is within a commercial node, which is defined by the Manatee County Comprehensive Plan as generally extending a maximum of 1,500 feet along the frontage of two functionally classified roadways designated as Collector or higher (Manatee Avenue West and 43rd Street West) and is eligible to be considered for commercial zoning.

The GC zoning district is generally consistent with the RES-6 FLUC designation and development trends and timing within the area. There is existing GC zoning east, west, and south of the proposed project site.

The overall site has direct access to Manatee Avenue West (SR 64) classified as a Principal Arterial.

SITE CHARACTERISTICS AND SURROUNDING AREA	
ADDRESS:	**4500 Manatee Avenue West**
GENERAL LOCATION:	**North of SR 64 and west of 45th Street West, ± 700 feet west of 43rd Street West**
ACREAGE:	**0.17 ± acres (part of a 0.57 ± acre parcel)**
EXISTING USE(S):	**Eating establishment overflow parking and outdoor sitting area**
FUTURE LAND USE CATEGORY:	**RES-6 (Residential, 6 dwelling units per acre)**
INTENSITY:	**Max F.A.R. permitted:** - **0.25/0.35 with special approval in GC Zoning** - **0.35 for mini-warehouse without special approval in GC Zoning** - **0.23 (0.35 for mini-warehouse only) in RES-6 FLUC**
OVERLAY DISTRICT(S):	**None**
SURROUNDING USES & ZONING	
NORTH	**Single-family residence zoned RSF- 4.5 (Residential Single-Family – 4.5 Dwelling Units per acre)**

SOUTH	**Across Manatee Avenue West, commercial retail (The UPS Store, Pinch-a-Penny, Domino's Pizza and MMH Thrift Store) zoned GC (General Commercial).**	
EAST	**Across 45th Street West, professional office (Michael Saunders Real Estate) zoned GC (General Commercial) and single-family residence zoned RSF-4.5 (Residential Single-Family – 4.5 Dwelling Units per acre)**	
WEST	**Auto Sales and Motor Vehicle Repair (Westside Auto Sales & Service) zoned GC (General Commercial) and an office zoned RSF-4.5 (Residential Single-Family – 4.5 Dwelling Units per acre)**	
SITE DESIGN DETAILS		
LOT SIZE(S):	**Area subject to rezone: 7,253 ± sq. ft. Overall parcel (Total site): 24,995 ± sq. ft. Exceeds minimum lot size (7,500 sq. ft.) required for GC zoning.**	
SETBACKS: (min. required in GC zoning)	**Front** **Side** **Rear**	**25'** **10'/20' (adjacent to residential district)** **15'/20' (adjacent to residential district)**
OPEN SPACE:	**15% required in GC zoning. No site plan submitted at this time.**	
ACCESS:	**Three access points:** • **One in the area subject to rezone (45th St. West).** • **Two access points within the southern portion: one along 45th St. West and one on Manatee Avenue West.**	
FLOOD ZONE(S):	**C – Panel 120153 0326B**	
AREA OF KNOWN FLOODING:	**No**	
UTILITY CONNECTIONS:	**Water and sewer available**	
ENVIRONMENTAL INFORMATION		
Overall Wetland Acreage:	**No plans submitted; unable to determine at this time.**	
Proposed Impact Acreage:	**No plans submitted; unable to determine at this time**	

NEARBY DEVELOPMENT

NON-RESIDENTIAL

PROJECT	SQ. FT.	FAR	FLUC	YEAR APPROVED
Taco Bell	2,078	0.09	R/O/R	2010
Westside Auto Sales & Service (fka Powell Motor Company)	1,674	0.09	R/O/R	1997
Premiere Weight Loss Center (fka McCarthy Medical Office)	3,330	0.19	R/O/R	1993
Bradenton Urgent Care (fka Fay, Jack – Office)	4,070	0.20	R/O/R	1990

POSITIVE ASPECTS

- The site is surrounded to the east, south, and west by a mix of commercial and office uses and zoning.
- Logical expansion of the adjacent GC zoning district.
- Site is located within a commercial node, per the Comprehensive Plan.
- The site has direct access from Manatee Avenue West, a Principal Arterial roadway.

NEGATIVE ASPECTS

- Commercial development may impact residential use and zoning to the north and northeast, and to residential zoning to the northwest.

MITIGATING MEASURES

- All requirements of GC zoning district and LDC provisions regarding compatibility, buffering, and lighting will be assessed with future site plan.
- Operating as outdoor sitting and overflow parking area adjacent to a residential property since 1999.

STAFF RECOMMENDED STIPULATIONS

Not applicable. This is a "straight rezone" from RSF-4.5 to GC. All requirements of the RES-6 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.

REMAINING ISSUES OF CONCERN – NOT RESOLVED OR STIPULATED
(Note: Stipulations cannot be attached to a straight rezone)

None

COMPLIANCE WITH THE LAND DEVELOPMENT CODE
SECTION 504.5 - REZONE CRITERIA

1. **Compatibility with Neighbors. Is the requested change compatible with the existing development pattern and the zoning of nearby properties?**
The site is surrounded by commercial and office uses to the east, south, and west within the GC (General Commercial) zoning district. Parcels to the north, northeast, and northwest of the area subject to rezone have RSF-4.5 (Residential Single-Family – 4.5 Dwelling Units per acre) zoning. The proposed zoning (GC) is compatible with the existing development pattern and zoning of nearby properties along this segment of the SR 64 corridor and a logical expansion of the commercial zoning of the southern portion of the overall parcel.

2. **Changes from Original Conditions. 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?**
Since 1990 more than the 2/3 portions of the overall site (0.40 acres) has had commercial zoning (GC) and the rest of the property (0.17 acres) residential zoning (RSF-4.5). The adjacent properties to the east, south, and west are zoned GC with a FLUC of R/O/R. Development pattern in this segment of SR 64 is characterized by commercial and office uses. The proposed amendment to GC zoning is consistent with the development trend in the area.

3. **Comprehensive Plan. Does the current zoning or the proposed zoning better conform to the current Comprehensive Plan?**
RSF-4.5 and GC zoning districts are appropriate for the RES-6 FLUC. However, the proposed zoning better conforms with the Comprehensive Plan since the majority of the properties along this segment of SR 64 are zoned GC including the southern portion of the overall site.

   The GC zoning district allows a variety of retail uses and services in free-standing parcels or shopping centers to serve the community's general commercial needs (i.e. retail sales, eating establishments, bank, professional office, etc.). The RES-6 FLUC permits neighborhood retail uses up to 30,000 sq. ft. without Special Approval.

4. **Conflicts with Public Improvements. Will the proposed change conflict with existing or planned public improvements?**
No, it does not appear that this rezone will conflict with existing or planned public improvements.

5. **Sufficient Public Facilities. Whether the proposed change will be supported by sufficient public facilities, based upon a consideration of the following factors:**

   (i) **Will the proposed change adversely affect traffic patterns or congestion?**
   No. Traffic Impact Statement was not required per the Transportation Planning Division of the Building and Development Services Department. At the time of Final Site Plan a Traffic Impact Statement or a complete Traffic Analysis for this project may be required depending on future use.

   (ii) **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?**
   GC zoning is intended to provide for various retail uses and services on freestanding parcels or shopping centers serving the general needs of the community. This is a

commercial development and non population impacts exist. Any CLOS requirements will be reviewed with future submittals when a specific use is proposed.

(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 facilities issues have been raised by staff during review process. There is a four (4) inch diameter potable water main, a six (6) inch sanitary force main, and an eighth (8) inch sanitary gravity sewer along the 45th Street West.

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

Since the overall parcel has frontage along SR 64, and the portion subject to rezone extends northwards and is being used as an overflow parking and outdoor sitting area since 1999, it is not anticipated that this change will have an adverse impact on the health, safety or welfare on the neighborhood in this location.

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

The GC zoning district allows a minimum lot size of 7,500 square feet, a minimum lot width of 75 feet, and a maximum building size of 50,000 square feet. The range of uses permitted in the GC zoning district include retail sales, eating establishment, bank, hotel, and office.

The maximum Floor Area Ratio (FAR) in the GC zoning district is 0.25 (without Special Approval). Based on the maximum FAR allowed on RES-6 (0.23) the overall parcel (0.57 acres) could accommodate a 6,103 ± square foot building (1,668 ± square foot on the 0.17 ± acre portion of the site subject to rezone) except for a mini-warehouse use which allows a maximum 0.35 FAR (8,748 ± square foot building).

The proposed amendment is in conformance with all applicable requirements of the LDC. 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 approval for this site.

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. The surrounding area along SR 64 has commercial and office zoning designation.

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

The proposed amendment is a logical expansion of the commercial zoning district to the east, south, and west of the site and will reflect the development commercial pattern of the surrounding area.

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

The timing is appropriate given development trends in the area.

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

No, there do not appear to be any known or recorded historic resources on the site. If any historic resources are found at the time of development, the applicant will be required to immediately report discoveries of historical or archaeological resources to the Florida Division of Historical Resources.

12. **Environmental Impacts. Will the proposed change have an adverse environmental impact on the vicinity?**
Any environmental impacts will be addressed with the 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?**
No adverse outdoor lighting is proposed with this zoning change. However, during the future site plan submittal any proposed outdoor lighting will be required to meet LDC Section 709.

14. **County Wide Changes. Will the proposed change adversely affect the health, safety and welfare of the County as a whole?**
The rezone should have no negative impact to the health, safety and welfare of the County 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 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 portion of the site subject to rezone is in the RES-6 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 to the east, south, and west is characterized by a mix of commercial and office uses.

Policy 2.2.1.17.2 Range of Potential Uses.
Uses permitted in the RES-6 Future Land Use Category include suburban or urban residential uses, neighborhood retail uses, short-term agricultural uses other than special agricultural uses, agriculturally-compatible residential uses, public or semi-public uses, schools, low intensity recreational uses, and appropriate water-dependent/water-related/water-enhanced uses.

Uses permitted in the GC zoning district are consistent with the RES-6 Future Land Use Category.

Policy 2.2.1.17.3 Range of Potential Density/Intensity.
The maximum Floor Area Ratio in the RES-6 FLUC is 0.35 (0.23 without Special Approval). The maximum building area for neighborhood retail uses is medium – 150,000 square feet. Special

Approval is required for building area that exceeds 30,000 square feet.

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.

CONCURRENCY
(Note: A CLOS application cannot be filed with a straight rezone.)

CLOS APPLIED FOR: Y ___ N __X__
TRAFFIC STUDY REQ'D: Y ___ N __X__

NEAREST ROADWAY	LINK(S)	ADOPTED LOS	EXISTING LOS
Manatee Avenue West (SR 64)	51st Street West to 43rd Street West (Link 3036)	D	F

REQUIRED IMPROVEMENTS:
1. N/A at this time. Any CLOS requirements will be reviewed at Final Site Plan when a specific use is proposed. Traffic safety and operational concerns will also be considered in review of the traffic study.

ATTACHMENTS
1. Applicable Comprehensive Plan Policies
2. Zoning Disclosure Affidavit
3. Copy of Newspaper Advertising

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:	2.2.1.12	**RES-6:** Establish the Residential-6 Dwelling Units/Gross Acre future land use category as follows:
Policy:	2.2.1.12.1	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 for a low density urban, or a clustered low-moderate density urban, residential environment. Also, to provide for a complement of residential support uses normally utilized during the daily activities of residents of these low or low-moderate density urban areas.
Policy:	2.2.1.12.2	Range of Potential Uses (see Policies 2.1.2.3 - 2.1.2.7, 2.2.1.5): Suburban or urban residential uses, neighborhood retail uses, short-term agricultural uses other than special agricultural uses, agriculturally-compatible residential uses, public or semi-public uses, schools, low intensity recreational uses, and appropriate water-dependent/water-related/water-enhanced uses (see also Objectives 4.2.1 and 2.10.4).

Policy:	2.2.1.12.3	Range of Potential Density/Intensity: Maximum Gross Residential Density: 6 dwelling units per acre Maximum Net Residential Density: 12 dwelling units per acre (except within the WO or CHHA Overlay Districts pursuant to Policies 2.3.1.4 and 4.3.1.5) Maximum Floor Area Ratio: 0.23 (0.35 for mini-warehouse uses only) Maximum Square Footage for Neighborhood Retail Uses: Medium (150,000sf)
Policy:	2.2.1.12.4	Other Information: a) All mixed and multiple-use projects 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 gross residential density exceeds 4.5 dwelling units per acre, or in which any net residential density exceeds 6 dwelling units per acre shall require special approval. c) Any nonresidential project exceeding 30,000 square feet of gross building area shall require special approval. d) Professional office uses not exceeding 3,000 square feet in gross floor area within this category may be exempted from compliance with any locational criteria specified under Policies 2.10.4.1 and 2.10.4.2, and detailed in the Land Use Operative Provisions Section E (1) provided such office is located on a roadway classified as a minor or principal arterial, 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 2.10.4.2).
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:	2.10.4.1	Limit the location of all new commercial development to well-defined nodes, or compact groupings, to: - provide a reasonable compromise of predictable, yet flexible, commercial locations for all residents and business interests in Manatee County. - increase safety and maintain the vehicular capacity of public roads by discouraging linear "strip" commercial development and the multiple access points which are likely to accompany such linear commercial development. - facilitate compliance with the commercial project access criteria contained in Objective 2.10.3. - maximize the accessibility and viability of commercial development by using location and grouping to maximize the number of trips to the commercial site. - establish conveniently located commercial uses for residents of Manatee County.
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 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, com-pliance 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 f 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 com-ponent 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, com-pliance with the policies of Objectives 2.6.1 and 2.6.2 is mandatory for approval of any commercial use within a residential designation.

Policy: 2.10.4.3

Require that all proposed commercial uses meet, in addition to commercial locational criteria, the following commercial development standards:

1) any proposed commercial site must be sized and configured to provide for adequate setbacks, and buffers from any adjacent existing or future residential uses.

2) any proposed commercial site must be configured and sized to allow for orientation of structures, site access points, parking areas, and loading areas on the site in a manner which minimizes any adverse impact on any adjacent residential use.

3) no proposed commercial site shall represent an intrusion into any residential area. As used in this standard, "intrusion" means located between two residential uses or sites which are not separated by the right-of-way of any roadway functionally classified as collector or higher, unless the proposed commercial use meets the definition

of "infill commercial development," demonstrated through evaluation of existing land use patterns in this vicinity of the proposed use, and pursuant to guidelines contained in commercial locational criteria found in the operative provisions of this Element. Permitted exceptions listed in Policy 2.10.4.2 shall not be required to meet this development standard. No such intrusion shall be found in neotraditional developments approved as such by the County, as a mixture of uses are encouraged within those projects. No such intrusion shall be found in DRI and Large Project developments where commercial uses are internal to neighborhoods, approved as such by the County, as a mixture of uses are encouraged within those neighborhoods.

4) Commercial nodes meeting the requirements specified in the operative provisions of this Element shall, additionally, be spaced at least one-half mile apart, as measured between the center of two nodes. However, where two commercial nodes have been established by the development of commercial uses prior to plan adoption, and are spaced less than the minimum required one-half mile, then a waiver of this commercial development standard may be considered. Preferentially, in instances where previous development has not established a pattern of land uses inconsistent with commercial locational criteria or development standards, nodes shall be spaced no less than one mile apart. Neotraditional projects shall be exempt from this requirement. DRI and Large Project developments that have mixed uses with a residential component that receive approval to locate commercial uses internal to neighborhoods shall be exempt from this requirement.

Form B-4

MANATEE COUNTY GOVERNMENT
PLANNING DEPARTMENT
ZONING DISCLOSURE AFFIDAVIT

Project name Sweetberries Rezone - Additional Parking

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 ( )	
Sheila D. Leach Trust created may 6, 2002	Sheila D. Leach - Trustee 100%

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

Signature Sheila D. Leach

(Applicant) Sheila D. Leach

STATE OF FLORIDA
COUNTY OF Manatee

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 27 day of May 20 11 by Sheila Leach, who is personally known to me or who has produced FL DL L200 784 32 7180 as identification
(type of identification)

Notary Signature

Debra Hoffman

Print or type name of Notary

My Commission Expires 6/20/2012

Commission No DD 791371

Title or Rank

Revised 2/8/10
B-4

DEBRA HOFFMAN
MY COMMISSION # DD 791371
EXPIRES: June 20, 2012
Bonded Thru Budget Notary Services

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/ SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 nondiscrimination 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

08/17/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR
DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

11-06 – SHEILA D. LEACH/SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 Publication: August 17, 2011

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	Ordinance 11-31 – Heritage Harbour – DRI # 24	**TYPE AGENDA ITEM**	Advertised Public Hearing - Consent
DATE REQUESTED	09/08/11 PC	**DATE SUBMITTED/REVISED**	08/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services / Comprehensive Planning and Public Hearings	**AUTHORIZED BY TITLE**	John Osborne, AICP, Planning and Zoning Official
CONTACT PERSON TELEPHONE/EXTENSION	Katie LaBarr / ext. 6828	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Katie LaBarr, AICP / Principal Planner / ext. 6828
ADMINISTRATIVE APPROVAL			

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

I move to recommend approval of Ordinance 11-31 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 an Amendment of a Development Order to:
  1. Amend Condition A(2) to extend CLOS expiration to December 31, 2017.
  2. Extend buildout date for Phase II to December 30, 2017 and Development Order expiration date to December 30, 2022.
  3. Extend buildout date for Phase II to December 30, 2017.
  4. Add Residential Land Use Equivalency Matrix to Exhibit # 15
  5. Amend terminology and other provisions to reflect the above changes to this DRI.
- The addition of the Residential Land Use Equivalency Matrix will provide the applicant with limited flexibility to increase one type of dwelling unit with an equivalent reduction in another type of unit. The use of this matrix, however, will not change the character of development that has been established for this DRI.
- This Notice of Proposed Change (NOPC) request will not create any new unmitigated external or regional impacts. Staff has no objection to the requested modifications.

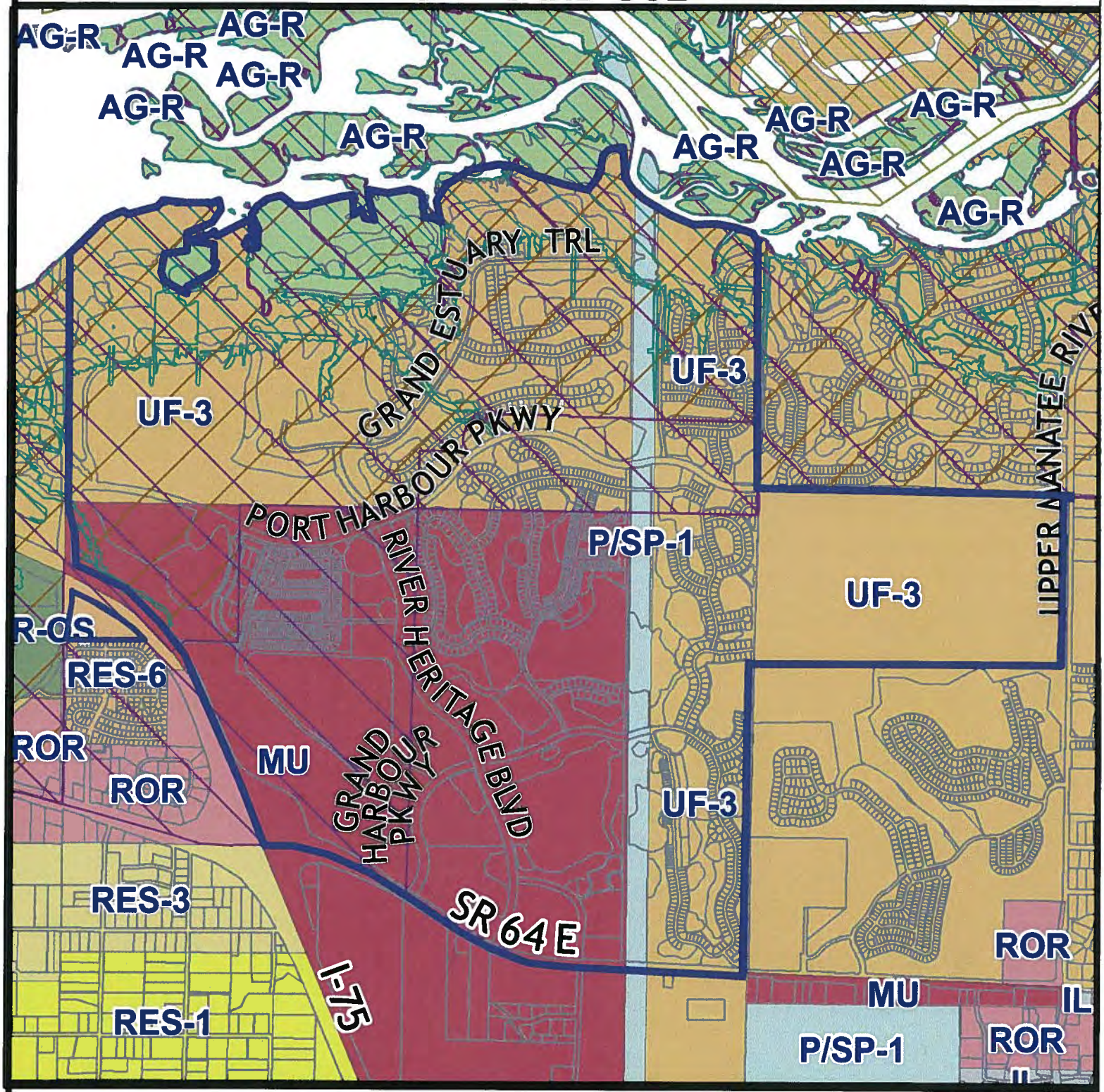
COUNTY ATTORNEY REVIEW

Check appropriate box	
☒	**REVIEWED** **Written Comments:** ☐ **Attached** ☒ **Available from Attorney (Attorney's initials: SS)**
☐	**NOT REVIEWED (No apparent legal issues.)**
☐	**NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)**
☐	**OTHER**

ATTACHMENTS: (List in order as attached)	**INSTRUCTIONS TO BOARD RECORDS:**
Staff report for Ordinance 11-31	N/A

COST:	n/a	**SOURCE (ACCT # & NAME):**	n/a
COMMENTS:		**AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)**	

FUTURE LAND USE



Parcel ID #(s) MULTIPLE

Manatee County
Staff Report Map
Map Prepared 4/29/2010

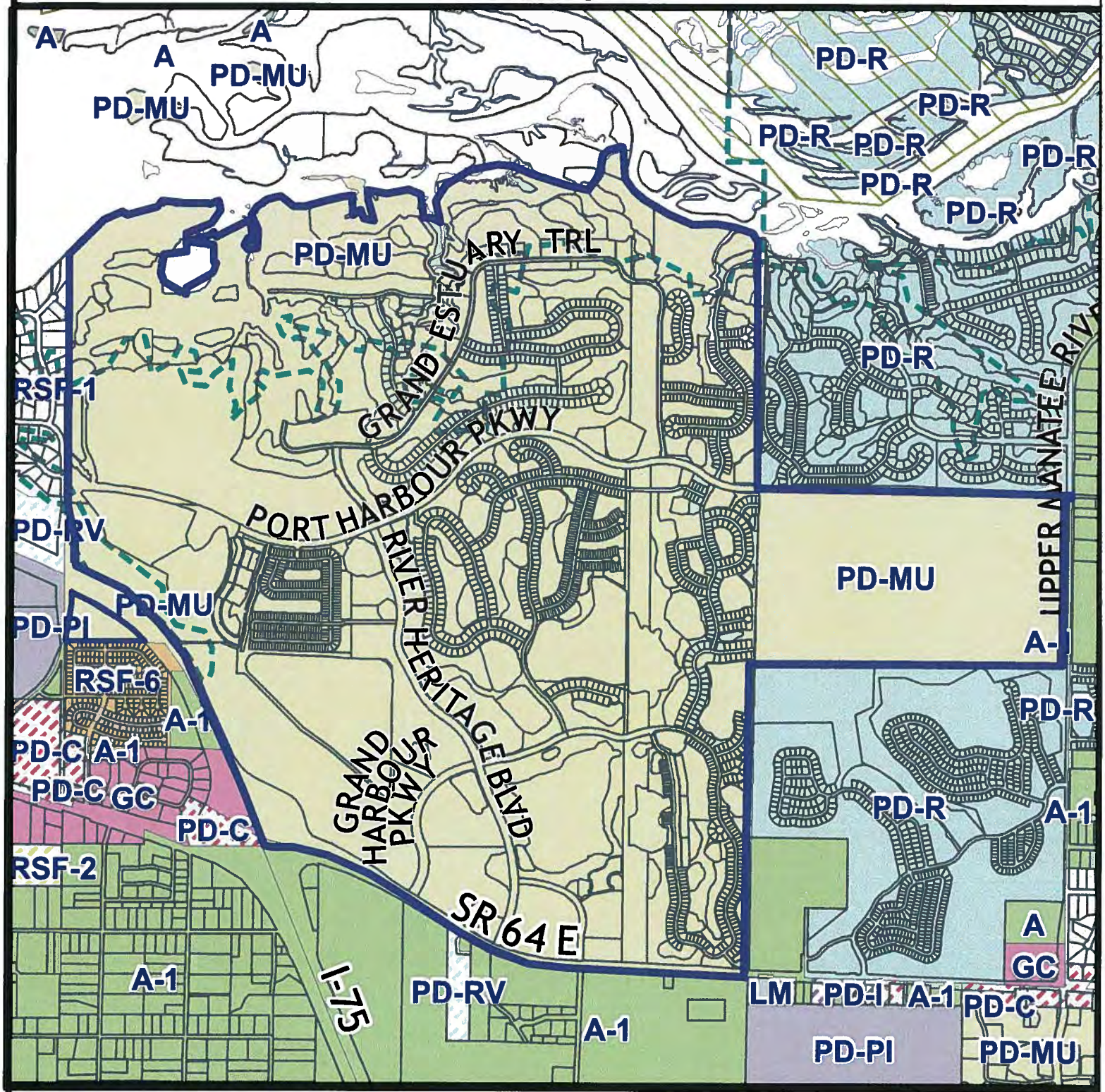
1 inch = 83,333 feet

Project Name:	HERITAGE HARBOUR
Project #:	ORD-11-31 / DRI # 24
DTS#:	20110214
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

Overlays

- CHH - FLU (2008)
- CPA
- Coastal Evacuation Area

ZONING



Parcel ID #(s) MULTIPLE

Manatee County
Staff Report Map
Map Prepared 4/29/2010

1 inch = 83,333 feet

Project Name:	HERITAGE HARBOUR DRI
Project #:	ORD-11-31 / DRI # 24
DTS#:	20110214
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

Overlays

CHH - Zoning

AERIAL

Parcel ID #(s) MULTIPLE

Manatee County
Staff Report Map
Map Prepared 4/29/2010

1 inch = 83,333 feet

Project Name:	HERITAGE HARBOUR
Project #:	ORD-11-31 / DRI # 24
DTS#:	20110214
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

P.C. 09/08/11

ORD-11-31 / HERITAGE HARBOUR – (DRI #24)

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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); A/K/A TBRPC DRI #240; including a determination of whether the following changes constitute a Substantial Deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the Land Use Equivalency Matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

Heritage Harbour is northeast of the intersection of I-75 and State Road 64 and extends northward to the Manatee River. A section is located south of the Waterlefe development and extends eastward to Upper Manatee River Road. A small portion of the project is located west of I-75, at the southeast intersection of I-75 and Kay Road. The present zoning is PDMU/CH (Planned Development Mixed Use/Coastal High Hazard Overlay (Total Project: 2,784.7 ±acres).

App Received: **5/20/11**

P.C.: **09/08/11** **B.O.C.C.:** **10/06/11**

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, I move to find the applicant has rebutted the presumption by clear and convincing evidence that the proposed changes as described in the NOPC to the DRI Development Order does not create a Substantial Deviation in accordance with Section 380.06, Florida Statutes, and recommend adoption of Ordinance No. 11-31.

CASE SUMMARY

CASE NO.: **ORD-11-31(DRI #24)**

APPLICANT: **Lennar Homes, LLC**

REQUEST: **Approval of:**

1) A Notice of Proposed Change to:
1. **Amend Condition A (2) of the Development Order to extend CLOS to December 31, 2017**
2. **Extend buildout date and Development Order expiration date.**
3. **Extend buildout date for Phase II**
4. **Add Residential Land Use Equivalency Matrix to Exhibit # 15**
5. **Amend terminology and other provisions to reflect the above changes to this DRI.**

STAFF RECOMMENDS: **APPROVAL**

REQUEST, LOCATIONAL INFORMATION, AND LAND USE CHARACTERISTICS

- **Approval of modifications to the Heritage Harbour Development of Regional Impact. The project is northeast of the intersection of I-75 and State Road 64, extending northward to the Manatee River. A small portion of the project is located west of I-75, at the southeast intersection of I-75 and Kay Road. The 288.7 acre addition is south of the Waterlefe development and extends eastward to Upper Manatee River Road.**
- **To the NORTH is the Manatee River zoned A/CH.**
- **To the SOUTH, across State Road 64, is vacant land zoned A-1 and a partially constructed RV park (Timberlane) zoned PDRV.**
- **To the EAST are two residential subdivisions (Waterlefe Golf and Country Club and Greenfield Plantation), and Haile Middle and Freedom Elementary schools zoned PDR, A, and A-1. Across Upper Manatee River Road are single-family residences on large lots and agricultural uses zoned A-1.**
- **To the WEST is I-75, an RV park (Winter Quarters), and a residential subdivision (Cypress Creek Estates).**

SUMMARY: (KL)

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

Heritage Harbour is an approved multi-use development that includes:

- **commercial uses primarily adjacent to State Road 64 and the I-75 interchange;**
- **institutional and office uses located north of State Road 64 and south of Port Harbour Parkway;**
- **a marina on the Manatee River; and**
- **residential units on the balance of the property.**

Approved development totals are as follows:

CATEGORY	PHASE I 2000-2012*	PHASE II 2004-2012*	TOTAL
Commercial			
Retail	300,000 s.f.	551,900 s.f.	851,900 s.f.
Office Hotel	103,250 s.f 150 rooms	66,750 s.f. 150 rooms	170,000 s.f. 300 rooms
ACLF	0	600 beds	600 beds
Residential			
Single-family detached	1,290 units	980 units	2,270 units
Single-family attached or semi-detached	500 units	640 units	1,140 units
Multi-family	760 units	830 units	1,590 units
Total Residential Units	2,550 units	2,450 units	5,000 units
Marina	162 wet slips	300 dry slips	462 slips
Golf Course	36 holes	9 holes	45 holes
Park	41.2 acres		41.2 acres
Institutional	7.5 acres	2.8 acres	10.3 acres

There are no significant regional issues that have been raised by staff regarding this request.

History

The Heritage Sound DRI was approved on March 21, 2000 as a mixed used project, with residential, commercial, office, hotel, ACLF (group care home), marina, and recreation uses on ±2,495.8 acres. The project is approved for 2 phases.

On June 17, 2003 the BOCC approved changes to the Development Order and Map H to:

1. **Change the project name and authorized agent and correctly identify the project owner and developer;**
2. **Transfer development between Phase I and Phase II**
3. **Increase the park size from 40.2 to 41.2 acres;**
4. **Extend the buildout date for Phase I by 4 years, 11 months, and 30 days to December 30, 2009;**
5. **Amend the Developer's commitment regarding water supply;**

6. **Amend Table 2 to provide an alternative roadway improvement for the State Road 64 frontage road;**
7. **Amend the definition of "warranted" to include FDOT;**
8. **Delete conditions regarding school impacts mitigation, infrastructure standards in floodplains; sources for irrigation, utilization of xeriscape landscaping, and maintenance of waterlines and fire hydrants;**
9. **Add a Telecommunication Facility Use between the existing lake and I-75; and**
10. **Amend Map H to make the above changes and various other changes.**

During the 2007 legislative session, Section 380.06(19)(c), Florida Statutes was amended to extend buildout and expiration dates for DRIs that were under active construction. The buildout dates for Phases I and II were extended from 2009 to 2012 and the DRI expiration date was extended from December 31, 2014 to December 31, 2017.

On March 11, 2008, the BOCC approved changes to the Development Order and Map H to:

1. **Modify the boundaries to add 288.7 acres on the east side of the project;**
2. **Amend Map H to reflect the above changes;**
3. **Amend Table 2 and various transportation conditions to address traffic impacts in Phase II;**
4. **Amend stipulations to address affordable housing;**
5. **Delete Education Stipulation L(2) regarding the monitoring of students in the project; and**
6. **Amend the Development Order definitions, conditions, and terminology to reflect the above changes.**

On June 3, 2010, the BOCC approved changes to the Development Order and Map H to:

1. **Increase the amount of commercial floor area by 54,900 square feet.**
2. **Allow the conversion of permitted commercial uses (retail, office, multi-family, and hotel) between Parcels 19 and 20, according to a Land Use Equivalency Matrix (LUEM).**
3. **Add Hotel as an alternative use on Parcels 19 and 20; and**
4. **Corresponding Development Order and Master Development Plan modifications.**

To date, 2,339 residential lots have been platted, 969 multi-family units have been built, 28,000 square feet of office space has been built, a community park and fitness center, and 45 holes of golf have been built, in addition to associated roadways, including Port Harbour Parkway (a collector facility). Various site plans for residential and commercial development and 162 wet slips are under review or have been approved.

POSITIVE ASPECTS OF THE APPLICATION

- **This application is consistent with the previously approved Development of Regional Impact and subsequent NOPC applications.**
- **The proposed time extension is not presumed to be a Substantial Deviation.**
- **The addition of a Land Use Equivalency Matrix will allow for some flexibility in residential development.**
- **Does not create unmitigated regional impacts.**

NEGATIVE ASPECTS OF APPLICATION/MITIGATING FACTORS

- **N/A**

STAFF ANALYSIS

PRIMARY REVIEWERS

Katie LaBarr (BDS)	**Compatibility, Health, Safety and Welfare, Consistency with LDC and Comp Plan**
Mark Mayer (PW)	**Impacts to Infrastructure (Utilities)**
Bob Agrusa (BDS)	**Impacts to Infrastructure (Transportation)**
Joel Christian (BDS)	**Environmental Resource Impacts**

ANALYSIS OF REQUEST & SUBSTANTIAL DEVIATION ANALYSIS

Pursuant to Section 380.06(19) (a) 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 Heritage Harbour DRI Development Order:

1. **Amend Condition A(2) of the Development Order to extend CLOS to December 31, 2017**
2. **Extend buildout date and Development Order expiration date.**
3. **Extend buildout date for Phase II**
4. **Add Residential Land Use Equivalency Matrix to Exhibit # 15**
5. **Amend terminology and other provisions to reflect the above changes to this DRI.**

REQUESTS

1. **Amend Condition A(2) to extend CLOS expiration to December 31, 2017.**
2. **Extend buildout date for Phase II to December 30, 2017 and Development Order expiration date to December 30, 2022.**
3. **Extend buildout date for Phase II to December 30, 2017.**

Applicable Statutes

Subsection 380.06(19)(c) states that 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.

Staff Discussion

Below is a chart that shows development approvals by phase, buildout dates and Development Order expiration dates and shows the cumulative extensions granted during the course of development.

	Phase I	Phase II	Buildout	DO Expiration
Ord. 00-19	2000-2004	2004-2009	12/31/2009	12/31/2014
Ord. 03-25	2000-2009	2004-2009	12/31/2009	12/31/2014
R-07-180	2000-2012	2000-2012	12/31/2012	12/31/2017
Ord. 08-33	2000-2012	2004-2012	12/31/2012	12/31/2017

Ordinance 03-25, adopted on June 17, 2003 by the BOCC granted a four year, 11 month, and 30 day extension for the Phase 1 buildout date to December 30, 2009. Phase 2 was not extended, the rationale was that Phase 2 was only conceptually approved at that point and any extension granted for this phase would be premature without a transportation analysis to support potential approval of Phase 2 development.

Manatee County subsequently adopted Resolution No. 07-180 on October 9, 2007 to universally extend all Manatee County DRI buildout dates by a period of three years to coincide with the 2007 legislative revisions to Subsection 380.06(19)(C), F.S., this extension applied to both specifically approved Phase 1 and the then conceptually approved Phase 2. With this extension, the buildout dates of both phases were extended to December 30, 2012 and December 31, 2012, respectively.

On March 11, 2008, the BOCC approved Ordinance 08-33 to, among other objectives, grant specific approval for Phase 2 development of the DRI, with the buildout date of December 31, 2012.

Considering that Subsection 380.06(19)(C), F.S., states that the three year extension granted with R-07-180, "is not a substantial deviation and 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", the current request for an extension of less than five years does not constitute a Substantial Deviation. With the 4 year, 11 month, 30 day extension, the new buildout (for Phase II) and expiration date for the DRI will be December 30, 2017 and December 30, 2022, respectively.

Table 1 Development Totals, in the Development Order, is being revised to reflect the new buildout date. In addition, Condition A(2) is being amended, to extend the expiration of the CLOS to the buildout date.

Conclusion

The changes to the Development Order are highlighted in the attached draft Development Order. This change does not create a substantial deviation.

2. Add Residential Land Use Equivalency Matrix to Exhibit # 15

Applicable Statutes

Subsection 380.06(19)(e)3, Florida Statutes, states that except for the change authorized by subparagraph 3.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.

Staff Discussion

In 2010, a NOPC was processed and part of the request included the addition of a Land Use Equivalency Matrix for commercial entitlements in Parcels 19 and 20 only. The addition of a Land Use Equivalency Matrix for residential unit types will enable the applicant to develop a wider variety of housing types without having to process a Notice of Proposed Change with each request.

Land Use Equivalency Rates and Minimum/Maximum Development Thresholds For Residential Uses

Change To→ / Change From↓	Single Family Detached (1 Unit)	Single Family Attached (1 Unit)	Multi Family (1 Unit)	Minimum	Maximum
Single Family Detached	---	1.97 Units	1.38 Units	1,816	2,724
Single Family Attached	0.51 Unit	---	0.70 Unit	912	1,368
Multi Family	0.73 Unit	1.44 Units	---	1,272	1,908

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

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

The conversion among residential housing types, has, to a certain extent, been allowed with a footnote to the General Development Plan. Since the General Development Plan is not governed by the Development Order, the applicant agreed to modify the pending NOPC application to recognize these potential conversions as part of the Development Order.

The addition of the Residential Land Use Equivalency Matrix will provide the applicant with some flexibility to increase one type of dwelling unit with an equivalent reduction in another type of unit (single family detached, single family attached, single family semi detached, or multi family). The use of this matrix, however, will not change the character of development that has been established for this DRI. Staff proposes stipulation language to require that all Land Use Equivalency Matrix conversions be reviewed by the Tampa Bay Regional Planning Council and State Land Planning Agency a minimum of 14 and maximum of 21 days prior to approval by Manatee County, and all future conversions must be noted in subsequent Annual Reports. Although other Developments of Regional Impact have language that requires additional analysis when utilizing a Land Use Equivalency Matrix, such analysis is not required in this instance because the proposed Land Use Equivalency Matrix is specific to residential uses only. Impacts to water, wastewater, solid waste disposal, mass transit, drainage, and parks and recreation are similar among the unit types that are approved for this development. For that reason, the stipulations proposed specifically address tracking the exchanges that are utilized, to ensure that the total number of residential units does not exceed what has already been approved.

Conclusion:

Based on the above analysis, staff recommends that it be found that the presumption of a Substantial Deviation has been rebutted by the applicant by clear and convincing evidence to support the finding that the proposed changes are not creating a Substantial Deviation to the Heritage Harbour DRI. No new regional impacts will result.

On June 17, 2011, the Tampa Bay Regional Planning Council completed their review of the project and has made a recommendation that there will be no unmitigated regional impacts anticipated as a result of the proposed modifications.

Conditions of Approval:

Staff recommended changes, including revised department names and references, are shown in ~~strikethrough~~ and underline in the attached Ordinance 11-31.

ATTACHMENTS:

1. TBRPC letter dated June 17, 2011
2. Copy of Newspaper Advertising
3. Ordinance 11-31 strikethrough/underline

Tampa Bay Regional Planning Council

Chair
Vice Mayor William D. Dodson

Vice-Chair
Commissioner Larry Bustle

Secretary/Treasurer
Mayor Robert Minning

Executive Director
Manny Pumariega

June 17, 2011

Mr. John Osborne,
County Planning/Zoning Official
Manatee County Building and Development Services
1112 Manatee Avenue West
Bradenton, FL 34205

Subject: ***DRI #240 - Heritage Harbour, NOPC Report, Manatee County***

Dear Mr. Osborne:

Enclosed please find a copy of the above-referenced Report dated June 17, 2011. This transmittal notification is necessary since there will not be a meeting of the Tampa Bay Regional Planning Council in July 2011. Please note that this Report will be additionally provided to the Council at their next scheduled meeting (August 8, 2011) as informational.

Attached are the correspondences of Manatee County and the Florida Department of Transportation. You are hereby encouraged to address/resolve the issue raised by each of these agencies prior to Amendment adoption.

Please do not hesitate to contact John Meyer (ext. 29 or johnm@tbrpc.org) if more information or clarification is needed concerning the contents of this Report.

Sincerely,

Manny L. Pumariega, AICP
Executive Director

cc: Mr. Jason Henbest, GGG
Mr. Russell Smith, Lennar Homes, LLC
Ms. Lisa Barrett, Manatee County
Mr. Rax Jung, FDOT District 1
Mr. Mike Maholtz, Sarasota-Manatee MPO
Ms. Brenda Winningham, FDCA

4000 Gateway Centre Boulevard, Suite 100 · Pinellas Park, FL 33782
Phone: 727-570-5151 · Fax: 727-570-5118 · www.tbrpc.org

Tampa Bay Regional Planning Council

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 #240 - HERITAGE HARBOUR
MANATEE COUNTY

On May 20, 2011 (dated May 19, 2011), the Applicant submitted a Notice of Proposed Change application requesting modifications to the Development Order. Supplemental information was received on June 13, 2011 (dated same) via e-mail from Mr. Jason Henbest. The following provides a summary of project entitlements and history, a description of the proposal, and the Council recommendation.

PROJECT DESCRIPTION

On March 21, 2000, the Manatee County Board of County Commissioners granted a Development Order (Ordinance No. 00-19) to U.S. Home Corporation. The Development Order authorized construction of a mixed use development on 2,500± acres located northeast of the I-75/SR 64 intersection, along the southern bank of the Manatee River. Only Phase 1 of the two-phase project was specifically approved.

The Development Order has previously been amended three times, most recently on June 3, 2010 (Ordinance No. 10-47). The amendments have cumulatively: granted Phase 2 approval; extended the Phase 1 buildout date; advanced 160 multi-family residential units, 18,250 sq. ft. of office space and 18 holes of golf; postponed 160 single-family residential units, 75,000 sq. ft. of retail space and 300 Assisted Living Facility (ALF) beds from specifically-approved Phase 1 to (at that time) conceptually-approved Phase 2; relocated the assisted living facility; added "agriculture" as an approved interim use; increased park acreage by one acre (to 41.2 acres); added 288.7 acres to the project; modified Table 2 footnote to provide an alternative to road improvement "B" (frontage road); increased Phase 2 Retail by 54,900 sq. ft. (to 551,900 sq. ft. and 851,900 sq. ft. overall); established a Land Use Equivalency Matrix for exchange of limited non-Residential uses only on Parcels 19 and/or 20; added Hotel as an alternative use on Parcels 19 and/or 20; changed the name of the project from "Heritage Sound" to "Heritage Harbour" and the name of the authorized agent/developer from "U.S. Home Corporation" to "Harbourvest, LLC"; modified the internal roadway network and corresponding Master Development Plan revisions; and recognized three year extension of the project buildout approved by the legislature under revisions to Subsection 380.06(19)(c), F.S. The Development Order expiration date of December 31, 2014 had been maintained.

PROPOSED CHANGES UNDER THIS NOPC

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

- extend the Phase 2 buildout and Development Order expiration dates by periods of four year, 11 month and 30 days (to December 30, 2017 and December 30, 2019 respectively); and
- establish a Land Use Equivalency Matrix for residential component to allow conversion(s) amongst housing unit types at pre-determined ratios.

CONSISTENCY WITH SUBSECTION 380.06(19), FLORIDA STATUTES

Subsections 380.06(19)(c) and 380.06(19)(e)3, F.S. identify the provisions applicable to this proposal. These citations read as follows respectively:

> *"... An extension of 5 years or less* [for a buildout date] *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."*
>
> *"Except for the change authorized by subsubparagraph 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."* [underline has been added to express intended provisions of current application]

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 following constitutes a brief history of the Heritage Harbour DRI in terms of phasing approval and timing:

   > The Development Order (Ordinance No. 00-19) was initially adopted by the Manatee County Board of County Commissioners on March 21, 2000. Phase 1 of the project was granted specific approval with a buildout date of December 31, 2004, while conceptually-approved Phase 2 was assigned a *tentative* buildout date of December 31, 2009.
   >
   > Ordinance No. 03-25, adopted by the Manatee County Board of County Commissioners on June 17, 2003, granted a four year, 11 month and 30 day extension for the Phase 1 buildout date only (to December 30, 2009). The rationale was that Phase 2 was only conceptually approved (at that point) and that any extension granted for this phase would be premature since a transportation analysis had yet to be conducted to support potential approval of Phase 2 development.
   >
   > Manatee County subsequently adopted Resolution No. 07-180 on October 9, 2007 to universally extend all Manatee County DRI buildout dates by a period of three years to coincide with 2007 legislative revisions to Subsection 380.06(19)(c), F.S. In this case, the extension was applied to both specifically-approved Phase 1 as well as (then) conceptually approved Phase 2, each to December 30, 2012.

On March 11, 2008, the Manatee County Board of County Commissioners approved Ordinance No. 08-33 to, among other objectives, grant specific approval for Phase 2 development of the Heritage Harbour DRI, with the buildout date of December 31, 2012.

2. Following approval of Development Order modifications requested, the following would constitute the revised phasing schedule and shall be recognized within the Development Order as such:

LAND USE	PHASE 1 (thru 12/30/2012)	PHASE 2 (thru 12/30/2017)	TOTAL
RESIDENTIAL (Units)	**2,550**	**2,450**	**5,000**
S.F. Detached	(1,290)	(980)	(2,270)
S.F. Attached	(500)	(640)	(1,140)
Multi-Family	(760)	(830)	(1,590)
ACLF (Beds)	0	600	600
RETAIL (Sq. Ft.)	300,000	551,900	851,900
OFFICE (Sq. Ft.)	103,250	66,750	170,000
HOTEL (Rooms)	150	150	300
MARINA (Slips)	162 [Wet]	300 [Dry]	462 [Wet/Dry]
GOLF (Holes)	36	9	45

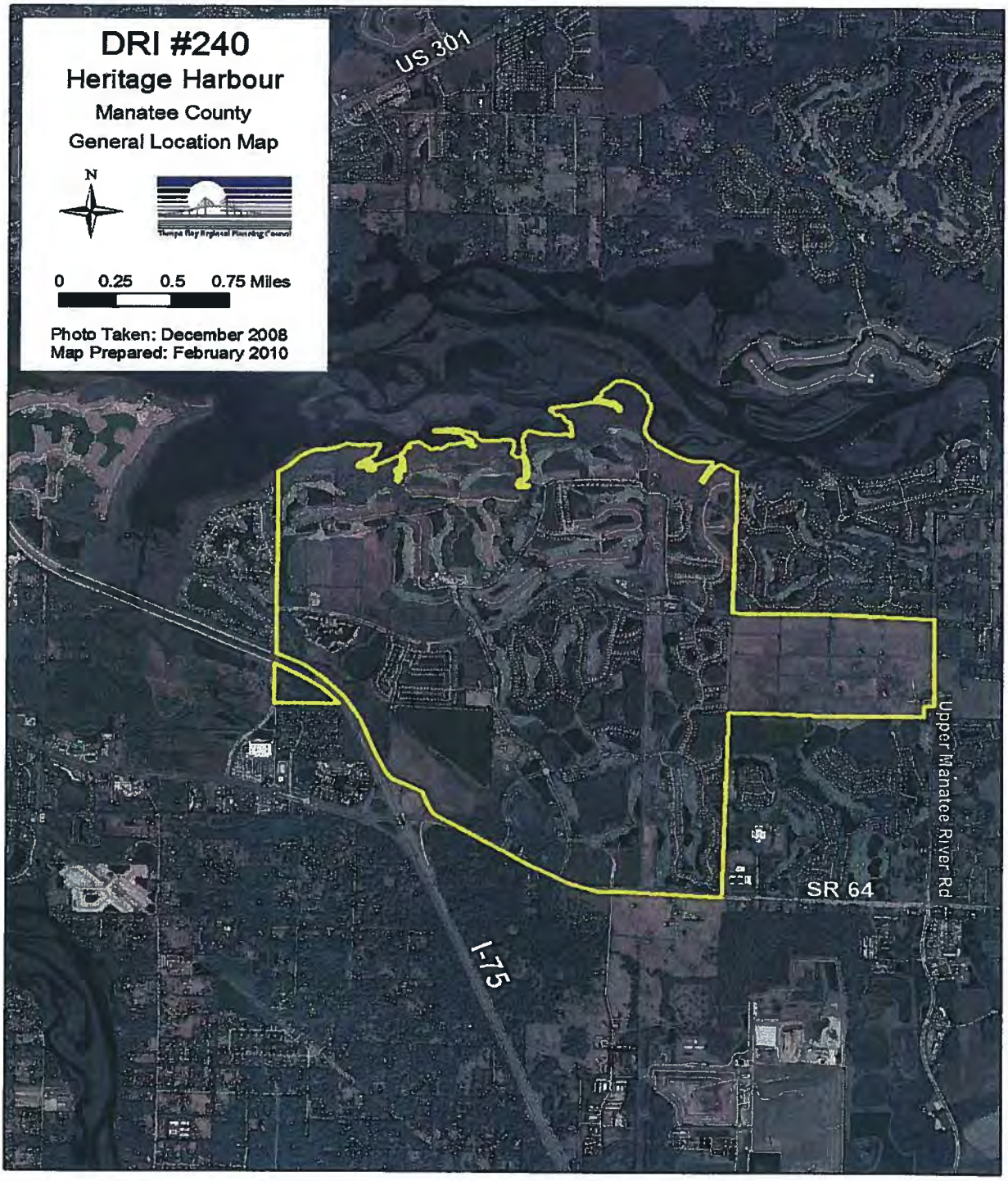
3. The Developer has indicated that potential conversion(s) amongst residential housing types is, to a certain extent, already authorized as a footnote to the General Development Plan. However, since the General Development Plan is not governed by the Development Order, the Developer has agreed to modify the pending NOPC application to recognize these potential conversion(s) as part of the Development Order. The following constitutes the proposed conversion ratios amongst residential housing unit types:

		CHANGE TO				
CHANGE FROM		SINGLE FAMILY DETACH	SINGLE FAMILY ATTACH	MULTI-FAMILY	MINIMUM	MAXIMUM
	SINGLE-FAMILY DETACHED (1 UNIT)		1.33	2.00	1,703 Units	2,838 Units
	SINGLE-FAMILY ATTACHED (1 UNIT)	0.75		1.50	855 Units	1,425 Units
	MULTI-FAMILY (1 UNIT)	0.50	0.66		1,193 Units	1,988 Units

In the event that future conversion(s) of residential housing units types were to yield more than 5,000 overall residential units within the project, the impacts to Manatee County utilities, parks and schools shall be additionally assessed and, to the extent appropriate, mitigated to the satisfaction and acceptance of Manatee County.

RECOMMENDED ACTION

Indicate to Manatee County and the state land planning agency 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.



Report Issued: June 17, 2011

Staff Contact: John Meyer, ext. 29

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/ SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 nondiscrimination 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

08/17/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR
DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 Publication: August 17, 2011

ORDINANCE NO. ~~10-47~~11-31

DEVELOPMENT OF REGIONAL IMPACT

DRI # 24, HERITAGE HARBOUR ~~(f.k.a. HERITAGE SOUND)~~

~~**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 THE HERITAGE HARBOUR DEVELOPMENT OF REGIONAL IMPACT (ORDINANCE 10-47); A/K/A TBRPC DRI #240; INCLUDING A DETERMINATION OF WHETHER THE FOLLOWING CHANGES CONSTITUTE A SUBSTANTIAL DEVIATION TO THE HERITAGE HARBOUR DEVELOPMENT OF REGIONAL IMPACT (DRI) IN RESPONSE TO THE OWNER'S SUBMITTAL OF A NOTICE OF PROPOSED CHANGE (NOPC) to: 1) EXTEND PHASE 2 BUILDOUT AND DEVELOPMENT ORDER EXPIRATION DATES BY PERIODS OF FOUR YEARS, 11 MONTHS AND 30 DAYS, TO DECEMBER 30, 2017, AND DECEMBER 30, 2019, RESPECTIVELY; 2) AMEND TABLE 1 DEVELOPMENT TOTALS; 3) AMEND CONDITION A(2) OF THE DEVELOPMENT ORDER TO EXTEND THE CLOS TO DECEMBER 31, 2017; 4) ADD RESIDENTIAL LAND USE EQUVALENCY MATRIX TO EXHIBIT #15; 3) AMEND TERMINOLOGY AND OTHER PROVISIONS TO REFLECT THE ABOVE CHANGES TO THE DRI;~~**~~FOR THE HERITAGE SOUND DEVELOPMENT OF REGIONAL IMPACT (ORDINANCE 03-25); A/K/A TBRPC DRI #240; PROVIDING FOR DEVELOPMENT APPROVAL, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.~~**

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 THE HERITAGE HARBOUR DEVELOPMENT OF REGIONAL IMPACT (ORDINANCE 10-47); A/K/A TBRPC DRI #240; INCLUDING A DETERMINATION OF WHETHER THE FOLLOWING CHANGES CONSTITUTE A SUBSTANTIAL DEVIATION TO THE HERITAGE HARBOUR DEVELOPMENT OF REGIONAL IMPACT (DRI) IN RESPONSE TO THE OWNER'S SUBMITAL OF A NOTICE OF PROPOSED CHANGE (NOPC): 1) AN EXTENSION TO THE EXPIRATION DATE OF THE CERTIFICATE OF LEVEL OF SERVICE, 2) AN EXTENSION TO THE BUILDOUT DATE AND THE DEVELOPMENT ORDER EXPIRATION DATE, 3) AN EXTENSION TO THE BUILDOUT DATE FOR PHASE II, AND 4) AN AMENDMENT TO THE LAND USE EQUIVALENCY MATRIX; PROVIDING FOR DEVELOPMENT APPROVAL, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 21, 2000, the Board of County Commissioners ("BOCC") approved Ordinance 00-19, a Development Order ("DO") for the Heritage Sound DRI for a planned mixed use development on approximately 2,495.8 acres; and

WHEREAS, on June 17, 2003, the BOCC approved Ordinance 03-25, approving amendments to the DO for Heritage Harbour, which amendments were found not to be a substantial deviation to the originally approved DO; and

WHEREAS, on March 11, 2008, the BOCC approved Ordinance 08-33, approving amendments to the DO for Heritage Harbour, which amendments were found not to be a substantial deviation to the originally approved DO~~R~~; and

WHEREAS, on June 3, 2010, the BOCC approved Ordinance 10-47, approving amendments to the DO for Heritage Harbour, which amendments were found not to be a substantial deviation to the originally approved DO; and

WHEREAS, on ~~October 19, 2009~~ May 20, 2011, ~~LNR Heritage Harbour, LLLP, the owner of Parcels 19 and 20~~Lennar Homes, LLC filed a Notice of Proposed Change (hereinafter "NOPC") to authorize the extension of the CLOS and the Phase 2 buildout date by periods of four years, 11 months, and 30 days to December 30, 2017, ~~and~~ the extension of the development order expiration by a periods of four years, 11 months, and 30 days, to ~~December 30, 2017, adnd~~ December 30, 2019, ~~respectively,~~ and to allow for the limited conversion of residential uses; and ~~increase in intensity of 54,900 square feet of retail/commercial and allow for the conversion of non-residential uses within and between Parcels 19 and 20 as described in Exhibit 15 hereof ; and~~

~~**WHEREAS**, Harbourvest, LLC consented to LNR Heritage Harbour, LLLP's submission of the NOPC dated October 19, 2009, and the proposed changes reflected therein; and~~

WHEREAS, the Tampa Bay Regional Planning Council, ~~Florida Department of Community Affairs~~State Land Planning Agency, and Manatee County were provided copies of the NOPC by ~~LNR Heritage Harbour, LLLP~~ Lennar Homes, LLC and were, therefore, afforded the opportunity to comment on the proposed changes; and

WHEREAS, the described project* lies within the unincorporated area of Manatee County; and

WHEREAS, the BOCC 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 NOPC amendments for an approved DRI; and

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

WHEREAS, the Manatee County Planning Commission held a public hearing ~~May 13, 2010~~ September 8, 2011~~11~~, has reviewed the NOPC and filed a recommendation on the NOPC with the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has received and considered the report and recommendation of the Tampa Bay Regional Planning Council (TBRPC); and

WHEREAS, the Board of County Commissioners held a duly noticed public hearing on ~~June 3, 2010~~ ~~26~~October 6, 2011 on the NOPC and has solicited, received, and considered all testimony reports, comments, evidence, and recommendations from interested citizens, County agencies, the applicant, and the review and report of the Manatee County Planning Department.

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

SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #24, ORDINANCE ~~08-33~~10-47.

Ordinance ~~08-33~~10-47 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the Heritage Harbour Development of Regional Impact. The prior Development Orders shall be ~~superceded~~superseded 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, after considering the testimony, evidence, documentation, Notice of Proposed Change for an amended DO, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board of County Commissioners at the public hearing herein referenced, hereby makes the following findings of fact:

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

B. An application has been submitted to Manatee County and is being processed concurrently with this NOPC to amend Zoning Ordinance PDMU-98-08(Z)(G)(R5) and the General Development Plan for the entire ~~2,784.7~~2,784.7+ acre project.

C. The Board of County Commissioners has received and considered the recommendation of the Manatee County Planning Commission concerning the NOPC and the application of Zoning Ordinance Amendment as it relates to the real property described in Section7 of this Ordinance, pursuant to Section 380.06, Florida Statutes. The report was rendered on ~~June 3, 2010~~11September 8, 2011, following a public hearing.

D. The BOCC held a public hearing on ~~June 3, 2010~~ October 6, 2011~~6~~, regarding the NOPC and the proposed Zoning Ordinance Amendment, 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 89-01, as amended) and has further considered the testimony, comments, and information received at the public hearing.

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

F. The Comprehensive Plan requires a Certificate of Level of Service to be issued for water, wastewater, solid waste, parks and recreation, roadways, transit, and drainage in compliance with state requirements.

G. This Development Order is issued based on information provided by the Developer in the original ADA (with their sufficiency responses), this NOPC, public hearing testimony; data, information and recommendations provided by the Planning Commission and ~~Planning~~Building and Development Services Department Department, and ensures continued compliance with the Manatee County Comprehensive Plan.

H. Subject to the Development Order Conditions listed in Section 4, the County has determined that adequate Levels of Service exist until December 31, ~~2012~~2017, for 5,000 residential units (single and multi-family units); 851,900 square feet of retail commercial; 170,000 square feet of office; 300 hotel rooms; 462 slip marina; 45 hole golf course; 600 bed ACLF accessory residential support and public community uses on 10.3 acres; and 41.2 acres of park for each of the subject categories listed in 1.F., above.

This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

I. The real property which is the subject of this NOPC and Development Order is legally described in Section 7 of this Ordinance.

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

K. The authorized agent for ~~Harbourvest,~~Lennar Homes, LLC. is ~~Russell Smith~~Darin McMurray, ~~Senior~~ Vice-President, ~~10481 Ben C. Pratt Pkwy, Fort Myers, FL 33966~~700 NW 107th Ave., Ste 400, Miami, FL 33172.

L. The Owner and Master Developer of the property is ~~Harbourvest~~Lennar Homes, LLC.

~~M. The authorized agent for LNR Heritage Harbour, LLLP, is Mike Campbell, 400 Carillon Parkway, Suite 230, St. Petersburg, FL 33716.~~

M~~N~~. The Owner of Parcels 19 and 20 is LNR Heritage Harbour, LLLP, David Welch, Vice President, LNR Heritage Harbour, LLLP.

N~~O~~. A comprehensive review of the impacts generated by the development has been conducted by the departments of Manatee County, the Planning Commission, Board of County Commissioners, TBRPC, and ~~DCA~~ State Land Planning Agency in conjunction with the original ADA, sufficiency responses, the NOPC, and this Development Order.

O~~P~~. The property is zoned Planned Development Mixed Use (PDMU) and portions of the site are located in the Coastal High Hazard Overlay (CH). ~~Parcels 19 and 20 are zoned PDMU.~~

SECTION 3. CONCLUSIONS OF LAW.

A. Based upon the previous Findings of Fact and the following conditions of DO Approval, the BOCC concluded that:

1. The Development is consistent with local land development regulations, the State Comprehensive Plan, the Comprehensive Regional Policy Plan, the ~~2020~~ Manatee County Comprehensive Plan (Ordinance 89-01, as amended), and previous local government approvals.

2. The Development, as proposed in the NOPC, has been found to be consistent with the report and recommendations of TBRPC issued on ~~March 8, 2010~~June 17, 2011.

B. 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. The review by the County, 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, as amended by the NOPC. To the extent that the ADA and NOPC 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. Pursuant to Section 380.06(19), F. S., the changes proposed pursuant to the NOPC submitted on ~~October 19, 2009~~ May 20, 2011 and approved with conditions pursuant to Ordinance ~~10--47~~11-31 are presumed to be a Substantial Deviation, however, have been rebutted and determined not to constitute a Substantial Deviation requiring further Development of Regional Impact review.

SECTION 4. DEFINITIONS.

A. "Acceptable Level of Service" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the Highway Capacity Manual (1994), TRB Special Report 209, or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor.

B. "Application" and "Application for Development Approval" or "ADA" shall mean Heritage Sound's DRI ADA submitted on October 30, 1998 and sufficiency responses submitted on March 25, 1999 and May 19, 1999, the response to the second sufficiency comments dated May 17, 1999 and submitted on May 19, 1999, and the NOPC submitted on March 4, 2002 and amended on October 4, 2002, December 17, 2002, and March 5, 2003, the NOPC submitted on June 29, 2004, and amended on December 21, 2004, September 27, 2005, May 5, 2006, August 8, 2006, and November 27, 2006, and the NOPC submitted on October 19, 2009.

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.

D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.

E. "County" shall mean the Board of County Commissioners for Manatee County, or their designee(s).

F "County Transportation Authority" shall mean the County entity responsible for roadway approvals.

G. "Developer" and "Master Developer" shall mean ~~Harbourvest~~ Lennar Homes, LLC., its heirs, assigns, designees, agents, and successors in interest as to the Heritage Harbour DRI.

H. "Development Approval*" shall mean any approval for development granted through the Preliminary Site Plan, Preliminary Plat, Final Plat, and Final Site Plan process or Construction Drawing approval where site plans or subdivision plats are not required.

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

1. binding commitments for actual construction with a posting of a cash bond, irrevocable letter of credit, or other financial instrument, in a form satisfactory to the County; or

2. actual construction; or

3. the placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required, as long as the improvement is within the first two years of the responsible entity's work plan at the time of Preliminary Site Plan approval of a subphase or phase; or

4. a local development agreement as defined by Florida Statutes or the Land Development Code. The funding commitment shall guarantee that the improvement will be in place when needed or concurrent with the expected impacts of the development.

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

K. "Master Development Plan" shall mean Revised Map H, dated, September 2009attached as Exhibit 6 and incorporated by reference.

L. "Net New External p.m. Peak Hour Project Trips" shall mean the total trip generation using the ITE Trip Generation Manual, 6th Edition, less the internal capture and pass-by captured trips.

M. "Owner" shall mean ~~Harbourvest~~ Lennar Homes, LLC., its heirs assigns, designees, agents, and successors in interest.

N. "Phase*" shall mean the development totals listed in Table 1 below.

O. Preliminary Site Plan*" (PSP*) shall mean a Preliminary Master Development Plan* or a Preliminary Site Plan* for a Phase or Sub-Phase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended), for a Phase or Sub-Phase.

P. "Project" shall mean the land uses by area, square footage, density, and phase described in the ADA*, and as modified in Table 1, to be constructed on the real property described in Section 3 herein.

Q. "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP* in combination with prior approvals of this project will be five percent (5%) or more of the Manatee County adopted Level of Service. This area is generally depicted on Figure 21.1 (Exhibit 7) which was submitted with the ADA.

R. "Vertical Development" shall mean and be deemed to include the construction of or the addition to any existing structure.

S. "Warranted" shall mean a determination by the County, or FDOT for state roads (unless the improvement is identified as a "local improvement"), based on generally accepted transportation engineering practices that the Acceptable Level of Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All reserved vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination.

T. "Wetland" shall mean any wetland under the jurisdictional limits defined by Chapter 62-340, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined by Chapter 40D-4, FAC, and implemented by the Southwest Florida Water Management District.

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

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

SECTION 5. DEVELOPMENT CONDITIONS.

A. DEVELOPMENT APPROVAL AND LEVEL OF SERVICE CERTIFICATE CONDITIONS

A(1). This Development Order approval shall constitute approval of the ADA subject to the conditions set forth herein and shall be limited to the development amounts set forth in Table 1, below.

A(2). Development totals of the Development* are specifically approved subject to the conditions found within the Development Order. The Developer has demonstrated the availability of adequate infrastructure and the ability to meet Acceptable Levels of Service for roadways, solid waste service, mass transit, drainage, and parks and recreation. The Certificate of Level of Service for the Project* shall be valid until ~~December 31, 2012~~December 30, 2017. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

A(3). Preliminary and Final Site Plan Applications shall be reviewed for compliance with this Development Order and shall be subject to the requirements of the Manatee County Comprehensive Plan and Land Development Code, in effect at the time of such site plan application, which are not specifically addressed in this Development Order or are not inconsistent with this Development Order.

A(4). The ADA, sufficiency responses, and this NOPC are hereby incorporated by reference.

A(5). The applicant may apply for a General Development Plan amendment to allow Telecommunication Facility shown on Map H, between the existing lake and I-75,

without requiring an amendment to the D.O. Any such General Development Plan application shall be reviewed for consistency with all the existing criteria in the Comprehensive Plan and Land Development Code. The Board and staff have not reviewed any such General Development Plan application and have not determined whether the use is appropriate other than that the state and regional considerations have been met.

TABLE 1 - Development Totals

TYPE OF DEVELOPMENT: Multi-Use Development.
LOCATION: Northeast of the intersection of I-75 and SR 64.
TOTAL DEVELOPMENT AMOUNTS:

CATEGORY	ACREAGE[1]	PHASE I[3] 2000-2012*	PHASE II[2] 2004-~~2012~~2017*	TOTAL
Commercial	154.0			
Retail[4]		300,000 s.f.	551,900 s.f.	851,900 s.f.
Office[4] Hotel[4]		103,250 s.f 150 rooms	66,750 s.f. 150 rooms	170,000 s.f. 300 rooms
ACLF		0	600 beds	600 beds
Residential[5]	1282.6			
Single family detached		1,290 units	980 units	2,270 units
Single family attached/ semi-attached		500 units	640 units	1,140 units
Multi-family		760 units	830 units	1,590 units
Total Residential Units		2,550 units	2,450 units	5,000 units
Marina	12.0	162 wet slips	300 dry slips	462 slips
Recreational Open Space	501.4			
Golf Course		36 holes	9 holes	45 holes
Park		41.2 acres		41.2 acres
Telecommunication Facility				
Institutional	10.3	7.5 acres	2.8 acres	10.3 acres
Arterial/Collectors ROW	67.9			
Lakes	223.4			
Wetlands	519.2			
Mitigation	33.8			

* December 30 of referenced year for Phase I and ~~December 31 for~~ Phase II.

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

2 The Phase I and II buildout dates include the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

3 Per CLOS issued by Manatee County which expires on December 31, 2017~~2~~.

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

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

B. TRANSPORTATION CONDITIONS

B(1). The following roadway and intersection improvements shall be required or mitigated as part of Phases I and 2. The Developer* shall, at the time of each application for Preliminary Site Plan* approval, furnish to the County* an accurate, up to date report of the amount of development, defined in terms of net new external p.m. peak hour trips*, identified in the DRI documentation, which has previously been permitted in the Project*. For Parcels 19 and 20, new external p.m. peak hour project trips shall be based on the trip rates adjusted for pass-by and internal capture as established by Exhibit 16, "Parcels 19 and 20 P.M. Peak Hour Project Trip Generation Comparison." The Developer* shall not be entitled to a Preliminary Site Plan* approval which would result in the cumulative number of net new external p.m. peak hour trips for the Project* to exceed the applicable net external p.m. peak hour project trip* thresholds set forth in Table 2 unless Funding Commitments* from Responsible Entities* have been obtained to ensure that the improvements required are in place Concurrent* with such Preliminary Site Plan.

TABLE 2
Required Improvements

Intersection	Required Improvement	Impact Fee Creditable	When Required
a. I-75 West-ramps/SR-64	Signalize when warranted (completed)	No	Notes 1&4
b. I-75 East-ramps/SR-64	(1) Signalize when warranted (2) Reconfigure northbound off-ramp and provide a second right-turn lane. (all improvements completed)	No Yes	Notes 1&4
c. SR-64 and Lena Road	(1) Signalize when warranted (2) Eastbound left-turn lane (3) Westbound right-turn lane (4) Southbound exclusive left-turn lane (5) Southbound shared through/right-turn lane (All improvements completed)	No No No No No	Notes 1&4
d. SR-64/Kay Road	(1) Retrofit the existing Southbound approach (N. Leg) of Kay Road (local Improvement). (2) Extend the Eastbound left-turn lane to 520 feet. (3) Westbound right-turn lane (length 300 feet) (Local Improvement) (4) Signalize when warranted (5) Southbound right-turn lane (local	Note 2 Yes Note 2 No Note 2	Notes 2&4

	improvement) (All improvements completed)		
e. Grand Harbour Pkway/SR-64	(1) Dual Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Exclusive Southbound left-turn lane (completed) (5) Signalize when warranted (completed) (6) Westbound left-turn lane (completed)	No No No No No Yes	Notes 1&4
f. River Heritage Blvd/SR-64	(1) Directional Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Signalized when warranted	No No No No	Notes 1&4
g. SR/64/Lakewood Ranch Blvd/Upper Manatee River Rd.	(1) Northbound left-turn lane (completed) (2) Southbound right-turn lane (local improvement) (completed)	Yes	Notes 3&4
h. SR70/I-75 ramps	(1) Signalize when warranted(local improvement) (completed)	No	
i. I-75 & SR 64 interchange	Contribute $190,000 for construction costs (completed)	No	
Roadway	**Requirement Improvement**	**Impact Fee Creditable**	**When Required**
a. SR-64 from I-75 to Lena Rd	Widen to 4-lanes (completed)	Yes	Notes 1&4
b. SR 64 from Kay Rd to Lena Road	Develop and implement a time based coordinated signal system (local improvement) (completed)	No	Concurrent with signal installation
c. SR 64 from 39th St. E to Kay Road	Widen from 4 to 6 lanes	Yes	See Stipulation B(8)
d. Port Harbour Parkway	Extend from its current terminus to Upper Manatee River Road	Yes	See Stipulations B(5) and B(8)

All improvements on state roads are subject to FDOT approval.

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

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

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

Note 4: These improvements shall be funded by the Developer* via the posting of a bond in a form and manner acceptable to the County*. The bond for Intersection Improvements a., b., c., e., and f., and both Roadway Improvements (a., and b.) shall be posted prior to the receipt of the first permit allowing for Vertical Development*. The bond for Intersection Improvement d. shall be posted the earlier of completion of right-of-way acquisition, design and permitting or December 1, 2004. The bond for Intersection Improvement g. shall be posted the earlier of July 1, 2004 or upon reaching 2,474 p.m. peak hour net new external project trips*. The Developer,* unless otherwise specified herein, shall be responsible for negotiation for, and acquisition of any right-of-way necessary to accomplish this requirement. The Developer* shall be responsible for all fees and costs associated with the purchase of right-of-way, unless otherwise specified herein. If the Developer* is unable to acquire the right-of-way through a negotiated purchase, then the County* shall use it's power of eminent domain to acquire the necessary right-of-way. If condemnation is required, the Developer* shall be responsible for all associated costs with the litigation and reimburse the County, unless otherwise specified herein. Progress regarding completion of this improvement shall be included in each Annual Report. The Developer* shall provide documentation regarding such progress and provide an updated schedule of completion addressing design, right-of-way acquisition, permitting and construction. The County* shall determine the reasonableness of each updated schedule. Should the updated schedule require an extension of time for the completion of the improvement due to right-of-way acquisition or permitting, the County* shall determine if an extension of time is acceptable and if an amendment to this Zoning Ordinance is required (All right of way has been acquired).

B(2). When Certificates of Occupancy have been issued for 2,000 residential units, or the equivalent thereof in terms of net new external p.m. peak hour project trips, an annual monitoring program to provide peak hour counts at the Project* entrances shall be instituted to verify that the projected number of external trips for the Project* are not exceeded. Counts shall continue on an annual basis through buildout. This information shall be supplied in the required Annual Report. If the Annual Report indicates the total trips exceed projected counts by more than 15%, Manatee County shall conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. If an Annual Report is not submitted within thirty (30) days of its due date, Manatee County may conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. The results of the study may also serve as a basis for the Developer* or reviewing agencies to request Development Order amendments. Such a variance shall be presumed to be a substantial deviation unless the developer rebuts this presumption by clear and convincing evidence. If the variance is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes shall be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis.

B(3). When Certificates of Occupancy have been issued for 2,000 residential units or the equivalent thereof, in terms of trip generation, the Developer* shall prepare a Transportation Systems Management (TSM) program. The plan shall be reviewed by

Manatee County, Metropolitan Planning Organization, Florida Department of Transportation (FDOT), and TBRPC.

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

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

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

OBJECTIVES:

--Increase urban peak automobile occupancy rates by 10% by 2002 through expanded ride sharing efforts.

--Increase peak hours occupancy rates for transit and other high-occupancy modes of transportation by 20% by 2002.

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

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

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

This segment of Port Harbour Parkway shall be completed as a two lane divided roadway (outer lanes) with bike lanes and sidewalks and include the ultimate configuration of Port Harbour Parkway at the intersection of Upper Manatee River Road

as set forth in Stipulation in B(8). Temporary striping shall be utilized until the full intersection improvements are made by the county.

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

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

1. Once S.R. 64 construction begins, the contractor shall maintain safe access to Timberlane RV Park pursuant to FDOT rules. Once the right turn lane set forth in #1 below is constructed, the right turn deceleration lane shall be maintained during construction, while the existing SR 64 pavement is being utilized for traffic.

2. The alternative access through Heritage Harbour will be as indicated on Map A, entitled Timberlane Access.

3. Alternative access through Heritage Harbour shall be facilitated with signage agreed to by Harbourvest and Timberlane, in conformance to FDOT and Manatee County sign regulations. (Note: Guidance signs will not be permitted on FDOT R.O.W.)

4. Timberlane shall provide a letter to FDOT indicating their satisfaction with alternative proposed. (Completed)

5. If this alternative is selected, Harbourvest shall be responsible for the costs it has incurred to date associated with the construction of the frontage road. Any legally recognizable costs of the adjacent property owner (Musgrave) which are the result of the County's use of eminent domain, shall be the County's responsibility.

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

1. A right-turn deceleration lane with a 12-foot lane for 100-feet and a 200-foot taper shall be in place on SR 64 prior to the opening of the Timberlane RV Park.

2. The deceleration lane shall be built according to the appropriate FDOT standards and shall be approved by FDOT and Manatee County.

3. Timberlane shall provide visitors information relative to traffic circulation.

B(8). The County has identified the construction of Port Harbour Parkway from its current terminus to the Upper Manatee River Road (or the alternative project as identified in #3 below) ("PFSM Project") as a benefit to a regionally significant transportation facility. Such construction will be in conformance with the provisions set forth below in this Section B(8) and will satisfy the mitigation requirements of Section 163.3180(12) Florida Statutes.

a. Developer* will enter into an agreement with the County in which the Developer* will commit:

1. to pay to the County its proportionate fair share mitigation "PFSM" for transportation impacts prior to the first Final Site Plan for any residential development in Phase II to assure construction of the PFSM Project. The PFSM has been calculated to be $2,775,500.00;

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

3. to construct Port Harbour Parkway (the PFSM Project), the cost of which has been determined to be in excess of the PFSM, within 5 years of the approval date of this ordinance, utilizing funds from the PFSM payment to the County as well as additional contributions from the Developer; and

4. to post a bond or letter of credit in the amount of the difference between the PFSM and the costs of the construction of the PFSM Project, as estimated by Developer's engineer and approved by the County, securing such commitment, prior to the approval of the first Final Site Plan for any residential development in Phase II.

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

b. Upon entering into the agreement, the Developer* will be issued a Certificate of Level of Service ("CLOS") for Phase II. The CLOS shall allow Developer to proceed with construction of the commercial development of Phase II of the Project* immediately and with construction of residential units in Phase II upon payment of the PFSM and posting of the bond or letter of credit, but no earlier than January 1, 2010 (except for model homes which may proceed immediately after entering into the agreement).

c. Initially, the PFSM Project identified for construction will be Port Harbour Parkway as set forth above. However, the County will retain the option to reprogram the Developer's contributions (PFSM payment and financial equivalent of commitment to complete Port Harbour Parkway) to another major project (possible SR 64 if it can be used to forward-fund state construction dollars).

d. In the event the County elects to use the PFSM for a project other than Port Harbour Parkway, Developer shall construct Port Harbour Parkway within one year of the Final Site Plan approval of the 1500th unit in Phase II. Prior to approval of the Final Site Plan for the 1500th unit in Phase II the Developer shall post security assuring such construction. Impact fees paid by Phase II of the development shall be earmarked by the County for such construction and shall be used for such construction.

e. The Developer will receive impact fee credits for 100% of the Developers PFSM payment and cost of construction of the PFSM Project, but will waive impact fee credits for the donation of right-of-way for Port Harbour Parkway.

B(9). The developer shall provide easement(s) to Manatee County to allow for attenuation and treatment of all stormwater from the planned build-out conditions (4-lane thoroughfare roadway with intersection improvements and sidewalks) for both sides of Port Harbour Parkway. A Drainage, Maintenance, and Access Easement shall also be provided to Manatee County for conveyance of stormwater from Port Harbour Parkway to the stormwater pond. The Drainage-Maintenance Access Easement shall be on clear and level ground and free of obstructions, including any landscaping in addition to the roadway buffer. Manatee County shall be responsible for the construction of the drainage conveyance improvements, the restoration of the roadway buffer and the maintenance of the free flow of the drainage conveyance. The pond within the stormwater easement shall not be a bonded improvement. Prior to Final Plat approval for the first plat abutting Upper Manatee River Road, the easements shall be approved by the Property Management Department and recorded in the Public Records and the developer shall submit to the Public Works Department the SWFWMD approval letter demonstrating that the approved stormwater pond has been designed with the capacity to accommodate the drainage for the build-out of Port Harbour Parkway as described above. Completion of the above improvements by Manatee County shall not require any further authorization from the developer or Home Owners Association.

B(10) Parcel 19 is approved for 80,000 square feet of Commercial/ Multifamily/Office and Parcel 20 is approved for 564,900 square feet and 300 rooms of Commercial/ Multifamily/Office, and Hotel uses. Allowable commercial square footage can transfer between these two parcels 19 & 20. Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15 of this Development Order.

B(11) ~~A~~ Land Use ~~Development~~ Equivalency Matrices~~x~~ (LUEM) for Parcels 19 and 20 and Residential uses are~~is~~ ~~provided for Parcels 19 and 20. The LUEM is~~ included as Exhibit 15 of this Development Order. The Tampa Bay Regional Planning Council and the Florida Department of Community Affairs will have a minimum 14-day maximum 21-day review period of any/all proposed conversions of the LUEM prior to approval by Manatee County. The applicant shall provide written notice to the Tampa Bay Regional Planning Council and the Florida Department of Community Affairs of all proposed conversions under the LUEM and submit proof of such notice to Manatee County prior to approval by Manatee County of such conversions in accordance with this section. In addition, all future conversions shall be duly noted within the subsequent Annual Report submitted for the project.

C. ENVIRONMENT

C(1). Vegetation, Wildlife, and Wetlands

a. In the event that any additional state or federally-listed species are discovered on-site during project development, the developer shall immediately notify the Florida Fish and Wildlife Conservation Commission and Manatee County EMD and implement the appropriate measures for species conservation as recommended by the Florida Fish and Wildlife Conservation Commission.

b. A management plan for the project, consistent with Policy –3.3.2.2 of the Comprehensive Plan, for removal of nuisance and exotic species, shall be developed by the applicant and approved by Manatee County prior to the first Final Site Plan approval for the project. (Completed)

c. Prior to approval of any Final Subdivision Plat (or Plan if Platting is not required), the Developer* shall record Land Development covenants or deed restrictions designed to prevent homeowner's activities from degrading habitat.

d. Wetland buffers along the Manatee River, [the river as shown on Map F (Exhibit 1)], tidal creeks and islands shall be a minimum width of 50'. Wetland buffers adjacent to the marina shall be consistent with the Land Development Code and Comprehensive Plan. All other buffers shall be a minimum width of 30 feet, unless otherwise approved by the EMD, consistent with the Comprehensive Plan and Land Development Code.

e. Upland buffers between on-site wetlands, marshes, streams or rivers and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation or be replanted with native, transitional zone or upland vegetation. All wetland buffers shall have signage posted depicting the purpose and intent of the buffer. Signage text and location shall be approved by the Director of the Environmental Management Department. The use of pesticides, herbicides, or fertilizers, unless part of an approved nuisance and exotic management plan, shall be prohibited in these buffers and the wetlands they protect.

f. The Developer* shall submit a wetland management and mitigation plan to the County* for approval prior to, or concurrent with Preliminary Site Plan applications. This plan shall address, but not be limited to, identification of wetlands on-site, wetlands to be preserved, proposed wetland alterations, a detailed mitigation plan, control of on- and off-site water quality, methods for hydro period maintenance with a detailed narrative, and preliminary plans for mitigated or significantly enhanced wetlands.

g. Post-development wetlands, conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes. These areas shall be placed under conservation easements conveyed to Manatee County consistent with the restrictions on development provided for in Section 719 of the Land Development Code.

h. The maximum amount of wetland impacts shall not exceed the total listed in Table 13.4, revised October 2006, attached as Exhibit 2. However, at time of Preliminary Site Plan approval, all proposed wetland impacts shall demonstrate

compliance with minimization, avoidance, and mitigation, pursuant to the Comprehensive Plan, prior to authorization of any wetland impacts.

i. The native upland plant community quantities committed to be preserved in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3) shall include 75 percent of the pine flatwoods and pine-mesic oak community located adjacent to the Manatee River and its tributaries, mangrove swamps, and saltwater marshes.

j. As shown in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), 36 acres of upland forested communities shall be preserved to provide habitat for the Sherman's fox squirrel.

k. Concurrent with the construction of the internal roadways adjacent to Mitigation Area 6 and the associated wetlands shown on Exhibit 12, the Developer shall construct a fence which will be a minimum of four feet in height and of chain link or a similar material that will prevent passage of young sandhill crane chicks. The general location and extent of the fence is shown on Exhibit 12. (Completed)

C(2). Air Quality

a. Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.

b. Best Management Practices shall be employed during site preparation and construction to minimize air quality impacts.

c. Any open burning conducted on site as part of land clearing activities shall be permitted by EMD.

d. A Fugitive Dust Abatement Plan shall be submitted by the Applicant and approved prior to approval of the next Preliminary Site Plan.

C(3). Water Quality and Stormwater Management

a. An Integrated Pest Management Plan (IPMP) shall be developed and approved by Manatee County prior to the first Final Site Plan Completed. The IPMP shall address the following items:
(1) Fertilizer/pesticide/herbicide/application;
(2) Golf course pest management methods and procedures; and
(3) Related quality control and assurance procedures.
A training manual shall be developed as part of the IPMP for maintenance personnel and made available on site at all times.

b. The Developer shall implement the surface and ground water monitoring plan in accordance with the Heritage Sound Water Quality Monitoring Plan included as Appendix 14 S.1 in the Heritage Sound DRI Application for Development Approval Sufficiency Response dated March 1999 (Exhibit 10), and as amended for the Moore's Dairy site in accordance with the Water Quality Monitoring Plan approved by the Manatee County Environmental Management Department (MCEMD) on October 11, 2005 and included as Section IV in the Heritage Harbour DRI Notice of Proposed Change 2nd Sufficiency Response dated

September 2005, unless otherwise modified with the approval of the Environmental Management Department.

c. There shall be no individual groundwater wells associated with single or multi-family residences allowed within the development. This requirement shall be noted in all homeowner documents and disclosure statements. The location and well size of existing wells shall be indicated on each Preliminary Site Plan submitted for the project. A Well Management Plan, for the proper rehabilitation/abandonment of existing wells in accordance with SWFWMD Rule Chapter 40D-2, shall be submitted to the EMD for review and approval prior to authorization of construction.

d. The developer shall conduct annual inspections of the surface water management system on the project site to ensure that the system is being properly maintained in keeping with its design, and is capable of accomplishing the level of stormwater storage or treatment for which it was designed and intended.

e. The stormwater management systems shall be designed, constructed, and maintained to meet Chapter 40D-4 of the Florida Administrative Code. At a minimum, planted littoral zones equivalent to 35 percent of the total minimum lake area shall be required and shall be concentrated at the outfall.

f. Best Management Practices* (BMP) for reducing water quality impacts, as recommended by the County* and SWFWMD in accordance with adopted regulations of these agencies, shall be implemented.

g. All on-site existing underground tanks shall be abandoned pursuant to applicable State and County* rules. All existing underground storage tanks within the project* shall be identified prior to the first PSP approval Completed.

h. An Environmental Assessment of the site shall be conducted by an Environmental Consultant to determine potential hazardous material locations (e.g., historical cattle dipping vats, underground/above ground storage tanks, or buried drums). Should evidence of hazardous material be discovered, further investigations will be required to determine the level of contamination and appropriate remediation/mitigative measures. The Environmental Assessment for the entire site shall be conducted and submitted for County review prior to the first Preliminary Site Plan approval. Development restrictions may be imposed if any contamination is discovered Completed.

C(4). Floodplains

a. All habitable structures and access roadways shall be constructed above the 100-year flood elevation.

b. Compensation for the loss of 100-year flood storage capacity shall be provided through cut and fill balance calculation and further confirmed by the no-rise certification procedure.

c. All homeowner documents, real estate disclosure forms, deeds of sale or lease agreements for land or structures in the post development 100-year flood plain on the project site of Heritage Harbour, shall be accompanied by a hazard disclosure statement generally describing the property's relative probability of

damage from coastal and fresh water flooding. This disclosure shall also list potential mitigation strategies including elevation, construction of safe rooms, window protection (shutters/security film), where the builder has exceeded coastal construction codes and other potential measures to increase safety.

d. The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations.

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

C(5). Soils

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

C(6). Manatee Protection

a. Prior to any marina construction, the developer shall prepare a Manatee Protection Plan. The Plan shall be approved by the Florida Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, and Manatee County Environmental Management Department. The following elements shall be included:

1. The Developer shall comply with all standard FWCC manatee construction conditions for all in-water construction.

2. A manatee education program shall be developed and implemented for all slip lessees.

3. A navigation channel shall be designated and marked with U.S. Coast Guard approved markers from the marina downstream to the I-75 Bridge prior to occupying any wet slips. The Developer shall be responsible for posting and maintaining the markers for the established channel in perpetuity, unless the Developer* obtains a commitment for posting or maintenance by an appropriate governmental agency. The Developer shall be responsible for posting and maintaining the markers from its marina to the designated main river channel in perpetuity, unless otherwise posted and/or maintained by an appropriate governmental agency.

4. A sign will be installed and maintained at the facility for boaters traveling to the Manatee River. The sign shall notify boaters of the controlling depth of the river, and request that boaters stay in the marked channel.

5. The use of the boat ramp shall be limited to lessees/owners of slips at the docking facility.

6. The maximum draft, including propeller(s) for vessels associated with this project shall be 2.5 feet or as otherwise approved through the permitting process. This requirement shall be posted at the marina and included in all homeowner's documents, real estate disclosure forms, deeds of sale, or lease agreements for land or structures.

7. Before commencement of the dry storage and boat lift, a speed zone from the I-75 Bridge to the vicinity of the east line of Section 16, Township 34 South, Range 19 East, shall be established by local ordinance and posted. The main marked channel shall be regulated at a speed, or speeds, as determined from public hearings and passing of an ordinance by the Manatee County Commission, with all other waters regulated as slow speed, minimum wake as applicable per Manatee County regulations. The Developer shall be responsible for posting and maintaining the established speed zone markers/buoys in the designated areas the Developer obtains a commitment for posting and maintenance by an appropriate governmental agency.

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

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

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

D. ARCHAEOLOGICAL AND HISTORICAL RESOURCES.

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

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

E. WASTEWATER MANAGEMENT

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

F. WATER SUPPLY

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

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

a. Irrigation zones with differing water requirements such as putting greens, tees, fairways, and common areas shall be irrigated separately.
b. Low-volume irrigation system components shall be used to the maximum extent possible.
c. High-frequency irrigation areas shall be limited to tees and greens.
d. The irrigation system shall include rain sensors with automatic rain shutoff devices which shall be installed on each controller within the irrigation system.
e. Maintenance of the irrigation system will include resetting the automatic controllers according to the season and checking, adjusting, and repairing irrigation devices to ensure optimum operating efficiency.

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

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

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

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

F(7). Reserved

F(8). All irrigation wells which are not proposed for use (about 30) or are not needed for emergency purposes shall be properly sealed and abandoned prior to commencement

of development in the areas where the wells are located. Additionally, an appropriately located irrigation well or wells as approved by Water Management District staff shall be tested annually for salinity.

G. SOLID/HAZARDOUS WASTE/MEDICAL WASTE

G(1). The County has determined that there exists adequate solid waste capacity to accommodate the impacts of the Project*. The Certificate of Level of Service shall be valid until December 31, 2012. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

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

H. ENERGY

H(1). The energy conservation measures referenced of page 29.3 of the ADA shall be utilized as applicable (Exhibit 5).

H(2). The developer shall use xeriscape landscaping wherever possible to reduce both water and energy consumption.

I. RECREATION AND OPEN SPACE

I(1). The Project* shall contain, at a minimum, 893.9 acres of open space. The property designated for recreation purposes shall include a 37.0 acre community park open to the general public, a 4.2 acre private neighborhood park, a 12.0 acre marina, and 250.0 acres of golf.

I(2). The Developer shall be responsible for the maintenance of all recreation and open space areas within the project site not dedicated to the County.

I(3). A system of bicycle and pedestrian trails shall be developed to link the residential, commercial and recreational areas. If bicycle trails are combined with the required sidewalk system, then it shall be designed and constructed with a minimum width of 8 feet. If it is not combined with the sidewalk, then a 4 foot wide lane shall be provided on each side of the roadway. Prior to the first residential subphase south of Port Harbour Parkway and the first residential subphase north of Port Harbour Parkway a comprehensive pedestrian/bicycle plan for each side of Port Harbour Parkway shall be submitted and approved by Manatee County.

J. PUBLIC SAFETY

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

creditable against the payment of impact fees, in accordance with applicable law. (Completed)

K. HURRICANE PREPAREDNESS

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

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

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

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

L. EDUCATION

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

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

M. MARINA FACILITIES

M(1). Live-aboards, defined as occupying a vessel for more than three consecutive days, shall not be allowed.

M(2). Manatee protection measures outlined by the Bureau of Protected Species Management, including educational signage, channel markings, etc., shall be implemented in accordance with Condition C(6).

M(3). The marina shall implement the elements of the Florida Clean Marina Program to minimize the introduction of deleterious substances into the marina basin that would be detrimental to water quality (Developer's commitment).

M(4). A fuel spill response plan shall be prepared and approved by Manatee County prior to Final Site Plan approval for the marina or boat livery. Marina staff shall be trained in the implementation of the plan. Each annual report shall include a report on marina operation, including the number of wet and dry slips occupied; the number leased by residents; and any incidents of fuel spills.

M(5). The slip lease agreement shall prohibit use of sudsing cleaners containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye.

M(6). The provisions of the Pollution Discharge Act outlined in Section 376, Florida Statutes, and Chapter 62N, Florida Administrative Code, shall be strictly adhered to.

N. AFFORDABLE HOUSING

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

a. 245 units shall qualify upon the first sale to an end user as workforce housing as defined by Manatee County Land Development Code. The sales price for such units shall be determined to qualify as workforce housing after excluding upgrades and options from the price. The maximum sales price for the workforce housing units shall be based upon current workforce sales price as established by the methodology in the Manatee County Land Development Code and may be modified each year as determined by Manatee County.

b. The Developer* shall receive a 1:1 credit for all such qualifying units built within Phase I or II from January 1, 2004 to December 31, 2012 (project build out).

c. Should the Developer* not provide the required number of affordable units, mitigation in the form of $2,000 per affordable unit not built shall be paid into the Affordable Housing Trust Fund prior to Final Site Plan approval for the 1,500th residential unit in Phase II or last residential subphase, whichever comes first.

Prior to the first Final Site Plan approval for residential development, the developer shall deposit into an escrow account, post a letter of credit or bond, in a form acceptable to Manatee County, to secure the payment for the number of

unbuilt units, in the amount of $490,000. The escrowed funds shall be refunded to the developer or the bond or letter of credit released as each workforce unit is constructed.

d. As a means to monitor the progress, the applicant shall provide an accounting of the number of units that have been provided to date in each Annual Report.

N.(2) Prior to the initiation of Phase II, the Developer* shall conduct a reanalysis of affordable housing impacts in accordance with Section 380.06(6) and utilizing a methodology acceptable to the County*and the ~~DCA~~State Land Planning Agency. (Completed)

O. GENERAL CONDITIONS

O(1). Should the Project* significantly depart from the parameters set forth in this Development Order and the ADA*, the Project* will be subject to a Substantial Deviation Review, pursuant to Section 380.06. Florida Statutes. Any change to the Project* which meets the criteria set forth in Subsection 380.06(19), Florida Statutes shall require a hearing to determine if the change constitutes a Substantial Deviation.

O(2). The Developer's* commitments set forth in the ADA*, and, as summarized in Section 5 herein, shall be honored, except as they may be superseded by specific terms of the Development Order.

O(3). Should the Developer* divest itself of all interest in the Project* prior to the expiration of the Development Order, the Developer* shall designate the successor entity to be responsible for preparation of the Annual Report, subject to approval by the County*.

O(4). Buildout shall be completed by ~~December 31, 2012~~ December 30, 2017. This Development Order shall expire ~~December 31, 2014~~ December 30, 202~~19~~, to allow for post-development monitoring. 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(5). The Manatee County ~~Planning~~Building and Development Services Department 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 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(6). The Developer*, its successors, assigns or transferees, shall submit Annual DRI Reports in accordance with Section 380.06(18), Florida Statutes* to the County*, TBRPC, the State Land Planning Agency, and other agencies, as may be appropriate, on March 21st of each year 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 the Manatee County ~~Planning~~Building and Development Services Department 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 ~~Planning~~Building and Development Services Department Director decide 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, modification, or change of any conditions, or any terms or conditions of this Development Order. The Annual Report shall contain the following:

a. Any change in the plan of development, or in the representation contained in the ADA, or in the phasing or land uses for the reporting year and for the next year;
b. A summary comparison of development activity proposed and actually conducted for the year;
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 the land encompassed by the Development Order for the Project;
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*, TBRPC, or ~~DCA~~State Land Planning Agency, 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;
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 copy of any recorded notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer* pursuant to Subsection 380.06(14)(d), Florida Statutes;
j. A statement that all persons have been sent copies of the Annual Report in conformance with Subsection 380.06(15) and (18), Florida Statutes;
k. Progress regarding compliance with Stipulation N(1), the number of workforce housing units provided.
l. Reports and/or information pursuant to conditions B(2), B(3), C(1)h and i, C(3)d, K(3), K(4).
m. An updated map showing the locations and acreage of upland and wetland preservation.

O.(7) In the event of a Development Order appeal or other legal challenge of this Development Order by the Department of Community Affairs, then the Developer* shall pay all reasonable costs and fees of County* staff and attorneys relating to said appeal or legal challenge at the rate for processing this Development Order under the current Planning fee schedule. Payment of all billings by the Developer* related to such fees and costs shall be paid within forty five (45) days of submittal of an invoice.

SECTION 6. DEVELOPER COMMITMENTS.

The following are developer commitments that were set forth in the Application for Development Approval (ADA) and Sufficiency Responses (SR) which shall be honored by the developer, except as they may be superseded by specific terms of the Development Order.

VEGETATION, WILDLIFE AND WETLANDS

1. Potential (sandhill crane) nesting habitat will be preserved (SR, pg. 2.2)

2. Former potential (sandhill crane) nesting habitat will be enhanced and restored. (SR, pg. 2.2)

3. Potential (sandhill crane) foraging habitat will also be maintained. (SR, pg. 2.3)

4. The surface water management system for the project will be designed to protect potential (sandhill crane) nesting marshes from unnatural peaks in water levels that might flood nests and cause failure. (SR, pg. 2.3)

5. Potential (sandhill crane) nesting marshes... will be buffered from proximate sources of active disturbance. (SR, pg. 2.3)

6. Management of upland and wetland areas will include control or treatment of nuisance and exotic species, such as cattails, Brazilian pepper, and primrose willow. Mechanical means will be used control the height of saw palmettos in undeveloped pine flatwoods areas. Restrictive deeds and covenants to prevent unauthorized impacts from clearing, the removal of desirable vegetation, will be incorporated into the homeowner's documents or deed restrictions, which will be enforced by the applicant and successor entity. (SR, pg. 2.6)

7. Those wetlands conserved will be assured long-term conservation and protection post-development by conservation mechanisms consistent with the Manatee County Comprehensive Plan and Land Development Regulation requirements at the time of the development order. (SR, pg.2.22)

FLOODPLAINS

1. All roads, utilities, and structures will be constructed above the mapped 25-year and 100-year floodplains. (SR, pg. 2.44)

WATER SUPPLY

1. The potable water distribution system will be built to County Standards by the Developer*, and may be dedicated to Manatee County for operation and maintenance at the Developer's option with approval by the Utility Operations Department. Revised.

SOLID WASTE/HAZARDOUS WASTE/MEDICAL WASTE

1. The developer will prepare and submit a Hazardous Material Management Plan for the golf course at time of site plan application to Manatee County (SR, pg. 3.16)

POLICE AND FIRE PROTECTION

1. The developer has agreed to provide a "pro rata share" of the cost of expanding police and fire protection services to the project. Such costs could include additional Sheriff's Office personnel and an additional aerial truck for the Braden River Fire District if three or more structures are greater than 34 feet in height. (ADA, Page 25.1)

RECREATION AND OPEN SPACE

1. The developer has proposed a system of bicycle and pedestrian trails to be developed to join together the residential areas, golf course, and community park. (ADA, page 26.1)

EDUCATION

1. The developer will work with the Manatee County School Board to determine the most appropriate method to mitigate potential school facility impacts. (ADA 27.1)

2. The developer will work with the School Board to identify an appropriate site within Heritage Harbour if the School Board determines that this location will meet their long term needs. (SR 6.3)

PORTS AND MARINAS

1. No live-aboards will be allowed at the marina facility. (ADA, pg. 37.5)

2. A sewage pump-out facility will be provided for use of the residents and other boaters. (ADA, pg. 37.5)

3. Paint scraping, sanding or sandblasting, hull painting, or major engine repairs will be prohibited. Limited boat maintenance activities and minor engine repairs and servicing will be allowed, and specifically listed in the marina slip agreements (SR, pg. 7.3)

4. Fuel handling will follow the recommended elements of the Florida Clean Marina Program by providing signage and pamphlets that stress the impact from spills and fueling activities, including awareness of the fiscal responsibility a boater has if they create a spill and subsequent clean up is required. All fuel nozzles will have automatic/back-pressure/shut-off nozzles. Fueling of small cans will take place on impervious fireproof containment trays. A Fuel Response Package will contain containment booms, pads, and absorbents readily available in well-marked, easily accessible container(s). A fuel spill response plan will be prepared, and marina staff will be trained in the implementation of the plan. The provisions of the Pollution Discharge Act outlined in Section 376, Florida Statutes, and Chapter 62N, Florida Administrative Code, will be strictly adhered to. (SR, pg. 7.2)

5. A slow speed zone from the marina to the main river channel will be posted and select interior braided channels adjacent and within the project area will be marked for slow speed only (throughout the year). The main natural river channel from the marina downstream to where the river becomes a broad system will be marked with regulation markers. (SR, pg. 7.4)

SECTION 7. LEGAL DESCRIPTION.

Development of Heritage Harbour shall be restricted to the ~~2784.72~~~~696.9~~ 2,784.7 acre tract of land described below:

~~All of Sections 13, 14, 23, 24, 25, 26, 35 and 36, Township 34 South, Range 18 East, Manatee County, Florida, lying north of State Road No. 64, as shown on State Road Department right-of-way map Section No. 1305-250 and also north of State Road No. 93 (Interstate 75) as shown on Department of Transportation right-of-way map for Section 13075-2403 and south of the mean high water line of the south bank of the Manatee River. Containing 2,397.5 acres more or less.~~

~~Also: That portion of the following described tract of land lying southwest of State road No. 93 (Interstate 75) and east of the easterly limited access right-of-way line of Kay Road as shown on Department of Transportation right-of-way map for Section 13075-2404, Sheet 3 of 9:~~

~~Begin at the NW corner of Section 26, Township 34 South, Range 18 East running East 2,681.25 feet, thence running South 3,769 feet, thence running West 2,681.25 feet, thence running North to the Point of Beginning, less the Southernmost 1640.5 feet thereof. Containing 10.6 acres, more or less.~~

~~Also: Unsurveyed portion of Section 12, Township 34 South, Range 18 East, lying South of Government Lots 3 and 4;~~

~~Unsurveyed portion of Section 13, Township 34 South, Range 18 East, less and except the following described lands:~~

~~Begin at the NW corner of Section 13, Township 34 South, Range 18 East; thence South to the water of the Manatee River; thence meander the waters of the Manatee River in an Easterly and Northeasterly direction to a point on the North line of said Section 13 which is on or near the extended East line of U.S. Government Lot 1 of Section 12, Township 34 South, Range 18 East; thence West along the North line of Section 13 to the Point of Beginning; Unsurveyed portion of Section 14, Township 34 South, Range 18 East, less and except the following described lands:~~

~~Begin at the NE corner of Section 14, Township 34 South, Range 18 East; thence South to the waters of Manatee River; thence meander the waters of the Manatee River in a Westerly and Northwesterly direction to a point on the North line of said Section 14, run thence East along the North line of said Section 14 to the Point of Beginning; Containing approximately 87.7 acres (computed by digitizing from aerial photographs the area above the approximate mean high water line).~~

~~All lying and being location Manatee County, Florida.~~

~~(AS FURNISHED O.R. 1460/5079)~~

~~THE SOUTH 295 ACRES, MORE OR LESS, OF SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST (SE) CORNER OF SAID SECTION 19 AND RUN NORTH 2583.4 FEET, MORE OR LESS, TO A POINT ONE FOOT NORTH OF A LINE OF TELEPHONE POSTS; RUN THENCE WEST 2° AND 02° NORTH, 2394.8 FEET TO A 2"x2" STAKE PLACED BY W. H. COGGESHALL; RUN THENCE WEST 3° AND 57 FEET SOUTH 2432.1 FEET MORE OR LESS TO THE WEST BOUNDARY OF SAID SECTION; RUN THENCE SOUTH ALONG SAID WEST BOUNDARY TO THE SOUTHWEST (SW) CORNER OF SAID SECTION; RUN THENCE EAST TO THE POINT OF BEGINNING; LESS AND EXCEPT: A CERTAIN PARCEL LOCATED IN THE SOUTHEASTERLY CORNER OF THE ABOVE DESCRIBED LANDS, WHICH PARTICULAR PARCEL IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGIN AT THE SE CORNER; THENCE NORTHERLY ALONG THE CENTER OF HIGHWAY 300 FEET; THENCE WEST 175 FEET; THENCE SOUTH 300 FEET; THENCE EAST 175 FEET TO THE POINT OF BEGINNING; LESS EAST 40 FEET FOR ROAD RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORD BOOK 226, PAGE 625, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA,~~

~~MORE PARTICULARLY DESCRIBED AS FOLLOWS:~~

~~A PARCEL OF LAND SITUATED IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE NORTH, ALONG THE EAST LINE OF SAID SECTION 19, 300.00 FEET; THENCE SOUTH 89°50'39" WEST, 40.00 FEET TO THE WEST RIGHT- OF-WAY LINE OF UPPER MANATEE RIVER ROAD, FOR A POINT OF BEGINNING; THENCE NORTH, ALONG SAID RIGHT-OF-WAY LINE, 2283.08 FEET; THENCE NORTH 88°16'00" WEST, 2354.78 FEET; THENCE SOUTH 89°53'00" WEST, 2401.54 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE SOUTH 00°59'28" WEST, ALONG SAID WEST LINE, 2662.87 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE NORTH 89°50'39" EAST, ALONG SAID SOUTH LINE, 4666.31 FEET; THENCE NORTH, 300.00 FEET; THENCE NORTH 89°50'39" EAST, 135.00 FEET TO THE POINT OF BEGINNING.~~

~~The area of all of the above described land is approximately 2784.72~~2696.9 ~~acres.~~

ALL OF SECTIONS 13, 14, 23, 24, 25, 26, 35 AND 36, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, LYING NORTH OF STATE ROAD NO. 64, AS SHOWN ON STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION NO. 1305-250 AND ALSO NORTH OF STATE ROAD NO. 93 (INTERSTATE 75) AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2403 AND SOUTH OF THE MEAN HIGH WATER LINE OF THE SOUTH BANK OF THE MANATEE RIVER. CONTAINING 2,397.5 ACRES MORE OR LESS. ALSO: THAT PORTION OF THE FOLLOWING DESCRIBED LAND LYING SOUTHWEST OF STATE ROAD NO. 93 (INTERSTATE 75) AND EAST OF THE EASTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF KAY ROAD AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2404, SHEET 3 OF 9: BEGIN AT THE NW CORNER OF SECTION 26, TOWNSHIP 34 SOUTH, RANGE 18 EAST RUNNING EAST 2,681.25 FEET, THENCE RUNNING SOUTH 3,769 FEET, THENCE RUNNING WEST 2,681.25 FEET, THENCE RUNNING NORTH TO THE POINT OF BEGINNING, LESS THE SOUTHERNMOST 1640.5 FEET THEREOF. CONTAINING 10.6 ACRES MORE OR LESS. ALSO: UNSURVEYED PORTION OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LYING SOUTH OF GOVERNMENT LOTS 3 AND 4; UNSURVEYED PORTION OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NW CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATER OF THE MANATEE RIVER, THENCE MEANDER THE WATERS OF THE MANATEE RIVER IN AN EASTERLY AND NORTHEASTERLY DIRECTION TO APOINT ON THE NORTH LINE OF SAID SECTION 13 WHICH IS ON OR NEAR THE EXTENDED EAST LINE OF U.S. GOVERNMENT LOT 1 OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE WEST ALONG THE NORTH LINE OF SECTION 13 TO THE POINT OF BEGINNING; UNSURVEYED PORTION OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NE CORNER OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATERS OF MANATEE RIVER, THENCE MEANDER THE WATERS OF MANATEE RIVER IN A WESTERLY AND NORTHWESTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 14, RUN THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 14 TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 87.7 ACRES (COMPUTED BY DIGITIZING FROM AERIAL PHOTOGRAPHS THE AREA ABOVE THE APPROXIMATE MEAN HIGH WATER LINE) ALL LYING AND BEING LOCATED IN MANATEE COUNTY, FLORIDA. THE AREA OF THE ABOVE DESCRIBED LAND IS APPROXIMATELY 2,495.8 ACRES.

TOGETHER WITH (HERITAGE HARBOUR STONEYBROOK EAST):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF MANATEE, LYING IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, BEING A PORTION OF THE LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1460, PAGES 5079 THROUGH 5083, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE N.89°47'24"W. ALONG THE SOUTH LINE OF SAID SECTION 19, FOR 175.10 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°47'24"W., ALONG SAID SOUTH LINE OF SECTION 19, ALSO BEING THE NORTH BOUNDARY LINE OF LANDS OF RIVER ROAD PLANTATION (KNOWN AS PROPERTY IDENTIFICATION NUMBER 5668.0020\9 PER MANATEE COUNTY PROPERTY APPRAISER), FOR 4666.00 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 19; THENCE N.01°24'51"E., ALONG THE WEST LINE OF SAID SECTION 19, ALSO BEING THE EAST BOUNDARY LINES OF PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1, AS RECORDED IN PLAT BOOK 44, PAGES 168 THROUGH 185, SAID PUBLIC RECORDS AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2, AS RECORDED IN PLAT BOOK 50, PAGES 10 THROUGH 13, SAID PUBLIC RECORDS, FOR 2662.92 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF KAY ROAD (42 FOOT WIDE PUBLIC RIGHT OF WAY), A PORTION OF WHICH IS SHOWN ON PLAT OF WATERLEFE GOLF & RIVER CLUB, UNIT 5, AS RECORDED IN PLAT BOOK 37, PAGES 162 THROUGH 168, SAID PUBLIC RECORDS AND A PORTION OF WHICH IS SHOWN ON AND DESCRIBED IN OFFICIAL RECORDS BOOK 1711, PAGES 673 THROUGH 674, SAID PUBLIC RECORDS; THENCE S.89°44'37"E., ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE NORTH LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 1460, PAGES 5079 THROUGH 5083, SAID PUBLIC RECORDS FOR 2398.56 FEET; THENCE S.87°54'15"E., CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND SAID NORTH LINE, FOR 2354.69 FEET TO A POINT ON THE WESTERLY MAINTAINED RIGHT OF WAY LINE OF UPPER MANATEE RIVER ROAD (80 FOOT WIDE PUBLIC RIGHT OF WAY) AS RECORDED IN ROAD PLAT BOOK 6, PAGE 73, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE S.00°21'37"W., ALONG SAID WESTERLY MAINTAINED RIGHT OF WAY LINE, FOR 2282.71 FEET TO THE NORTHEAST CORNER OF LANDS OF VIRGINIA MOORE (KNOWN AS PROPERTY IDENTIFICATION NUMBER 5469.0000/2 PER MANATEE COUNTY PROPERTY APPRAISER); THENCE N.89°53'12"W., ALONG THE NORTHERLY BOUNDARY LINE OF SAID LANDS, FOR 135.10 FEET; THENCE S.00°22'23"W., ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDS, FOR 299.98 FEET TO THE SOUTHWEST CORNER OF SAID LANDS AND THE POINT OF BEGINNING. CONTAINING 12,578,452.9 SQUARE FEET OR 288.76 ACRES, MORE OR LESS. BEARINGS ARE BASED THE WEST LINE OF SECTION 19 AS BEARING N.01°24'51"E. TO COINCIDE WITH THE EASTERLY BOUNDARY LINE OF THE HERITAGE HARBOUR DEVELOPMENT TO THE WEST (SHOWN ON SAID PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1 AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2).

SECTION 8. COMMENCEMENT OF DEVELOPMENT.

Physical development of the Project* has commenced. If any five year period shall expire without significant additional physical development activity on the site, the BOCC may conduct a public hearing in accordance with the Land Development Code after appropriate notice to the Developer* 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. For purposes of this provision, "physical development" shall be the actual construction of buildings or infrastructure by the Developer* that is approved on a Final Site Plan or Plat for the Project*.

SECTION 9. RESTRICTIONS ON DOWN-ZONING.

Prior to the buildout date of this Development Order, the County shall not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County can demonstrate that:

1. substantial changes in the conditions underlying the approval of the Development Order have occurred; or

2. the Development Order was based upon substantially inaccurate information provided by the Developer; or

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

4. the development is not proceeding in a timely manner, pursuant to Section 7..

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

For purposes of this Development 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 Development 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 Development 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 to comply with Paragraph 380.06(15)(c)3, Florida Statutes.

SECTION 10. BINDING ORDER UPON DEVELOPER AND COUNTY.

This Development Order shall be binding upon the Developer, Owners, the County, and upon the Developer's and Owner's grantees, successors, and assigns.

SECTION 11. COMPLIANCE WITH CODES AND ORDINANCES.

All development undertaken pursuant to this Development 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 BOCC approval to the Developer, ~~DCA~~STATE LAND PLANNING AGENCY, and TBRPC.

SECTION 13. NOTICE OF RECORDING.

The Developer shall record a notice of adoption of this Development 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 provision or portion 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; 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 of appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 00-19, as amended by Ordinance 03-25, ~~and~~ Ordinance 08-33, and Ordinance 10-37, during the pendency of any appeal.

PASSED AND DULY ADOPTED WITH A QUORUM PRESENT AND VOTING BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THIS THE 63~~rd~~ DAY OF ~~JUNE~~October, 2011~~0~~.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
~~Donna G. Hayes~~Carol Whitmore,
Chairman

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

By: _____
Deputy Clerk

EXHIBITS 1, 4, 7, 8, 9, 10, 11, and 12

ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 00-19, APPROVED ON MARCH 21, 2000.

EXHIBIT 13

IS NOT ATTACHED BUT IS ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 03-25, APPROVED ON JUNE 17, 2003.

EXHIBITS 2, 3, 5, and 14

ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 08-33, APPROVED ON MARCH 11, 2008.

EXHIBIT16

IS NOT ATTACHED BUT IS ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 10-37, APPROVED ON JUNE 3, 2010.

EXHIBITS 6 and 15

ARE ATTACHED AND TITLED AS FOLLOWS:

~~Ex. 6: Map H – Master Development Plan~~
Ex. 6: Map H – Master Development Plan
Ex. 15: Land Use Equivalency Matrix
~~Ex. 16: P.M. Peak Hour Project Trip Generation Comparison~~

EXHIBIT #15

Land Use Equivalency Matrix ~~– Parcel 19 and 20~~

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

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

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

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

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

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	PDMU-98-08(G)(R5) – Heritage Harbour DRI # 24	**TYPE AGENDA ITEM**	Advertised Public Hearing – Consent
DATE REQUESTED	09/08/11 PC	**DATE SUBMITTED/REVISED**	09/01/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services/Comprehensive Planning and Public Hearings	**AUTHORIZED BY TITLE**	John Osborne, AICP, Planning and Zoning Official
CONTACT PERSON TELEPHONE/EXTENSION	Katie LaBarr / 748-4501 ext. 6828	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Katie LaBarr, AICP / Principal Planner / 748-4501ext. 6828
ADMINISTRATIVE APPROVAL			

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

I move to recommend approval of PDMU-98-08(G)(R5) 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 Amendment of a revised General Development Plan and Zoning Ordinance to:
  1. Amend Condition A(3) of the Zoning Ordinance to extend the CLOS from December 31, 2012 to December 31, 2017.
  2. Extend buildout date for Phase II from December 31, 2012 to December 30, 2017
  3. Amend the Land Use Equivalency Matrix to allow the conversion of residential units.
  4. Other amendments for internal consistency.
- The applicant proposes to add a Residential Land Use Equivalency Matrix to this DRI. The purpose of the LUEM is to grant the applicant limited flexibility for the type of residential development that may be proposed in the future. Residential units may be exchanged administratively, provided the conversions do not exceed thresholds established in the LUEM.
- Staff recommends approval of all requested modifications.

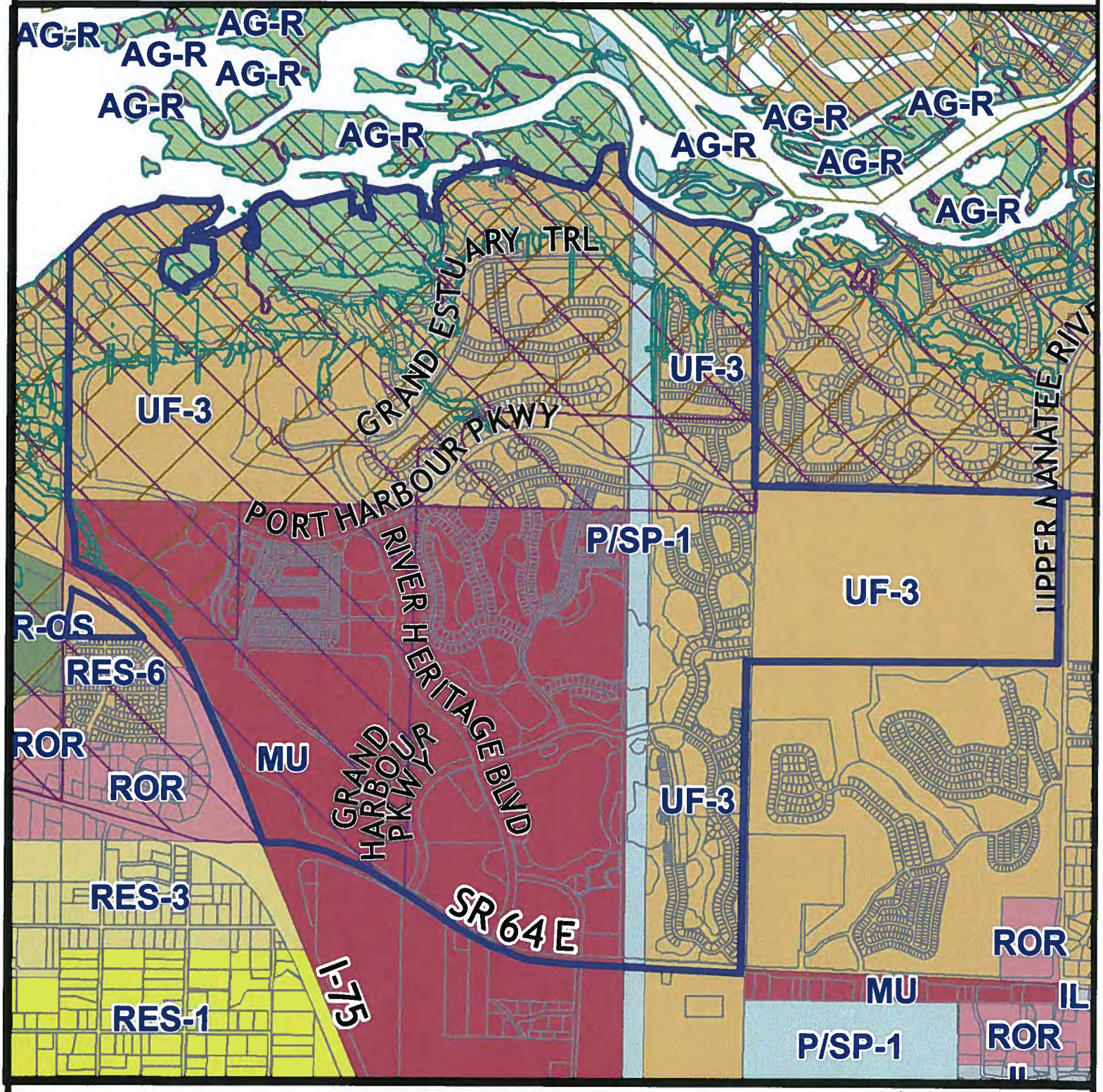
COUNTY ATTORNEY REVIEW

Check appropriate box	
☒	**REVIEWED** **Written Comments:** ☐ **Attached** ☒ **Available from Attorney (Attorney's initials: SS)**
☐	**NOT REVIEWED (No apparent legal issues.)**
☐	**NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)**
☐	**OTHER**

ATTACHMENTS: (List in order as attached)	**INSTRUCTIONS TO BOARD RECORDS:**
Staff report for PDMU-98-08(G)(R5)	N/A

COST:	n/a	**SOURCE (ACCT # & NAME):**	n/a
COMMENTS:		**AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)**	

FUTURE LAND USE



Parcel ID #(s) MULTIPLE

Project Name:	HERITAGE HARBOUR
Project #:	PDMU-98-08 (G)(R5)
DTS#:	20110196
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

N

Manatee County
Staff Report Map

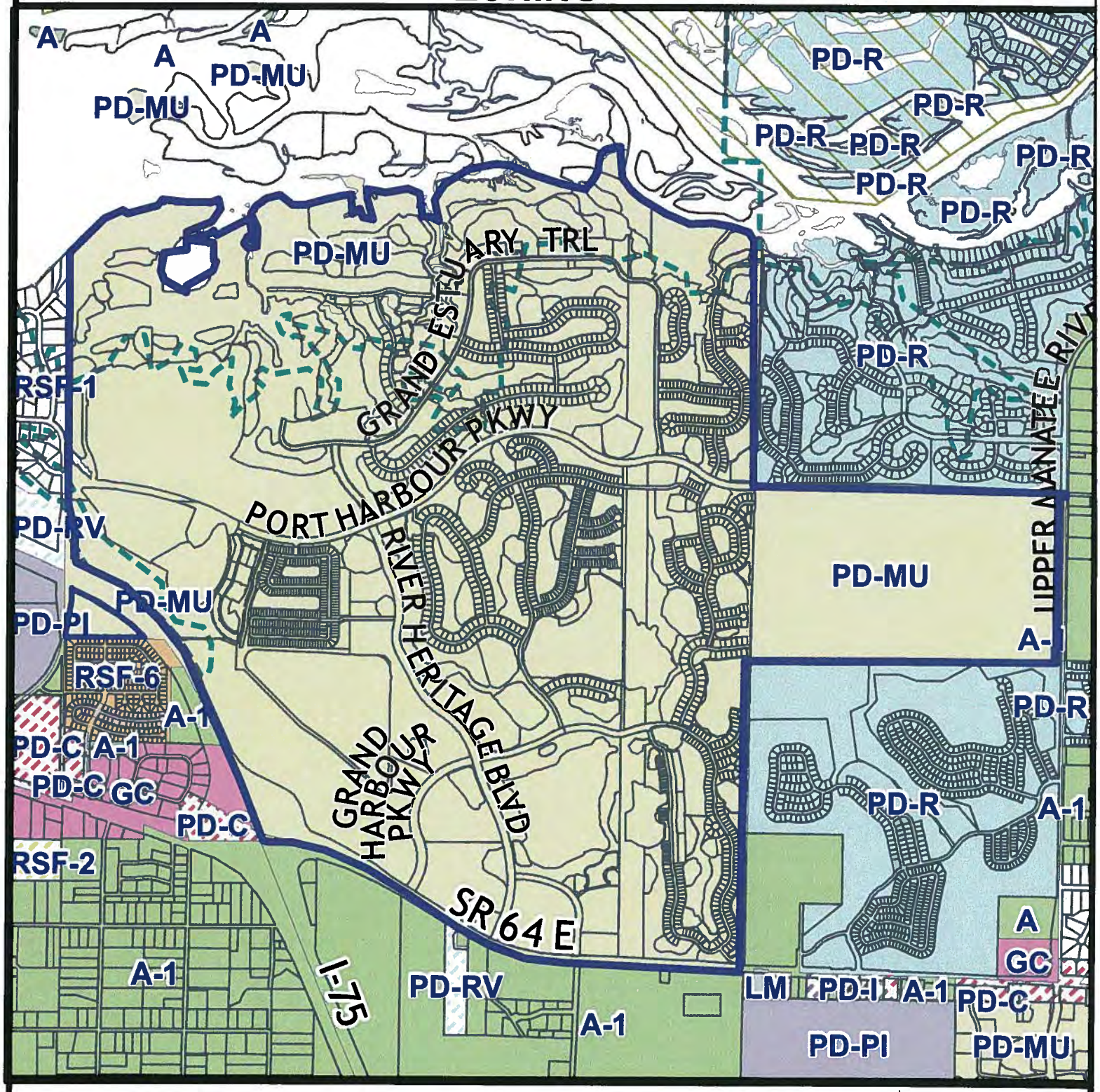
Map Prepared 4/29/2010

1 inch = 83,333 feet

Overlays:

- CHH - FLU (2008)
- CPA
- Coastal Evacuation Area

ZONING



Parcel ID #(s) MULTIPLE

Manatee County
Staff Report Map
Map Prepared 4/29/2010
1 inch = 83,333 feet

Project Name:	HERITAGE HARBOUR
Project #:	PDMU-98-08 (G)(R5)
DTS#:	20110196
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

Overlays

CHH - Zoning

AERIAL

Parcel ID #(s) MULTIPLE

Manatee County
Staff Report Map
Map Prepared 4/29/2010
1 inch = 2,091 feet

Project Name:	HERITAGE HARBOUR
Project #:	PDMU-98-08 (G)(R5)
DTS#:	20110196
Proposed Use:	DRI
S/T/R:	Sec 30,27,36,25,22,23,24,35,26,19 Twn 34 Rng 18,19
Acreage:	2,785
Existing Zoning:	PD-MU
Existing FLU:	AG-R, MU, UF-3, P/SP-1
Overlays:	CEA, CPA
Special Areas:	Greenway
CHH:	Y
Watershed:	NONE
Drainage Basin:	MIDDLE MANATEE R
Commissioner:	Larry Bustle

P.C. 9/8/11

PDMU-98-08(G)(R5) - HERITAGE HARBOUR
(DTS #20100065)

An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-09-08(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, 3) an amendment to the land use equivalency matrix, and 4) other amendments for internal consistency; providing for severability; and providing for an effective date. The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 ± acres).

P.C.: 9/8/11 **B.O.C.C.: 10/6/11**

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-98-08(G)(R5); APPROVAL of the revised General Development Plan; GRANTING Special Approval for a project in the MU (Mixed Use) Future Land Use Category; as recommended by staff.

PROJECT SUMMARY	
CASE#	**PDMU-98-08(G)(R5) - DTS# 20110196**
PROJECT NAME	**Heritage Harbour**
APPLICANT(S):	**Lennar Homes, LLC**
EXISTING ZONING:	**PD-MU**
PROPOSED USE(S):	**Commercial retail, office, multi-family and hotel**
CASE PLANNER:	**Katie LaBarr, AICP**
STAFF RECOMMENDATION:	**APPROVAL**

DETAILED DISCUSSION

Summary:

Heritage Harbour is an approved multi-use development (DRI) that includes commercial uses primarily adjacent to State Road 64 and the I-75 interchange, institutional and office uses north of SR 64 and south of Port Harbour Parkway, a marina on the Manatee River, and residential units spread across the property.

Approved development totals are as follows:

CATEGORY	PHASE I 2000-2012*	PHASE II 2004-2012*	TOTAL
Commercial			
Retail**	300,000 s.f.	551,900 s.f.	851,900 s.f.
Office Hotel	103,250 s.f 150 rooms	66,750 s.f. 150 rooms	170,000 s.f. 300 rooms
ACLF	0	600 beds	600 beds
Residential			
Single family detached	1,290 units	980 units	2,270 units
Single family attached/ semi-attached	500 units	640 units	1,140 units
Multi-family	760 units	830 units	1,590 units
Total Residential Units	2,550 units	2,450 units	5,000 units

Marina	162 wet slips	300 dry slips	462 slips
Recreational Open Space			
Golf Course	36 holes	9 holes	45 holes
Park	41.2 acres		41.2 acres
Institutional	7.5 acres	2.8 acres	10.3 acres

History:

The Heritage Sound DRI was approved on March 21, 2000 as a mixed use project with residential, commercial, office, hotel, ACLF (group care home), marina, and recreation uses on approximately 2,495.8 acres. The project was approved for two phases.

On June 17, 2003, the Board approved revisions to the Zoning Ordinance and General Development Plan to:

- **change the project name and correctly identify the project owner and developer.**
- **amendments to the General Development Plan to add single-family attached residential to Parcel 1;**
- **add multi-family residential to Parcels 5, 7, 10, 16, and 32;**
- **add ACLF (group care home) and commercial to Parcel 17;**
- **add office to Parcel 19;**
- **add community support facility to Parcel 21;**
- **add professional office to Parcel 22;**
- **add professional office and delete multi-family residential to Parcel 23;**
- **add office and institutional and delete multi-family residential to Parcel 24;**
- **add office and delete multi-family residential to Parcel 25;**
- **add office, commercial, and institutional and delete group care home and multi-family residential from Parcel 26;**
- **and add office and institutional and delete multi-family residential from Parcel 27.**
- **75,000 square feet of retail space, 300 beds of ACLF (group care home), and 160 single-family residences were transferred from Phase I to Phase II.**
- **18,250 square feet of office, 160 multifamily units, and 18 holes of golf course were transferred from Phase II to Phase I.**
- **The General Development Plan modified residential development totals to:**
  - **decrease the number of units in Parcels 2-10 by 20 or more units for each parcel and**
  - **increase the number of units in Parcel 16 by 150 and Parcel 32 by 80 units.**

- **The General Development Plan modified the non-residential development totals to:**
  - **decrease office and commercial in Parcel 17 by 47,250 square feet and add 600 beds for ACLF (group care home);**
  - **increase professional office and institutional in Parcel 22 by 28,000 square feet;**

- decrease office and commercial in Parcel 23 by 15,000 square feet;
- decrease commercial, office, and institutional in Parcel 24 by 5,000 square feet;
- decrease commercial and office in Parcel 25 by 45,000 square feet;
- change Parcel 26 from 600 beds ACLF to 75,250 square feet office, commercial, and institutional; and increase commercial, office, and institutional in Parcel 27 by 9,000 square feet.

- The park size was increased from 40.2 to 41.2 acres.
- The build out date for Phase 1 was extended by 4 years, 11 months, and 30 days.
- Condition B(3) was amended to change the traffic monitoring for the Transportation System Management Program from annual to biannual.
- Table 2 was amended to provide an alternative for the State Road 64 frontage road or delete such requirement.
- The definition of "warranted" was amended to include FDOT.
- Condition L(1).(a), regarding an option for school impact mitigation was deleted.
- Stipulation N(2).f.4 which addresses landscaping between the Manatee River and multi-family parcels was amended.
- The definitions, conditions, and terminology were amended in the Zoning Ordinance and General Development Plan to reflect the above changes.

On March 11, 2008, the Zoning Ordinance and General Development Plan were further revised to:

- Modify the project boundaries to add the 288.7 acre parcel on the east side of the project;
- Reallocate existing development entitlements within the entire project;
- Re-designate parcel identifications;
- Amend Table 2 and various transportation conditions to address traffic impacts in Phase II;
- Amend stipulations to address the provision of affordable housing within the entire project;
- Delete Education Stipulation L(2) regarding the monitoring of students in the project; and
- Amend the Zoning Ordinance definitions, conditions, and terminology to reflect the above changes.

On June 3, 2010, the Zoning Ordinance and General Development Plan were amended and affected only 106.6 acres of commercial land area, also known as Parcels 19 and 20, The Landing at Heritage Harbour, part of the larger development known as Heritage Harbour encompassing approximately 2,785 acres. The revisions included:

- increasing the amount of approved commercial floor area by 54,900 square feet.
- The conversion of permitted commercial uses (retail, office, hotel, and multi-family) between Parcels 19 and 20 (only) according to a Land Use Equivalency Matrix (LUEM).
- Added a Sign Plan as an exhibit to the Zoning Ordinance to assist the applicant, prospective parcel developers and buyers, and prospective tenants in optimizing

visibility and traffic circulation through an enhanced architectural design with predetermined size, type and location of signage.

- **Provided for alternative parking standards and enhanced landscape design were approved to allow a 10% reduction in the number of parking spaces in lots having more than 60 spaces and allowing the clustering of landscaped islands into fewer but larger islands for improved tree survival and improved visibility.**

Request:

The applicant requests modifications to the Zoning Ordinance for the following:

1. **Amend Condition A(3) of the Zoning Ordinance to extend the CLOS from December 31, 2012 to December 31, 2017.**
2. **Extend buildout date for Phase II from December 31, 2012 to December 30, 2017**
3. **Amend the Land Use Equivalency Matrix to allow the conversion of residential units.**
4. **Other amendments for internal consistency.**

Requests 1 and 2.

Extend the buildout date for Phase II from December 31, 2012 to December 30, 2017.

- ***Amend Table 1 Development Totals to reflect extension***
- ***Amend Condition A(3) to extend CLOS expiration from December 31, 2012 to December 31, 2017.***

When the DRI was approved, the build out date for Phase 2 was 2009. It was extended when Manatee County adopted Resolution No. 07-180 on October 9, 2007 to universally extend all Manatee County DRI build out dates by a period of 3 years to coincide with the 2007 legislative revisions to Subsection 380.06(19)(C), F.S. State Statute dictates that these extensions are not considered a Substantial Deviation and may not be considered when determining whether a subsequent extension is a Substantial Deviation.

The applicant now requests to extend the build out date by 4 years, 11 months, and 30 days. Section 380.06(19)(C), F.S., states that an extension to the build out date by 5 years or less is not a substantial deviation.

With the 4 year, 11 months and 30 days extension, the new build out and expiration dates will be December 30, 2017 and December 30, 2019, respectively.

Revisions to the Zoning Ordinance to reflect the new build out date are also proposed and include revisions to Table 1 – Development Totals and stipulation A(3) to extend the CLOS expiration to December 31, 2017. Staff has reviewed the requested modifications to the Zoning Ordinance and has no objection to these revisions.

Revisions to the Zoning Ordinance are to be consistent with the NOPC request.

Request 3.

Add Residential Land Use Equivalency Matrix to Exhibit #15

In 2010, a NOPC was processed and part of the request included the addition of a Land Use Equivalency Matrix for commercial entitlements in Parcels 19 and 20 only. The addition of a Land Use Equivalency Matrix for residential unit types will enable the applicant to develop a wider variety of housing types without having to process a Notice of Proposed Change with each request.

Land Use Equivalency Rates and Minimum/Maximum Development Thresholds for Residential Uses

Change To→ / Change From↓	Single Family Detached	Single Family Attached	Multi Family	Minimum	Maximum
Single Family Detached (1 Unit)	---	1.97 Units	1.38 Units	1,816	2,724
Single Family Attached (1 Unit)	0.51 Unit	---	0.70 Unit	912	1,368
Multi Family (1 Unit)	0.73 Unit	1.44 Units	---	1,272	1,908

Notes: (1) The above unit type exchange rates are based on the gross trip generation numbers as determined using the mostly recently approved Traffic Impact Statement for the Project (dated December 2009). Pursuant to such study, each Single Family Detached Unit generates 0.77 gross PM peak hour trip; each Single Family Attached Unit generates 0.39 gross PM peak hour trip; and each Multi-Family Unit generates 0.56 gross PM peak hour trip. Such generation rates are specific to this Project and are not generally applicable.
(2) Example: Upon surrendering 1 Single Family Detached Unit, the Developer would be able to add up to 1.97 Single Family Attached Units, 1.38 Multi-Family Units, or a pro rata combination thereof.

Conversion among residential housing types has been allowed, to a certain extent, with a footnote to the General Development Plan. For instance, multi-family units have been allowed to increase in conjunction with an equivalent decrease in the number of single family attached or single family detached units, as long as the total number of units does not exceed 5,000. That note is proposed to be revised and the equivalency matrix is proposed to be inserted in Exhibit # 15 of the Zoning Ordinance. The inclusion of this equivalency matrix will help to ensure the mix of housing types will remain intact throughout the development with minimums and maximums proposed to be within 20% of the approved number of housing types.

The addition of the Residential Land Use Equivalency Matrix will provide the applicant with some flexibility to increase one type of dwelling unit with a reduction in another type of unit (single family detached, single family attached, single family semi detached, or multifamily). The use of this matrix, however, will not change the character of development that has been established for this DRI. Staff proposes

additional stipulation language to require the applicant to show the conversions on all future Final Site Plans that utilize an exchange. Staff also proposes stipulation language to require that all Land Use Equivalency Matrix conversions be reviewed by the Tampa Bay Regional Planning Council and State Land Planning Agency a minimum of 14 and maximum of 21 days prior to approval by Manatee County, and all future conversions must be noted in subsequent Annual Reports. Although other Developments of Regional Impact have language that requires additional analysis when utilizing a Land Use Equivalency Matrix, such analysis is not required in this instance because the proposed Land Use Equivalency Matrix is specific to residential uses only. Impacts to water, wastewater, solid waste disposal, mass transit, drainage, and parks and recreation are similar among the unit types that are approved for this development. For that reason, the stipulations proposed specifically address tracking the exchanges that are utilized, to ensure that the total number of residential units does not exceed what has already been approved.

SITE CHARACTERISTICS AND SURROUNDING AREA	
ADDRESS:	**Grand Harbour Parkway**
GENERAL LOCATION:	**Northeast of intersection of I-75 and SR 64; extends north to Manatee River. A small portion is located west of I-75, at the southeast intersection of I-75 and Kay Road. A section is located south of the Waterlefe development and extends east to Upper Manatee River Road.**
SIZE:	**2,784.7 ± acres**
EXISTING USE(S):	**Residential, multi-family, office, community park, fitness center, 45 holes of golf**
FUTURE LAND USE CATEGORY:	**MU – Mixed Use**
DENSITY/INTENSITY	**Gross: 1.84 du/ac project wide; 0.008 FAR project wide**
SPECIAL APPROVAL(S):	**Non-residential project in MU Future Land Use Category**
OVERLAY DISTRICT(S):	**Entranceway, CHHA,Coastal Planning Area, Coastal Evacuation Area**
SPECIFIC APPROVAL(S):	**None**

SURROUNDING USES & ZONING	
NORTH	Manatee River zoned A/CH
WEST	I-75, an RV park (Winter Quarters), and a residential subdivision (Cypress Creek Estates)
SOUTH	SR-64 highway then vacant land zoned A-1
EAST	Two residential subdivisions (Waterlefe Golf & Country Club & Greenfield Plantation), Haile Middle and Freedom Elementary schools zoned PDR, A, and A-1. Across Upper Manatee River Road are single-family residences on large lots and agricultural uses zoned A-1.

SITE DESIGN DETAILS
No changes to site design are proposed with this amendment.

POSITIVE ASPECTS
• This application is consistent with the previously approved Development of Regional Impact and subsequent NOPC applications. • Proposed time extension is not presumed to be a Substantial Deviation. • Addition of a Land Use Equivalency Matrix allows for greater variation in residential development without creating additional transportation impacts.

NEGATIVE ASPECTS
None

MITIGATING MEASURES
None

STAFF RECOMMENDED STIPULATIONS
See strike-through / underline version of ordinance, attached.

REMAINING ISSUES OF CONCERN – NOT RESOLVED OR STIPULATED

None

COMPLIANCE WITH COMPREHENSIVE PLAN

Specifically reviewed for compliance with the following policies as they appear now:

Policy 2.1.2.7: Review all proposed development for compatibility and appropriate timing. The proposed revisions maintain the same land uses, transitions, and natural features as the previously approved plan.

Policy 2.2.1.21: MU: Establish the Mixed-Use future land use category. The proposal maintains the minimum percentages of the various land uses. Access remains unchanged.

Objective 2.9.1 and Policy 2.9.1.6: Strong Communities. This project provides connection to the Heritage Harbour development and its residential and recreational components, as well as integration, and compatibility with surrounding land uses. The plan promotes the use of unifying design elements and features.

CONCURRENCY

CLOS APPLIED FOR: Y __X__ N ____
TRAFFIC STUDY REQ'D: Y _____ N __X__
The requested changes to the Zoning Ordinance do not require further transportation analysis. Improvements related to impacts associated with this development have either been completed, or are scheduled.

SPECIFIC APPROVALS – ANALYSES, RECOMMENDATIONS, FINDINGS

None

ATTACHMENTS

1. Applicable Comprehensive Plan Policies
2. Ordinance PDMU-98-08(G)(R5) strikethrough/underline
3. Revised General Development Plan
4. Copy of Newspaper Advertising

APPLICABLE COMP PLAN POLICIES

Policy:	2.1.2.7	Review all proposed development for compatibility and appropriate timing. This analysis shall include: o consideration of existing development patterns, o types of land uses, o transition between land uses, o density and intensity of land uses, o natural features, o approved development in the area, o availability of adequate roadways, o adequate centralized water and sewer facilities, o other necessary infrastructure and services. o limiting urban sprawl
Policy:	2.2.1.21	MU: Establish the Mixed-Use future land use category as follows:
Policy:	2.2.1.21.1	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.
Policy:	2.2.1.21.2	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.
Policy:	2.2.1.21.3	Range of Potential Density/Intensity: Maximum Gross Residential Density: 9 dwelling units per acre

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.

MANATEE COUNTY ZONING ORDINANCE
PDMU-98-08~~(Z)~~ (G)(R-4)5
HERITAGE HARBOUR (f.k.a. HERITAGE SOUND)

~~AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE NO. PDMU-09-08(G)(R2) TO APPROVE AN AMENDED GENERAL DEVELOPMENT PLAN FOR PROPERTY CONSISTING OF APPROXIMATELY 106.6 ACRES GENERALLY LOCATED NORTH OF SR 64, WEST OF GRAND HARBOUR PARKWAY, AND EAST OF I-75 A/K/A THE LANDINGS AT HERITAGE HARBOUR; SAID APPROVAL BEING SPECIFICALLY APPLICABLE TO PARCELS NOS. 19 & 20 WITHIN SAID PROJECT; PROVIDING FOR STIPULATIONS REGARDING SIGNS TO ALLOW A SIGN PLAN; PROVIDING FOR SPECIFIC APPROVALS AS APPLICABLE; APPROVING THE ADDITION OF APPROXIMATELY 54,900 SQUARE FEET OF COMMERCIAL FLOOR AREA; ADDITIONAL REVISIONS ARE INDICATED IN SAID APPLICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.~~

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE NO. PDMU-09-08(G)(R4) TO APPROVE CHANGES TO THE GENERAL DEVELOPMENT PLAN AND ORDINANCE AS FOLLOWS: 1) AN EXTENSION TO THE EXPIRATION DATE OF THE CERTIFICATE OF LEVEL OF SERVICE, 2) AN EXTENSION TO THE BUILDOUT DATE FOR PHASE II, 3) AN AMENDMENT TO THE LAND USE EQUIVALENCY MATRIX, AND 4) OTHER AMENDMENTS FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. THE HERITAGE HARBOUR DRI IS GENERALLY LOCATED AT THE INTERSECTION OF I-75 AND SR 64, SOUTH OF THE MANATEE RIVER, AND WEST OF UPPER MANATEE RIVER ROAD (2,784.7 + ACRES).

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

Section 1. AMENDMENT AND RESTATEMENT OF ORDINANCES NO. ~~PDMU-98-08(G)(R) and PDMU-98-08(G)(R-2)~~and PDMU-98-08(G)(R4)~~.~~ Ordinance ~~PDMU-96-08(G)(R) and Ordinance PDMU-98-08-(Z)(G)(R-2)~~PDMU-98-08(G)(R4) is hereby amended and restated in its entirety below. All prior zoning ordinances (and any site plans approved pursuant thereto) shall be ~~superceded~~superseded by this ordinance.

Section 2. DEFINITIONS. All capitalized terms used herein shall have the meanings set forth in ~~Ordinance 08-33 and~~ Ordinance ~~10-47~~11-31, 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, after considering the testimony, evidence, documentation, application to amend the Zoning Ordinance and General Development Plan for Heritage Harbour—

~~Parcels 19 and 20,~~ the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Manatee County Planning Commission held a public hearing ~~May 13, 2010August 11July~~ 14, September 8, 2011, has reviewed the request and filed a recommendation with the Board of County Commissioners; and

B. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission, the Zoning Ordinance, and General Development Plan as it relates to real property described in Section 6 of this Ordinance for a multi-use development.

C. The Board of County Commissioners held a public hearing on ~~June 3, 201026~~October 6, 2011 regarding said amendment to the Zoning Ordinance and General Development Plan described herein, in accordance with the requirements of Manatee County Ordinance No. 90-01 (the Manatee County Land Development Code), as amended, and has further considered the information received at the public hearing.

D. The proposed amendment to the Heritage Harbour Zoning Ordinance and General Development Plan regarding the property described in Section 6 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 (the ~~2020~~ Manatee County Comprehensive Plan), as amended.

E. The authorized agent for ~~HarbourvestLennar Homes~~, LLC. is ~~Russell SmithDarin McMurray~~, ~~Senior~~ Vice-President, ~~10481 Ben C. Pratt Pkwy, Fort Myers, FL 33966~~700 NW 107th Ave., Ste 400, Miami, FL 33172.

F. The Owner and Master Developer of the property is ~~HarbourvestLennar Homes~~, LLC.

~~G. The authorized agent for LNR Heritage Harbour, LLLP., is Mike Campbell, 400 Carillon Parkway, Suite 230, St. Petersburg, FL 33716~~

~~H.~~G. The Owners of Parcels 19 and 20 is LNR Heritage Harbour, LLLP., David Welch, Vice-President, LNR Heritage Harbour, LLLP.

~~I. The Board of County Commissioners hereby finds that notwithstanding the failure of the General Development Plan to comply with the requirements of Section 715.3.1, Landscaping, and Sections 710.1.4 and 710.1.6, Parking, and of the sign plan to comply with the requirements of Section 724, Signs, and Section 737, Entranceways, as was specifically described in Section O(3) hereof, the Board finds the public purpose and intent of the above-referenced Land Development Code sections relative to entranceway regulations and signs to be satisfied to an equivalent degree. This finding is based on the submission by the applicant of a sign plan as Exhibit 16 to this ordinance which includes an architecturally unified and well-planned layout for all signs within Parcels 19 and 20 of the Heritage Harbour DRI.~~

Section 4. GENERAL DEVELOPMENT PLAN

A. The General Development Plan, dated July 2011~~March 2008, entitled Heritage Harbour and the amended General Development Plan, dated March 2010, entitled Parcels 19 and 20 The~~

~~Landing at Heritage Harbour,~~ is hereby APPROVED to allow a multi-uUse development, with the following conditions and modifications, included herein in Section 4.

B. The previous development order for Heritage Harbour, which was adopted on ~~March 21, 2000~~June 3, 2010, and ~~the amendment development order which was adopted on March 11, 2008 and~~ all subsequent amendments are hereby replaced in their entirety, provided this amendment shall not be construed to terminate the rights of the developer, if any, granted under Section 163.3167(8) Florida Statutes, to the extent such rights have previously been granted and not specifically herein or otherwise modified or amended.

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

DEVELOPMENT APPROVAL AND LEVEL OF SERVICE CERTIFICATE CONDITIONS

A(1). This Development Order approval shall constitute approval of the Revised General Development Plan application subject to the conditions set forth herein and shall be limited to the development amounts set forth in Table 1, below.

A(2). Preliminary and Final Site Plan Applications shall be reviewed for compliance with this Development Order and shall be subject to the requirements of the Manatee County Comprehensive Plan and Land Development Code in effect at the time of such site plan application which are not specifically addressed in this Development Order or are not inconsistent with this Development Order.

A(3). The Developer has demonstrated the availability of adequate infrastructure and the ability to meet Acceptable Levels of Service for roadways, solid waste service, mass transit, drainage, and parks and recreation. The Certificate of Level of Service for the project shall be valid until ~~December 31, 2012~~December 30, 2017. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

TABLE 1 - Development Totals

TYPE OF DEVELOPMENT: Multi-Use Development.
LOCATION: Northeast of the intersection of I-75 and SR 64.
TOTAL DEVELOPMENT AMOUNTS:

CATEGORY	PHASE I 2000-2012*	PHASE II 2004-~~2012~~2017*	TOTAL
Commercial			
Retail**	300,000 s.f.	551,900 s.f.	851,900 s.f.
Office	103,250 s.f	-66,750 s.f.	170,000 s.f.
Hotel	150 rooms	150 rooms	300 rooms
ACLF	0	600 beds	600 beds
Residential ***			
Single family detached	1,290 units	980 units	2,270 units
Single family attached/ semi-attached	500 units	640 units	1,140 units
Multi-family	760 units	830 units	1,590 units
Total Residential Units	2,550 units	2,450 units	5,000 units
Marina	162 wet slips	300 dry slips	462 slips
Recreational Open Space			
Golf Course	36 holes	9 holes	45 holes
Park	41.2 acres		41.2 acres
Institutional	7.5 acres	2.8 acres	10.3 acres

- December 30 of referenced year for Phase I and ~~December 31 for~~ Phase II. The buildout dates includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes.

** = Development minimum and maximums for Parcels 19 and 20 shall be per Condition B (12) and the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.

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

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

B. TRANSPORTATION CONDITIONS

B(1). The following roadway and intersection improvements shall be required as part of Phases I and 2. The Developer* shall, at the time of each application for Preliminary Site Plan* approval, furnish to the County* an accurate, up to date report of the amount of development, defined in terms of net new external p.m. peak hour trips*, identified in the DRI documentation, which has previously been permitted in the Project*. New external p.m. peak hour project trips shall be

based on the trip rates adjusted for pass-by and internal capture as established by the following "P.M. Peak Hour Project Trip Generation Comparison".

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

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

The Developer* shall not be entitled to a Preliminary Site Plan* approval which would result in the cumulative number of net new external p.m. peak hour trips for the Project* to exceed the applicable net external p.m. peak hour project trip* thresholds set forth in Table 2 unless Funding Commitments* from Responsible Entities* have been obtained to ensure that the improvements required are in place Concurrent* with such Preliminary Site Plan.

TABLE 2
Required Improvements

Intersection	Required Improvement	Impact Fee Creditable	When Required
a. I-75 West-ramps/SR-64	Signalize when warranted (completed)	No	Notes 1&4
b. I-75 East-ramps/SR-64	(1) Signalize when warranted (2) Reconfigure northbound off-ramp and provide a second right turn lane. (all improvements completed)	No Yes	Notes 1&4
c. SR-64 and Lena Road	(1) Signalize when warranted (2) Eastbound left-turn lane (3) Westbound right-turn Jane (4) Southbound exclusive left-turn lane (5) Southbound shared through/right-turn lane (All improvements completed)	No No No No No	Notes 1&4
d. SR-64/Kay Road	(1) Retrofit the existing Southbound approach (N. Leg) of Kay Road (local Improvement). (2) Extend the Eastbound left-turn lane to 520 feet.	Note 2 Yes	Notes 2&4

	(3) Westbound right-turn lane (length 300 feet) (Local Improvement) (4) Signalize when warranted (5) Southbound right-turn lane (local improvement) (All improvements completed)	Note 2 No Note 2	
e. Grand Harbour PkwayfSR-64	(1) Dual Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Exclusive Southbound left-turn lane (completed) (5) Signalize when warranted (completed) (6) Westbound left-turn lane (completed)	No No No No No Yes	Notes 1&4
f. River Heritage Blvd/SR-B4	(1) Directional Eastbound left-turn lanes (completed)	No	Notes 1&4
	(2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Signalized when warranted	No No No	
g. SR/64/Lakewood Ranch Blvd/Upper Manatee River Rd.	(1) Northbound left-turn lane (completed) (2) Southbound right-turn lane (local improvement) (completed)	Yes	Notes 3&4
h. SR70/I-75 ramps	(1) Signalize when warranted(local improvement) (completed)	No	
i. I-75 & SR 64 interchange	Contribute $190,000 for construction costs (completed)	No	

Roadway	**Requirement Improvement**	**Impact Fee Creditable**	**When Required**
a. SR-64 from I-75 to Lena Rd	Widen to 4-lanes (completed)	Yes	Notes 1&4
b. SR 64 from Kay Rd to Lena Road	Develop and implement a time based coordinated signal system (local improvement) (completed)	No	Concurrent with signal installation
c. SR 64 from 39th St. E to Kay Road	Widen from 4 to 6 lanes	Yes	See Stipulation B(9)

d. Port Harbour Parkway	Extend from its current terminus to Upper Manatee River Road	Yes	See Stipulations B(5) and B(9)

All improvements on state roads are subject to FDOT approval.

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

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

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

Note 4: These improvements shall be funded by the Developer* via the posting of a bond in a form and manner acceptable to the County*. The bond for Intersection Improvements a., b., c., e., and f., and both Roadway Improvements (a., and b.) shall be posted prior to the receipt of the first permit allowing for Vertical Development*. The bond for Intersection Improvement d. shall be posted the earlier of completion of right-of-way acquisition, design and permitting or December 1, 2004. The bond for Intersection Improvement g. shall be posted the earlier of July 1, 2004 or upon reaching 2,474 p.m. peak hour net new external project trips*. The Developer,* unless otherwise specified herein, shall be responsible for negotiation for, and acquisition of any right-of-way necessary to accomplish this requirement. The Developer* shall be responsible for all fees and costs associated with the purchase of right-of-way, unless otherwise specified herein. If the Developer* is unable to acquire the right-of-way through a negotiated purchase, then the County* shall use it's power of eminent domain to acquire the necessary right-of-way. If condemnation is required, the Developer* shall be responsible for all associated costs with the litigation and reimburse the County, unless otherwise specified herein. Progress regarding completion of this improvement shall be included in each Annual Report. The Developer* shall provide documentation regarding such progress and provide an updated schedule of completion addressing design, right-of-way acquisition, permitting and construction. The County* shall determine the reasonableness of each updated schedule. Should the updated schedule require an extension of time for the completion of the improvement due to right-of-way acquisition or permitting, the County* shall determine if an extension of time is acceptable and if an amendment to this Zoning Ordinance is required (All right of way has been acquired).

B(2). When Certificates of Occupancy have been issued for 2,000 residential units, or the equivalent thereof in terms of net new external p.m. peak hour project trips, an annual monitoring program to provide peak hour counts at the Project* entrances shall be instituted to verify that the projected number of external trips for the Project* are not exceeded. Counts shall continue on

an annual basis through buildout. This information shall be supplied in the required Annual Report for the Development Order. If the Annual Report indicates the total trips exceed projected counts by more than 15%, Manatee County shall conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. If an Annual Report is not submitted within thirty (30) days of its due date, Manatee County may conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. The results of the study may also serve as a basis for the Developer* or reviewing agencies to request Development Order amendments. Such a variance shall be presumed to be a substantial deviation unless the developer rebuts this presumption by clear and convincing evidence. If the variance is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes shall be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis.

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

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

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

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

OBJECTIVES:

— Increase urban peak automobile occupancy rates by 10% by 2002 through expanded ride sharing efforts.

— Increase peak hours occupancy rates for transit and other high-occupancy modes of transportation by 20% by 2002.

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

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

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

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

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

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

1. Once S.R. 64 construction begins, the contractor shall maintain safe access to Timberlane RV Park pursuant to FDOT rules. Once the right turn lane set forth in #1 below is constructed, the right turn deceleration lane shall be maintained during construction, while the existing SR 64 pavement is being utilized for traffic.

2. The alternative access through Heritage Harbour will be as indicated on Map A, entitled Timberlane Access.

3. Alternative access through Heritage Harbour shall be facilitated with signage agreed to by Harbourvest and Timberlane, in conformance to FDOT and Manatee County sign regulations. (Note: Guidance signs will not be permitted on FDOT R.O.W.)

4. Timberlane shall provide a letter to FDOT indicating their satisfaction with alternative proposed. (completed)

5. If this alternative is selected, Harbourvest shall be responsible for the costs it has incurred to date associated with the construction of the frontage road. Any legally recognizable costs of the adjacent property owner (Musgrave) which are the result of the County's use of eminent domain shall be the County's responsibility.

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

1. A right-turn deceleration lane with a 12-foot lane for 100-feet and a 200-foot taper shall be in place on SR 64 prior to the opening of the Timberlane RV Park

2. The deceleration lane shall be built according to the appropriate FDOT standards and shall be approved by FDOT and Manatee County.

3. Timberlane shall provide visitors information relative to traffic circulation.

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

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

a. Developer* will enter into an agreement with the County in which the Developer* will commit:

1. To pay to the County its proportionate fair share mitigation "PFSM" for transportation impacts prior to the Final Site Plan for any residential development in Phase II to assure construction of the PFSM Project. The PFSM has been calculated to be $2,775,500.00;

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

3. To construct Port Harbour Parkway (the PFSM Project), the cost of which has been determined to be in excess of the PFSM, within 5 years of the approval date of this ordinance, utilizing funds from the PFSM payment to the County as well as additional contributions from the Developer; and

4. To post a bond or letter of credit in the amount of the difference between the PFSM and the costs of the construction of the PFSM Project, as estimated by Developer's engineer and approved by the County, securing such commitment, prior to the approval of the first Final Site Plan for any residential development in Phase II.

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

b. Upon entering into the agreement, the Developer* will be issued a Certificate of Level of Service ("CLOS") for Phase II. The CLOS shall allow Developer to proceed with construction of the commercial development of Phase II of the Project* immediately and with construction of residential units in Phase II upon payment of the PFSM and posting of the bond or letter of credit, but no earlier than January 1, 2010 (except for model homes which may proceed immediately after entering into the agreement).

c. Initially, the PFSM Project identified for construction will be Port Harbour Parkway as set forth above. However, the County will retain the option to reprogram the Developer's contributions (PFSM payment and financial equivalent of commitment to complete Port Harbour Parkway) to another major project (possible SR 64 if it can be used to forward-fund state construction dollars).

d. In the event the County elects to use the PFSM for a project other than Port Harbour Parkway, Developer shall construct Port Harbour Parkway within one year of the Final Site Plan approval of the 1500th unit in Phase II. Prior to approval of the Final Site Plan for the 1500th unit in Phase II the Developer shall post security assuring such construction. Impact fees paid by Phase II of the development shall be earmarked by the County for such construction and shall be used for such construction.

e. The Developer will receive impact fee credits for 100% of the Developers PFSM payment and cost of construction of the PFSM Project, but will waive impact fee credits for the donation of right of way for Port Harbour Parkway

B(10). The developer shall provide easement(s) to Manatee County to allow for attenuation and treatment of all stormwater from the planned build-out conditions (4-lane thoroughfare roadway with intersection improvements and sidewalks) for both sides of Port Harbour Parkway. A Drainage, Maintenance and Access Easement shall also be provided to Manatee County for conveyance of stormwater from Port Harbour Parkway to the stormwater pond. The Drainage-Maintenance Access Easement shall be on clear and level ground and free of obstructions, including any landscaping in addition to the roadway buffer. Manatee County shall be responsible for the construction of the drainage conveyance improvements, the restoration of the roadway buffer and the maintenance of the free flow of the drainage conveyance. The pond within the stormwater easement shall not be a bonded improvement. Prior to Final Plat approval for the first plat abutting Upper Manatee River Road, the easements shall be approved by the Property Management Department and recorded in the Public Records and the developer shall submit to the Public Works Department the SWFWMD approval letter demonstrating that the approved stormwater pond has been designed with the capacity to accommodate the drainage for the build-out of Port Harbour Parkway as described above. Completion of the above improvements by Manatee County shall not require any further authorization from the developer or Home Owners Association.

B(11)Prior to the first Final Site Plan approval in Phase II the developer shall:

a. pay $70,000 into the Sidewalk Fund for the cost of the construction of sidewalks on both sides of Kay Road from the northern terminus of the existing sidewalk along Kay Road to the existing sidewalks at the west end of Port Harbour Parkway, including walkway structures over Cypress Strand; and

b. dedicate right-of-way along Kay Road to accommodate the construction of the sidewalks provided the developer has the legal ability to provide such dedication.

B(12)Only Parcels 19 and 20 allow for the conversion of Commercial/Retail, Office, and Hotel uses. Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.

B(13)Utilization of the Residential Land Use Equivalency Matrix shall not require modifications to the General Development Plan, provided that development proceeds in accordance with the Land Use Table shown on the General Development Plan (Exhibit 6).

B(14)Upon utilization of the Residential Land Use Equivalency Matrix, at time of FSP review, the applicant shall provide a table on the FSP indicating the exchange of units, and corresponding increase or decrease of total unit counts by type.

B(153)A Land Use Equivalency Matricesx (LUEM) for Parcels 19 and 20 and Residential uses areis provided for Parcels 19 and 20. The LUEM is included as Exhibit 15 of this OrdinanceDevelopment Order. The Tampa Bay Regional Planning Council and the Florida Department of Community Affairs will have a minimum 14-day, maximum 21-day review of any/all proposed conversions of the LUEM prior to approval by Manatee County. The applicant shall provide written notice to the Tampa Bay Regional Planning Council and the Florida Department of Community Affairs State Land Planning Agency of all proposed conversions under the LUEM and submit proof of such notice to Manatee County prior to approval by Manatee County of such conversions in accordance with this section. In addition, all future conversions shall be duly noted within subsequent Annual Report submitted for the project.

C. ENVIRONMENT

C(1). Vegetation. Wildlife. and Wetlands

a. In the event that any additional state or federally-listed species are discovered on-site during project development, the developer shall immediately notify the Florida Fish and Wildlife Conservation Commission and Manatee County EMD and implement the appropriate measures for species conservation as recommended by the Florida Fish and Wildlife Conservation Commission.

b. A management plan for the project, consistent with Policy 3.3.2.2 of the Comprehensive Plan, for removal of nuisance and exotic species, shall be developed by the applicant and approved by Manatee County prior to the first Final Site Plan approval for the project. (Completed for that portion of the project site south of Port Harbour Parkway.)

c. Prior to approval of any Final Subdivision Plat (or Plan if Platting is not required), the Developer* shall record Land Development covenants or deed restrictions designed to prevent homeowner's activities from degrading habitat.

d. Wetland buffers along the Manatee River, [the river as shown on Map F (Exhibit 1)], tidal creeks and islands shall be a minimum width of 50'. Wetland buffers adjacent to the marina shall be consistent with the Land Development Code and Comprehensive Plan. All other buffers shall be a minimum width of 30 feet, unless otherwise approved by the Planning DepartmentBuilding and Development Services Department, consistent with the Comprehensive Plan and Land Development Code.

e. Upland buffers between on-site wetlands, marshes, streams or rivers and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation or be replanted with native, transitional zone or upland vegetation. All wetland buffers shall have signage posted depicting the purpose and intent of the buffer. Signage text and location shall be approved by the ~~Planning Department~~Building and Development Services Department. The use of pesticides, herbicides, or fertilizers, unless part of an approved nuisance and exotic management plan, shall be prohibited in these buffers and the wetlands they protect.

f. The Developer* shall submit a wetland management and mitigation plan to the County* for approval prior to, or concurrent with Preliminary Site Plan applications. This plan shall address, but not be limited to, identification of wetlands on-site, wetlands to be preserved, proposed wetland alterations, a detailed mitigation plan, control of on- and off-site water quality, methods for hydroperiod maintenance with a detailed narrative and preliminary plans for mitigated or significantly enhanced wetlands.

g. Post-development wetlands, conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes. These areas shall be placed under conservation easements conveyed to Manatee County consistent with the restrictions on development provided for in Section 719 of the Land Development Code.

h. The maximum amount of wetland impacts shall not exceed the total listed in Table 13-4, revised October 2006, attached as Exhibit 2. However, at time of Preliminary Site Plan approval, all proposed wetland impacts shall demonstrate compliance with minimization, avoidance, and mitigation, pursuant to the Comprehensive Plan, prior to authorization of any wetland impacts.

i. The native upland plant community quantities committed to be preserved in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), shall include 75 percent of the pine flatwoods and pine-mesic oak community located adjacent to the Manatee River and its tributaries, mangrove swamps, and saltwater marshes.

j. As shown in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), 36 acres of upland forested communities shall be preserved to provide habitat for the Sherman's fox squirrel.

k. Concurrent with the construction of the internal roadways adjacent to Mitigation Area 6 and the associated wetlands shown on Exhibit 12, the Developer shall construct a fence which will be a minimum of four feet in height and of chain link or a similar material that will prevent passage of young sandhill crane chicks. The general location and extent of the fence is shown on Exhibit 12. (Completed)

l. Unless otherwise approved by the ~~Planning Department~~Building and Development Services Department, native or drought tolerant landscape materials shall be utilized. The developer and future owners of the site shall be required to participate in the Florida Yards and Neighborhood Program.

m. There shall be no trimming or cutting of mangroves within conservation easements in this development after the effective date of this ordinance. The removal of dead limbs may be allowed subject to approval by the ~~Planning Department~~Building and Development

Services Department. Language shall be incorporated into the required Conservation Easements, HOA documents and Notice to Buyers. The owners of the golf course and any other open space adjacent to mangroves shall also be notified of this prohibition. The specific language shall be reviewed by the ~~Planning Department~~Building and Development Services Department with the Final Site Plan. The conservation easements containing this prohibition shall be submitted to the County Attorney's Office for approval as to form, prior to recording in the Public Records.

C(2). Air Quality

a. Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.

b. Best Management Practices shall be employed during site preparation and construction to minimize air quality impacts.

c. Any open burning conducted on site as part of land clearing activities shall be permitted by EMD.

C(3). Water Quality and Stormwater Management

a. An Integrated Pest Management Plan (IPMP) shall be developed and approved by Manatee County prior to the first Final Site Plan. Completed. The IPMP shall address the following items:

(1) Fertilizer/pesticide/herbicide/application;
(2) Golf course pest management methods and procedures; and
(3) Related quality control and assurance procedures.

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

b. The Developer shall implement the surface and ground water monitoring plan in accordance with the Heritage Sound Water Quality Monitoring Plan included as Appendix 14 S.1 in the Heritage Sound DRI Application for Development Approval Sufficiency Response dated March 1999 (Exhibit 10), and as amended for the Moore's Dairy site in accordance with the Water Quality Monitoring Plan approved by the ~~Manatee County Environmental Management Department~~Manatee County Natural Resources Department (~~MCEMD~~MCNRD) on October 11, 2005 and included as Section IV in the Heritage Harbour DRI Notice of Proposed Change 2nd Sufficiency Response dated September 2005, unless otherwise modified with the approval of the Environmental Management Department.

c. There shall be no individual groundwater wells associated with single or multi-family residences allowed within the development. This requirement shall be noted in all homeowner documents and disclosure statements. The location and well size of existing wells shall be indicated on each Preliminary Site Plan submitted for the project. A Well Management Plan, for the proper rehabilitation/abandonment of existing wells in accordance with SWFWMD Rule Chapter 40D-2, shall be submitted to the EMD for review and approval prior to authorization of construction.

d. The developer shall conduct annual inspections of the surface water management system on the project site to ensure that the system is being properly maintained in keeping with its design, and is capable of accomplishing the level of stormwater storage or treatment for

which it was designed and intended.

e. The stormwater management systems shall be designed, constructed, and maintained to meet Chapter 40D-4 of the Florida Administrative Code. At a minimum, planted littoral zones equivalent to 35 percent of the total minimum lake area needed for stormwater treatment shall be required and shall be concentrated at the outfall.

f. Best Management Practices* (BMP) for reducing water quality impacts, as recommended by the County* and SWFWMD in accordance with adopted regulations of these agencies, shall be implemented.

g. All on-site existing underground tanks shall be abandoned pursuant to applicable State and County* rules. All existing underground storage tanks within the project* shall be identified prior to the first PSP approval. Completed.

h. An Environmental Assessment of the site shall be conducted by an Environmental Consultant to determine potential hazardous material locations (i.e., historical cattle dipping vats, underground/above ground storage tanks, or buried drums). Should evidence of hazardous material be discovered, further investigations will be required to determine the level of contamination and appropriate remediation/mitigative measures. The Environmental Assessment for the entire site shall be conducted and submitted for County review prior to the first Preliminary Site Plan approval. Development restrictions may be imposed if any contamination is discovered. Completed.

C(4). Floodplains

a. All habitable structures and access roadways shall be constructed above the 100-year flood elevation.

b. Compensation for the loss of 100-year flood storage capacity shall be provided through cut and fill balance calculation and further confirmed by the no-rise certification procedure.

c. All homeowner documents, real estate disclosure forms, deeds of sale or lease agreements for land or structures in the post development 100-year flood plain on the project site of Heritage Harbour, shall be accompanied by a hazard disclosure statement generally describing the property's relative probability of damage from coastal and fresh water flooding. This disclosure shall also list potential mitigation strategies including elevation, construction of safe rooms, window protection (shutters/security film), where the builder has exceeded coastal construction codes and other potential measures to increase safety.

d. The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations.

e. All infrastructure, including gravity sewer, lift stations, service cleanouts, and manhole rims shall be set at 12 inches above the 25-year floodplain or 4 inches above the 100-year floodplain.

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

C(5). Soils

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

C(6). Manatee Protection

a. Prior to any marina construction, the developer shall prepare a Manatee Protection Plan. The Plan shall be approved by the Florida Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, and ~~Manatee County Environmental Management Department~~Manatee County Natural Resources Department. The following elements shall be included:

1. The Developer shall comply with all standard FWCC manatee construction conditions for all in-water construction.

2. A manatee education program shall be developed and implemented for all slip lessees.

3. A navigation channel shall be designated and marked with U.S. Coast Guard approved markers from the marina downstream to the I-75 Bridge prior to occupying any wetslips. The Developer shall be responsible for posting and maintaining the markers for the established channel in perpetuity, unless the Developer* obtains a commitment for posting and/or maintenance by an appropriate governmental agency. The Developer shall be responsible for posting and maintaining the markers from its marina to the designated main river channel in perpetuity, unless otherwise posted or maintained by an appropriate governmental agency.

4. A sign will be installed and maintained at the facility for boaters traveling to the Manatee River. The sign shall notify boaters of the controlling depth of the river, and request that boaters stay in the marked channel.

5. The use of the boat ramp shall be limited to lessees/owners of slips at the docking facility.

6. The maximum draft, including propeller(s) for vessels associated with this project shall be 2.5 feet or as otherwise approved through the permitting process. This requirement shall be posted at the marina and included in all homeowner's documents, real estate disclosure forms, deeds of sale, or lease agreements for land or structures.

7. Before commencement of the dry storage and boat lift, a speed zone from the I-75 Bridge to the vicinity of the east line of Section 16, Township 34 South, Range 19 East, shall be established by local ordinance and posted. The main marked channel shall be regulated at a speed, or speeds, as determined from public hearings and passing of an ordinance by the Manatee County Commission, with all other waters regulated as slow speed, minimum wake as applicable per Manatee County regulations. The Developer shall be responsible for posting and maintaining the established speed zone markers/buoys in the designated areas unless the Developer* obtains a commitment for posting and maintenance by an appropriate governmental agency.

8. The Developer shall assist in the enforcement of the speed zone, once, established. It shall be a term of the lease of any slip that violations of the speed zone ordinance may result in the revocation of the lease. An employee will be responsible for issuing warnings to lessees who are violating the speed zone. This person will also be

responsible for a revocation process of the leased slip for individuals who are cited for violating the speed zone ordinance and pay a fine or are found guilty of violating the ordinance by a court of competent jurisdiction.

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

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

D. ARCHAEOLOGICAL AND HISTORICAL RESOURCES.

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

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

E. WASTEWATER MANAGEMENT

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

F. WATER SUPPLY

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

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

(a) Irrigation zones with differing water requirements such as putting greens, tees, fairways, and common areas shall be irrigated separately.
(b) Low-volume irrigation system components shall be used to the maximum extent possible.
(c) High-frequency irrigation areas shall be limited to tees and greens.
(d) The irrigation system shall include rain sensors with automatic rain shutoff devices which shall be installed on each controller within the irrigation system.

(e) Maintenance of the irrigation system will include resetting the automatic controllers according to the season and checking, adjusting, and repairing irrigation devices to ensure optimum operating efficiency.

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

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

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

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

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

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

G. SOLID/HAZARDOUS WASTE/MEDICAL WASTE

G(1) The County has determined that there exists adequate solid waste capacity to accommodate the impacts of the Project*. The Certificate of Level of Service shall be valid until December 31, 2012.

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

H. ENERGY

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

I. RECREATION AND OPEN SPACE

I(1) The Project shall contain, at a minimum, 893.9 acres of open space. The property designated for recreation purposes shall include a 37.0 acre community park open to the public, a 4.2 acre private neighborhood park, a 12.0 acre marina, 250.0 acres of golf, and 5 acres of usable park area in Parcel 35.

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

a. In addition to the recreation space shown on the GDP, an additional three "pocket parks" for active recreation shall be distributed (1/4 -1/2 mile maximum distance from homes to parks or greenways leading to parks) within said parcel. These parks shall be connected with pedestrian sidewalks.

b. b. The size, location, and configuration of each pocket park shall be approved by Manatee County with each Final Site Plan and shall generally be a minimum of 1 acre. Each pocket park may include shade trees, playgrounds, seating, water fountains, shade structures, open play areas, picnic areas with pavilions, tables, and grills, or other demographically appropriate recreation amenities/facilities as approved by the Parks Department at time of FSP approval. Pocket parks may be reduced to a minimum of ¼ acre provided the applicant can demonstrate to the satisfaction of the Parks Department that sufficient land areas is provided to accommodate the recreational uses.

c. Acreage for trails and greenways may count towards the acreage specified above. For any trails not located within a recreation area/park, the trail shall be calculated as 3 times the width times the length of the trail.

d. Lakes, wetlands, and other water features may be partially included in the recreation open space acreage provided they include recreation amenities such as fishing/observation piers, boardwalks, canoe/kayak/boat launches or other water related amenities. Acreage for this spaces shall be calculated at 3 times the area of the recreation amenity itself (ie: the footprint of a fishing/observation pier) but shall not include the acreage of the entire water body.

I(2) The Developer shall be responsible for the maintenance of all recreation and open space areas within the project site not dedicated to the County.

I(3) A system of bicycle and pedestrian trails shall be developed to link the residential, commercial and recreational areas. If bicycle trails are combined with the required sidewalk system, then it shall be designed and constructed with a minimum width of 8 feet. If it is not combined with the sidewalk, then a 4 foot wide lane shall be provided on each side of the roadway. Prior to the first residential subphase south of the Port Harbour Parkway and the first residential subphase north of Port Harbour Parkway a comprehensive pedestrian/bicycle plan for each side of Port Harbour Parkway shall be submitted and approved by Manatee County. Completed. Prior to the first Preliminary Site Plan approval for Parcel 35, the plan shall be amended to include Parcel 35.

I(4) If the golf course is not developed prior to the adjacent residential development, the residential site plans and plats shall accommodate the proposed golf courses. Prior to the 3rd annual report after the first Final Plat or Certificate of Occupancy, whichever occurs first, an eighteen hole golf course shall be competed and open for play. If this is not completed, no further site plan approvals for the project shall be granted. Completed.

I(5) Prior to the Final Plat (or Final Site Plan if platting is not required) approval of the 1,000th unit north of Port Harbour Parkway, a designated neighborhood recreational area(s), containing a minimum of 10 acres total, shall be established. The area(s) shall include passive recreation for those who do not participate in sports. This shall be in addition to the park identified as Parcel 34.

I(6) Each subphase, other than Parcel 16, with lots less than 6,500 square feet shall contain a neighborhood park at least 20,000 square feet in size.

J. PUBLIC SAFETY.

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

K. HURRICANE PREPAREDNESS

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

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

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

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

L. EDUCATION

L(1). The Developer* shall mitigate potential school impacts by making a payment of $825,000.00 to

the School Board, upon request (which represents a cost of $35,000.00 per acre) with a three percent (3%) adjustment per year for five years. Request for payment shall be made no earlier than the date of the issuance of the first residential Certificate of Occupancy. Payment shall be made within 30 days of request. (Ccompleted)

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

M. MARINA FACILITIES

M(1). Live-aboards, defined as occupying a vessel for more than three consecutive days, shall not be allowed.

M(2). Manatee protection measures outlined by the Bureau of Protected Species Management, including educational signage, channel markings, etc., shall be implemented.

M(3). The marina shall implement the elements of the Florida Clean Marina Program to minimize the introduction of deleterious substances into the marina basin that would be detrimental to water quality. (Developer's commitment)

M(4). A fuel spill response plan shall be prepared and approved by Manatee County prior to Final Site Plan approval for the marina or boat livery. Completed. Marina staff shall be trained in the implementation of the plan. Each annual report shall include a report on marina operation, including the number of wet and dry slips occupied; the number leased by residents; and any incidents of fuel spills.

M(5). The slip lease agreement shall prohibit use of sudsing cleaners containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye.

M(6). The provisions of the Pollution Discharge Act outlined in Section 376, Florida Statutes, and Chapter 62N, Florida Administrative Code, shall be strictly adhered to.

M(7). Prior to Preliminary Site Plan approval for the 300 boat livery, a revised General Development Plan for this use shall be approved by the Board of County Commissioner, after a recommendation by the Planning Commission. The Board shall determine the appropriate scale, building design, and buffering for the proposed building.

M(8) The accessory food service establishment associated with the marina shall be limited to a floor area of 6,000 square feet, including both inside and outside space.

N. AFFORDABLE HOUSING

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

a. 245 units shall qualify upon the first sale to an end user as workforce housing as defined by Manatee County Land Development Code. The sales price for such units shall be

determined to qualify as workforce housing after excluding upgrades and options from the price. The maximum sales price for the workforce housing units shall be based upon current workforce sales price as established by the methodology in the Manatee County Land Development Code and may be modified each year as determined by Manatee County.

b. The Developer* shall receive a 1:1 credit for all such qualifying units built within Phase I or II from January 1, 2004 to December ~~31~~30, ~~2012~~ 2017 (project build out).

c. Should the Developer* not provide the required number of affordable units, mitigation in the form of $2,000 per affordable unit not built shall be paid into the Affordable Housing Trust Fund prior to Final Site Plan approval for the 1,500th residential unit in Phase II or last residential subphase, whichever comes first.

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

d. As a means to monitor the progress, the applicant shall provide an accounting of the number of units that have been provided to date in each Annual Report.

O. GENERAL CONDITIONS

O(1) Non-Residential

a. Building Appearance

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

1. The sides of all buildings shall have minimal blank walls no longer than 40 feet in length or 20' in height. In order to insure that the buildings do not project a massive blank wall, design elements shall include prominently visible architectural details [e.g. bumpouts, reveals and projecting ribs, cornice, offset building planes, windows, shutters, areas of contrasting or different finish building materials, etc.] or other methods, as approved by the Planning Director. Facades greater than 100 feet in length shall have variating roof lines through variating the height of the cornice, or the use of 2 or more roof types (parapet, dormers, and sloped, etc.).

2. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed concrete block, corrugated metal, or tilt up precast slabs shall not be permitted. Architectural metals in conjunction with other permitted building materials shall be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.

3. All rooftop mechanical equipment shall be screened from view from I-75, State Road 64, internal collector streets as shown on the GDP, and adjacent properties. Screening shall be provided by materials consistent with the building.

b. Service Areas

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

2. Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade.

c. Parcel 20 Development Restrictions:

1. All buildings, loading and service areas shall maintain a minimum setback of 200 feet from Parcel 16. Buildings within 500 feet of Parcel 16 shall not exceed 25 feet in height Buildings within 100 feet of I-75 or State Road 64 shall not exceed 25 feet in height, except for hotels, and office buildings, which shall comply with the minimum front yard setback specified on the GDP, plus 25 feet for each story over 2. This height restriction does not apply to architectural or design features used for building entrances and which are required to achieve compliance with Condition O(1).a.3 above.

2. A fifty foot landscape buffer shall be located along the southwest side of the 66 acre lake adjacent to Parcel 20. Existing native trees within this buffer shall be preserved, unless removal is required to accommodate the reconfiguration of the lake. Additional canopy trees, meeting the requirements of 715.4.B, shall be required where existing trees do not provide continuous screening of the commercial site from Parcels 16 and 18. A wall or hedge, to be a minimum height of at least 6 feet above the finished floor elevation of the proposed building, shall be installed prior to issuance of the first Certificate of Occupancy for any commercial building, parking, loading or service area constructed within 300 feet of the lake.

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

3. Prior to the issuance of a Certificate of Occupancy for any building which individually or cumulatively exceeds 250,000 square feet for the parcel, or 100 residential units, the access street which goes to the north through Parcel 16 shall be constructed to Port Harbour Parkway. Port Harbour Parkway shall link to an internal collector road, as shown on the GDP, within the development. Port Harbour Parkway shall be constructed from the northern terminus of Kay Road to this access prior to the issuance of a Certificate of Occupancy for any building which individually or cumulatively exceeds 350,000 square feet for the parcel.

4. If multi-family is located within Parcel 20, it shall be located so that traffic from commercial development on this parcel to State Road 64 is not required to pass the multi-family development. All multi-family buildings shall maintain a minimum setback of

75 feet from any commercial building or its associated loading or service area.

5. The preservation of significant trees or tree clusters within the temperate hardwood area adjacent to State Road 64 shall be a condition of Preliminary and Final Site Plan approvals. Sufficient area and protection around the trees, as determined by a registered Landscape Architect, shall be provided to reasonably guarantee their survival. Removal shall be based on impacts resulting from unavoidable required grade changes.

6. Land Uses in Parcel 20 shall be allowable uses within the PDMU district as identified in the Manatee County Land Development Code as of the date of the adopting PDMU Zoning Ordinance with the exception of the manufacturing, flea markets, junkyards, manufactured home parks, and warehousing.

d. Parcels 17 and 19 Development Restrictions

1. Buildings in Parcel 17 shall be limited to a maximum height of 3 stories. Commercial uses in Parcel 17 shall be limited to neighborhood commercial uses in a neo-traditional design.

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

e. Parcels 19 and 20 Development Restrictions

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

f. Parcels 19-27 Buffering

1. A 20 foot wide landscape buffer shall be provided along the frontage of all street shown on the GDP for Parcels 19-27, regardless of whether the site is located within the entranceway. The street frontage buffer for Parcel 20 along I-75 and State Road 64 shall be increased to 30 feet in width. Should a frontage road be provided along I-75 or State Road 64, then the Developer* shall have the option of providing a 20 foot wide buffer on each side of the frontage road. Required canopy trees within the I-75 and SR 64 buffer shall be a minimum size of 12 feet in height and a 4 inch caliper at time of planting.

2. A 25 foot wide buffer with a 3 foot high berm shall be provided along the east side of Parcel 26. Prior to any Temporary or Certificate of Occupancy:

- A 6 foot opaque fence or wall shall be installed on top of the berm east of all loading and service areas;
- A hedge, to be at least 6 feet at maturity, shall be planted on the berm along the entire eastern boundary of the site and on the outside of the fence or wall; and
- A row of 3 inch caliper canopy trees spaced 30 feet apart shall be planted along the entire eastern boundary.

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

b. Residential development shall comply with the following dimensional standards:

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

1. Front setback for units with side entry garages
2. A maximum of 30% of the lots in each phase* may be reduced to a minimum lot area of 4,000 square feet, lot width of 40 feet, and side yard setback of 6 feet. These smaller lots shall be contained within a parcel or subphase of a parcel that is separated from other single-family detached unit parcels by a minimum separation width of 25 feet, exclusive of lot areas.
3. This distance is not a side yard setback, but the minimum distance between buildings. A 15' separation is required between one-story buildings, a 25' between two-story, 40' between 3-story, and 50' between 4-story buildings.
4. Single- and two-story multi-family buildings shall maintain a minimum setback of 50 feet from single-family residential development parcels. Multi-family buildings which are three or more stories shall maintain a minimum setback of 100 feet from single-family residential development parcels.
5. All duplexes and single-family residences shall be provided with a minimum of a one car garage for each dwelling unit.
6. Applied to end units.
7. The front yard setback in Parcel 35 shall be 25'. The front yard for residences with side loaded garages may be reduced to 20'.

c. Residential development in each parcel shall maintain consistency in unit type and size, unless otherwise specified above in Condition O~~N~~.(2) b, footnote 2 or in Stipulation O~~N~~(2).h.i, and j below

d. Single-family detached, attached, semi-detached, duplex and multi-family dwellings shall be as defined in the Land Development Code. No other uses shall be permitted within these land use categories identified on the General Development Plan, with the exception of permitted home occupation, family day care homes and family care homes. Duplex units may be permitted in single-family semi-detached or attached categories.

e. All residential dwelling units, except multi-family units, shall contain a minimum floor area of 1,200 square feet.

f. Multi-family building restrictions (Parcels 2A, 2B, 7B, and 10B and 13)

1. Parcel 13 shall be developed with single-family detached lots.

2. The multi-family building's massing characteristics and architectural features in Parcels 2A, 2B, 7B, and 10B shall maintain substantial conformance with the rendering submitted at the public hearing attached as Exhibit 11. To harmonize with their natural setting (as viewed from the river), the building's exterior colors shall utilize soft, warm, muted hues. Bold contrasting colors shall not be allowed. The architectural features, including color, shall be used in a manner to visually reduce the overall building mass.

3. To avoid a repetitive pattern as viewed from the river, distinctly, varying colors shall be used for adjacent building facades and roofs.

4. Parcels 2A, 2B, 7B, and 10B Tree Plantings

   (a) At least 1 year prior to Final Site Plan approval and 2 years prior to submittal of any building permit for a multi-story building for Parcels 2A, 2B, 7B and 10B, additional tree plantings between the Manatee River and referenced parcels (Exhibit 11) shall be completed and certified to the ~~Planning Department~~Building and Development Services Department by a landscape architect. Prior to planting, the Developer* shall remove all nuisance and exotic vegetation from this buffer. The Developer* shall submit tree planting plans for review and approval by the ~~Planning Department~~Building and Development Services Department prior to implementation and shall certify when complete. The plantings shall consist of a double row of trees consisting of at least 60 percent canopy trees and have a minimum caliper of 4 inches at planting. Tree species shall be based upon site conditions needed to sufficiently screen the future buildings. Trees for each row shall be staggered and spacing within each row shall maintain a maximum distance of 40 feet.

   (b) Prior to Final Site Plan approval, a Florida Registered Landscape Architect shall certify that all the trees have survived and sustained normal growth patterns. Trees which have not shall be replaced with enhanced tree sizes to make up the loss in growth time.

   (c) Prior to the issuance of the first building permit and Certificate of Occupancy for a multi-family building in each parcel, a Florida Registered Landscape Architect shall re-certify that all the trees have survived and sustained normal growth patterns. Trees which have not shall be replaced with enhanced tree sizes to make up the loss in growth time.

g. Multi-family building restrictions (Parcels 23 and 24)

   1. Multi-family buildings shall maintain a 75 foot setback from any commercial building or its associated loading or service area. This setback shall not be required if multi-family and commercial development are vertically mixed.

   2. Multi-family development shall provide a minimum buffer of 50 feet along State Road 64. Buildings within 75 feet of State Road 64 or any roadway shown on the GDP shall not exceed 3 stories.

h. Multi-family buildings in Parcel 32 shall be limited to two stories and 210' and 165' in length, provided no more than 2 buildings in a row shall exceed 165' in length. The street frontage buffer shall be at least 25 feet wide and contain a 3 foot high berm (measured from the

property line) with a 6 foot continuous hedge at maturity. Trees within the buffer shall be spaced 40 feet on center and be at least 3 inch caliper at time of planting.

i. The following conditions shall apply to all residential development in Parcels 15A, 15B, 16, and 20:

1. No residential development shall be allowed between the L10 70 dB(A) noise level contour and I-75, unless such residences are protected by some performance equivalent measure to achieve the L10 70 dB(A) exterior noise level. These restricted areas are identified within the Noise Study completed by the applicant and attached as Exhibit 9.

2. The buffer along I-75 in Parcels 15A, 15B, and 16, as shown on the General Development Plan, shall be maintained.

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

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

3. All residential development in Parcel 16 adjacent to the Parcel 20 commercial access road to Port Harbour Parkway shall be designed as reverse frontage in accordance with the requirements of Section 907.7.4 of the Land Development Code.

4. Multi-family development on western portion of Parcel 16 may be permitted only if all of the following criteria is met:

   (a) The multi-family parcel is separated from the single-family residential parcel in Parcel 16 by a road right-of-way of at least 50 feet in width. This right-of-way shall maintain a minimum setback of 20 feet from existing all single-family lots in Lighthouse Cove.

   (b) A 20 foot wide buffer along the western boundary of the multi-family tract shall be provided and screened pursuant to Figure 715.C.

   (c) The closest multi-family buildings shall maintain a minimum setback of 150 feet from a single-family lot in Lighthouse Cove.

   (d) Multi-family buildings in Parcel 16 shall be limited to 2 stories in height.

j. Parcel 35

1. Lots along Upper Manatee River Road and along the southern boundary of Parcel 35, within 1,200 feet of Upper Manatee River Road, shall be limited to single-family detached residences. The landscape buffer along the southern boundary shall be 30 feet wide.

2. Construction traffic for Parcel 35 shall not utilize the existing Stoneybrook roads in Parcel 31. Signs to this effect shall be posted at both inter-neighborhood tie locations exiting Parcel 35 and all entrances into Parcel 31. The developer shall include these provisions

in all construction contracts.

3. Prior to Final Site Plan approval, the applicant shall provide a noise mitigation plan to the staff for mitigation of noise from Port Harbour Parkway and Upper Manatee River Road. Such analysis shall demonstrate noise mitigation based on the projected 2025 traffic volumes. Staff approved noise mitigation measures shall be shown on the approved Final Site Plan and installed prior to the issuance of the first Final Plat in Parcel 35.

k. Parcel 1

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

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

l. Inter-neighborhood ties/Access

1. Prior to Final Plat (or Final Site Plan if platting is not required) approval for Parcel 13 or 14, an inter-neighborhood pedestrian tie (by common easement or right-of-way), shall be provided from Parcel 13 or 14 to the property to the east to connect to the required Pedestrian tie in PDR-97-12(Z)(G) – Waterlefe.

2. Prior to the Final Plat (or Final Site Plan if platting is not required) approval for any portion of Parcel 31 located adjacent to the vacant parcel between Waterlefe and Greenfield Plantation subdivisions, an inter-neighborhood pedestrian (or roadway if streets are public in Parcel 31) tie shall be constructed (or bonded) to the east. This tie shall be shown on all future Preliminary and Final Site Plan approvals and noted in all homeowners documents and disclosure statements.

3. Prior to Final Plat (or Final Site Plan if platting is not required) approval for any portion of Parcel 31 south of the northern boundary of Haile Middle School, an inter-neighborhood pedestrian tie (by common easement or right-of-way) or street, shall be provided to the Haile Middle School site. If a street is not provided, then the developer shall facilitate a vehicular area adjacent to the school site to facilitate student drop-off and pick-up. The specific location and design shall be subject to approval by the School Board staff and the ~~Planning Department~~Building and Development Services Department. To facilitate the purpose of this condition, all streets within Parcel 31 shall be open to the public from 7:00 to 9:00 a.m. and from 2:00 to 5:30 p.m. while school is in session. This requirement shall be noted in all homeowner's documents and disclosure statements within the project. If a guard gate or sign is utilized which identifies the streets or Parcel 31 as being private, then there shall be accompanied verbiage, visible from the street, that the roads are open to the public during the above referenced school hours.

4. Inter-neighborhood ties between parcels internal to the project shall be determined at time of Preliminary Site Plan approval.

5. The required second means of access for each portion the project shall be provided pursuant to Section 712.2.8 of the Land Development Code. Access pursuant to Diagram A, Number 3 may be used provided that the number of units in the portion of the project in which this access serves does not exceed 600 dwelling units.

m. Buffers

1. A 50 foot wide buffer shall be provided between Parcel 31 and SR 64. Enhanced landscaping, including trees, berms, and golf course shall be provided within the buffer.

2. A 25 foot greenbelt shall be located between all residential development and the 330 foot wide FP&L easement. All building setbacks shall be measured from this greenbelt.

n. Building types on the 55 foot wide lots shall be in substantial conformance with the elevations presented at this meeting, unless a superior design is approved by the ~~Planning Department~~Building and Development Services Department.

o. The Homeowner's Documents for Stoneybrook Southeast (Parcels 31 and 32) shall include notices to inform homeowner's of that a portion of Parcel 32 will include two story multi-family residences in accordance with Condition N.(2)h.

p. ACLF (Group Care) uses shall be permitted only in the parcels specifically identified in the Land Use Table of the General Development Plan.

q. Multi-family buildings in Parcels 3, 4, 7A, 8, and 10A shall be limited to 3 stories and 35' in height.

r. Multi-family on Parcels 2A and B, 7B, 10B, and 15A and B in excess of 35' in height shall have articulated roof lines, including elements such as windows, balconies, and other architectural features. Additionally, there shall be facade modulation, varied roof lines, and graduated stepback on higher stories. The building materials shall be compatible and complimentary with adjacent construction. Details for compliance with this stipulation shall be submitted with the request for Final Site Plan approval. To the extent meeting these requirements requires an alteration to the specific renderings stipulated as part of N(2)f(2) that change may be made with the Final Site Plan approval.

O(3) Signage

a. One freestanding pole sign, in compliance with Section 737.5.3.3 shall be allowed per frontage for Parcels 25 and 27. Any additional signs that may be permitted along State 64, 1-75, or along any other street frontage shall be limited to ground signs, in compliance with Section 737.5.3.3.

b. A project identification sign located at the project's westernmost entrance may contain a maximum sign area of 200 square feet (constructed on Parcel 23). The sign shall maintain a minimum setback of 125 feet from State Road 64 and a minimum distance of 500 feet from the pole sign along State Road 64 in Parcel 20. The design of the sign and surrounding wetland and water features shall be consistent with plan and elevation in Exhibit 5.

c. Signage on Parcels 19 and 20 will be consistent with the signage plan attached hereto as Exhibit 16. All signage on Parcels 19 and 20 for the Heritage Harbour DRI shall be permitted as shown on the attached sign plan and key legend, Exhibit 16. No signs shall be permitted within the public right-of-way. Signage shall be placed so it does not conflict with vehicular clear zones, FDOT indices and clear zone requirements shall be met.

O(4) Lighting

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

O(5) Notice to Buyers

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

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

DEFINITIONS.

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

A. "Acceptable Level of Service" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the Highway Capacity Manual (1994), TRB Special Report 209 or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor.

B. "Application" and "Application for Development Approval" or "ADA" shall mean Heritage Sound's DRI ADA submitted on October 30, 1998 and sufficiency responses submitted on March 25, 1999 and May 19, 1999, and the response to the second sufficiency comments dated May 17, 1999 and submitted on May 19, 1999, and the NOPC submitted on March 4, 2002 and amended on October 4, 2002 and December 17, 2002, and the NOPC submitted on June 29, 2004, and amended on December 21, 2004, September 27, 2005, May 5, 2006, August 8, 2006, and November 27, 2006, January 3, 2008, February 7, 2008, and March 11, 2008, and the NOPC submitted on October 19, 2009 attached as Exhibit 4.

C. "Best Management Practices" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code.

CC. "Community Support Facility" shall mean a master irrigation and communication facility and accessory uses designed to serve this project and adjacent areas as required by Manatee County.

D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of

the Manatee County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.

E. "County" shall mean the Board of County Commissioners for Manatee County, or their designee(s).

F. "County Transportation Authority" shall mean the County entity responsible for roadway approvals.

G. "Developer" shall mean ~~Harbourvest~~ Lennar Homes, LLC., its heirs, assigns, designees, agents, and successors in interest as to the Heritage Harbour DRI.

H. "Development Approval" shall mean any approval for development granted through the Preliminary Site Plan, Preliminary Plat, Final Plat, and Final Site Plan process or Construction Drawing approval where site plans or subdivision plats are not required.

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

1. binding commitments for actual construction with a posting of a cash bond, irrevocable letter of credit, or other financial instrument, in a form satisfactory to the County; or

2. actual construction; or

3. the placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required, as long as the improvement is within the first two years of the responsible entity's work plan at the time of Preliminary Site Plan approval of a subphase or phase; or

4. a local development agreement as defined by Florida Statutes or the Land Development Code. The funding commitment shall guarantee that the improvement will be in place when needed or concurrent with the expected impacts of the development.

J. "General Development Plan*" shall be defined as the site plan for PDMU-98-08 ~~(Z)~~(G)(R45), last revised July 14, 2011, ~~March 17, 2010,~~ and attached as Exhibit 6. Development on the General Development Plan shall be limited to the total number of dwelling units and non-residential development on Table 1.

K. "Horizontal Development" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development" (e.g., roadways, drainage, water, sewer, communications, utilities, etc.).

L. "Net New External p.m. Peak Hour Project Trips shall mean the total trip generation using the ITE Trip Generation Manual, 6th Edition, less the internal capture and pass-by captured trips.

M. "Owner" shall mean Harbourvest LLC., their heirs, assigns, designees, agents, and successors in interest.

N. "Phase" shall mean the development totals listed in Table 1 above.

O. "Preliminary Site Plan" (PSP*) shall mean a Preliminary Master Development Plan* or a Preliminary Site Plan for a Phase or Sub-Phase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended), for a Phase or Sub-Phase.

P. "Project" shall mean the land uses by area, square footage, density, and phase described in the ADA*, and as modified in Table 1, to be constructed on the real property described in Section 6 herein.

Q. "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP* in combination with prior approvals of this project will be five percent (5%) or more of the Manatee County adopted Level of Service. This area is generally depicted on Figure 21.1 (Exhibit 7) which was submitted with the ADA.

R. "Vertical Development" shall mean and be deemed to include the construction of or the addition to any existing structure.

S. "Warranted" shall mean a determination by the County, or FDOT for state roads (unless the improvement is identified as a "local improvement", based on generally accepted transportation engineering practices that the Acceptable Level of Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All reserved vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination.

T. "Wetland" shall mean any wetland under the jurisdictional limits defined by Chapter 62-340, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined by Chapter 40D-4, FAC, and implemented by the Southwest Florida Water Management District.

SECTION 5. SPECIFIC APPROVALS REGARDING PARCELS 19 AND 20.

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

SECTION 6. LEGAL DESCRIPTION.

General Development Plan

Development of Heritage Harbour shall be restricted to the ~~2784.7~~~~2696.9~~ 2,784.7 + acre tract of land described below:

~~All of Sections 13, 14, 23, 24, 25, 26, 35 and 36, Township 34 South, Range 18 East, Manatee County, Florida, lying north of State Road No. 64, as shown on State Road Department right-of-way map Section No. 1305-250 and also north of State Road No. 93 (Interstate 75) as shown on Department of Transportation right-of-way map for Section 13075-2403 and south of the mean high water line of the south bank of the Manatee River. Containing 2,397.5 acres more or less.~~

~~Also: That portion of the following described tract of land lying southwest of State road No. 93 (Interstate 75) and east of the easterly limited access right-of-way line of Kay Road as shown on Department of Transportation right-of-way map for Section 13075-2404, Sheet 3 of 9:~~

~~Begin at the NW corner of Section 26, Township 34 South, Range 18 East running East 2,681.25 feet, thence running South 3,769 feet, thence running West 2,681.25 feet, thence running North to the Point of Beginning, less the Southernmost 1640.5 feet thereof. Containing 10.6 acres, more or less.~~

~~Also: Unsurveyed portion of Section 12, Township 34 South, Range 18 East, lying South of Government Lots 3 and 4;~~

~~Unsurveyed portion of Section 13, Township 34 South, Range 18 East, less and except the following described lands:~~

~~Begin at the NW corner of Section 13, Township 34 South, Range 18 East; thence South to the water of the Manatee River; thence meander the waters of the Manatee River in an Easterly and Northeasterly direction to a point on the North line of said Section 13 which is on or near the extended East line of U.S. Government Lot 1 of Section 12, Township 34 South, Range 18 East; thence West along the North line of Section 13 to the Point of Beginning; Unsurveyed portion of Section 14, Township 34 South, Range 18 East, less and except the following described lands:~~

~~Begin at the NE corner of Section 14, Township 34 South , Range 18 East; thence South to the waters of Manatee River; thence meander the waters of the Manatee River in a Westerly and Northwesterly direction to a point on the North line of said Section 14, run thence East along the North line of said Section 14 to the Point of Beginning; Containing approximately 87.7 acres (computed by digitizing from aerial photographs the area above the approximate mean high water line).~~

~~(AS FURNISHED O.R. *1460/5079)*~~

~~THE SOUTH 295 ACRES, MORE OR LESS, OF SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST (SE) CORNER OF SAID SECTION 19 AND RUN NORTH 2583.4 FEET, MORE OR LESS, TO A POINT ONE FOOT NORTH OF A LINE OF TELEPHONE POSTS; RUN THENCE WEST 2° AND 02° NORTH, 2394.8 FEET TO A 2"x2" STAKE PLACED BY W. H. COGGESHALL; RUN THENCE WEST 3° AND 57 FEET SOUTH 2432.1 FEET MORE OR LESS TO THE WEST BOUNDARY OF SAID SECTION; RUN THENCE SOUTH ALONG SAID WEST BOUNDARY TO THE SOUTHWEST (SW) CORNER OF SAID SECTION; RUN THENCE EAST TO THE POINT OF BEGINNING; LESS AND EXCEPT: A CERTAIN PARCEL LOCATED IN THE SOUTHEASTERLY CORNER OF THE ABOVE DESCRIBED LANDS, WHICH PARTICULAR PARCEL IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGIN AT THE SE CORNER; THENCE NORTHERLY ALONG THE CENTER OF HIGHWAY 300 FEET; THENCE WEST 175 FEET; THENCE SOUTH 300 FEET; THENCE EAST 175 FEET TO THE POINT OF BEGINNING; LESS EAST 40 FEET FOR ROAD RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORD BOOK 226, PAGE 625, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA,~~

~~MORE PARTICULARLY DESCRIBED AS FOLLOWS:~~

~~A PARCEL OF LAND SITUATED IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE NORTH, ALONG THE EAST LINE OF SAID SECTION 19, 300.00 FEET; THENCE SOUTH 89°50'39" WEST, 40.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF UPPER MANATEE RIVER ROAD, FOR A POINT OF BEGINNING; THENCE NORTH, ALONG SAID RIGHT-OF-WAY LINE, 2283.08 FEET; THENCE NORTH 88°16'00" WEST, 2354.78 FEET; THENCE SOUTH 89°53'00" WEST, 2401.54 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE SOUTH 00°59'28" WEST, ALONG SAID WEST LINE, 2662.87 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE NORTH 89°50'39" EAST, ALONG SAID SOUTH LINE, 4666.31 FEET; THENCE NORTH, 300.00 FEET; THENCE NORTH 89°50'39" EAST, 135.00 FEET TO THE POINT OF BEGINNING.~~

~~All lying and being location Manatee County, Florida.~~

~~The area of all of the above described land is approximately 2784.72~~2696.9 ~~acres.~~

~~Rezone Parcel~~

~~(AS FURNISHED O.R. 1460/5079)~~

~~THE SOUTH 295 ACRES, MORE OR LESS, OF SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST (SE) CORNER OF SAID SECTION 19 AND RUN NORTH 2583.4 FEET, MORE OR LESS, TO A POINT ONE FOOT NORTH OF A LINE OF TELEPHONE POSTS; RUN THENCE WEST 2° AND 02° NORTH, 2394.8 FEET TO A 2"x2" STAKE PLACED BY W. H. COGGESHALL; RUN THENCE WEST 3° AND 57 FEET SOUTH 2432.1 FEET MORE OR LESS TO THE WEST BOUNDARY OF SAID SECTION; RUN THENCE SOUTH ALONG SAID WEST BOUNDARY TO THE SOUTHWEST (SW) CORNER OF SAID SECTION; RUN THENCE EAST TO THE POINT OF BEGINNING; LESS AND EXCEPT: A CERTAIN PARCEL LOCATED IN THE SOUTHEASTERLY CORNER OF THE ABOVE DESCRIBED LANDS, WHICH PARTICULAR PARCEL IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGIN AT THE SE CORNER; THENCE NORTHERLY ALONG THE CENTER OF HIGHWAY 300 FEET; THENCE WEST 175 FEET; THENCE SOUTH 300 FEET; THENCE EAST 175 FEET TO THE POINT OF BEGINNING; LESS EAST 40 FEET FOR ROAD RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORD BOOK 226, PAGE 625, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA,~~

~~MORE PARTICULARLY DESCRIBED AS FOLLOWS:~~

~~A PARCEL OF LAND SITUATED IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE NORTH, ALONG THE EAST LINE OF SAID SECTION 19, 300.00 FEET; THENCE SOUTH 89°50'39" WEST, 40.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF UPPER MANATEE RIVER ROAD, FOR A POINT OF BEGINNING; THENCE NORTH, ALONG SAID RIGHT-OF-WAY LINE, 2283.08 FEET; THENCE NORTH 88°16'00" WEST, 2354.78 FEET; THENCE SOUTH 89°53'00" WEST, 2401.54 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE SOUTH 00°59'28" WEST, ALONG SAID WEST LINE, 2662.87 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE NORTH 89°50'39" EAST, ALONG SAID SOUTH LINE, 4666.31 FEET; THENCE NORTH, 300.00 FEET; THENCE NORTH 89°50'39" EAST, 135.00 FEET TO THE POINT OF BEGINNING.~~

~~The area of all of the above described land is approximately 288.7 acres.~~

ALL OF SECTIONS 13, 14, 23, 24, 25, 26, 35 AND 36, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, LYING NORTH OF STATE ROAD NO. 64, AS SHOWN ON STATE

ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION NO. 1305-250 AND ALSO NORTH OF STATE ROAD NO. 93 (INTERSTATE 75) AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2403 AND SOUTH OF THE MEAN HIGH WATER LINE OF THE SOUTH BANK OF THE MANATEE RIVER. CONTAINING 2,397.5 ACRES MORE OR LESS. ALSO: THAT PORTION OF THE FOLLOWING DESCRIBED LAND LYING SOUTHWEST OF STATE ROAD NO. 93 (INTERSTATE 75) AND EAST OF THE EASTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF KAY ROAD AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2404, SHEET 3 OF 9: BEGIN AT THE NW CORNER OF SECTION 26, TOWNSHIP 34 SOUTH, RANGE 18 EAST RUNNING EAST 2,681.25 FEET, THENCE RUNNING SOUTH 3,769 FEET, THENCE RUNNING WEST 2,681.25 FEET, THENCE RUNNING NORTH TO THE POINT OF BEGINNING, LESS THE SOUTHERNMOST 1640.5 FEET THEREOF. CONTAINING 10.6 ACRES MORE OR LESS. ALSO: UNSURVEYED PORTION OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LYING SOUTH OF GOVERNMENT LOTS 3 AND 4; UNSURVEYED PORTION OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NW CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATER OF THE MANATEE RIVER, THENCE MEANDER THE WATERS OF THE MANATEE RIVER IN AN EASTERLY AND NORTHEASTERLY DIRECTION TO APOINT ON THE NORTH LINE OF SAID SECTION 13 WHICH IS ON OR NEAR THE EXTENDED EAST LINE OF U.S. GOVERNMENT LOT 1 OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE WEST ALONG THE NORTH LINE OF SECTION 13 TO THE POINT OF BEGINNING; UNSURVEYED PORTION OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NE CORNER OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATERS OF MANATEE RIVER, THENCE MEANDER THE WATERS OF MANATEE RIVER IN A WESTERLY AND NORTHWESTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 14, RUN THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 14 TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 87.7 ACRES (COMPUTED BY DIGITIZING FROM AERIAL PHOTOGRAPHS THE AREA ABOVE THE APPROXIMATE MEAN HIGH WATER LINE) ALL LYING AND BEING LOCATED IN MANATEE COUNTY, FLORIDA. THE AREA OF THE ABOVE DESCRIBED LAND IS APPROXIMATELY 2,495.8 ACRES.

TOGETHER WITH (HERITAGE HARBOUR STONEYBROOK EAST):

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

HARBOUR, SUBPHASE D, UNIT 2, AS RECORDED IN PLAT BOOK 50, PAGES 10 THROUGH 13, SAID PUBLIC RECORDS, FOR 2662.92 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF KAY ROAD (42 FOOT WIDE PUBLIC RIGHT OF WAY), A PORTION OF WHICH IS SHOWN ON PLAT OF WATERLEFE GOLF & RIVER CLUB, UNIT 5, AS RECORDED IN PLAT BOOK 37, PAGES 162 THROUGH 168, SAID PUBLIC RECORDS AND A PORTION OF WHICH IS SHOWN ON AND DESCRIBED IN OFFICIAL RECORDS BOOK 1711, PAGES 673 THROUGH 674, SAID PUBLIC RECORDS; THENCE S.89°44'37"E., ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE NORTH LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 1460, PAGES 5079 THROUGH 5083, SAID PUBLIC RECORDS FOR 2398.56 FEET; THENCE S.87°54'15"E., CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND SAID NORTH LINE, FOR 2354.69 FEET TO A POINT ON THE WESTERLY MAINTAINED RIGHT OF WAY LINE OF UPPER MANATEE RIVER ROAD (80 FOOT WIDE PUBLIC RIGHT OF WAY) AS RECORDED IN ROAD PLAT BOOK 6, PAGE 73, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE S.00°21'37"W., ALONG SAID WESTERLY MAINTAINED RIGHT OF WAY LINE, FOR 2282.71 FEET TO THE NORTHEAST CORNER OF LANDS OF VIRGINIA MOORE (KNOWN AS PROPERTY IDENTIFICATION NUMBER 5469.0000/2 PER MANATEE COUNTY PROPERTY APPRAISER); THENCE N.89°53'12"W., ALONG THE NORTHERLY BOUNDARY LINE OF SAID LANDS, FOR 135.10 FEET; THENCE S.00°22'23"W., ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDS, FOR 299.98 FEET TO THE SOUTHWEST CORNER OF SAID LANDS AND THE POINT OF BEGINNING. CONTAINING 12,578,452.9 SQUARE FEET OR 288.76 ACRES, MORE OR LESS. BEARINGS ARE BASED THE WEST LINE OF SECTION 19 AS BEARING N.01°24'51"E. TO COINCIDE WITH THE EASTERLY BOUNDARY LINE OF THE HERITAGE HARBOUR DEVELOPMENT TO THE WEST (SHOWN ON SAID PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1 AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2).

SECTION 7. EFFECTIVE DATE.

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

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 63~~3~~rd day of October~~June~~ 2011~~0~~.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
~~Donna G. Hayes~~Carol Whitmore,
Chairman

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

By: _____
Deputy Clerk

~~Deputy Clerk~~ EXHIBITS 1~~–~~5, ~~AND~~ 7-14 AND 16;

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

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

EXHIBIT #15

Land Use Equivalency Matrix ~~– Parcel 19 and 20~~

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

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

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

~~Note~~Notes: (1) The above unit type exchange rates are based on the gross trip generation numbers as determined using the mostly recently approved Traffic Impact Statement for the Project (dated December 2009).

Pursuant to such study, each Single Family Detached Unit generates 0.77 gross PM peak hour trip; each Single Family Attached Unit generates 0.39 gross PM peak hour trip; and each Multi-Family Unit generates 0.56 gross PM peak hour trip. Such generation rates are specific to this Project and are not generally applicable.

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

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/ SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 nondiscrimination 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

08/17/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

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, September 8, 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:

ORDINANCE 11-31 - DRI # 24 HERITAGE HARBOUR (FKA HERITAGE SOUND)
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 the Heritage Harbour Development of Regional Impact (Ordinance 10-47); a/k/a TBRPC DRI #240; including a determination of whether the following changes constitute a substantial deviation to the Heritage Harbour Development of Regional Impact (DRI) in response to the owner's submittal of a Notice of Proposed Change (NOPC): 1) an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date and the Development Order expiration date, 3) an extension to the buildout date for Phase II, and 4) an amendment to the land use equivalency matrix; providing for development approval, conditions, and obligations; providing for severability; and providing an effective date.

PDMU-98-08(G)(R5) - HERITAGE HARBOUR
DTS#20110196
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending Ordinance No. PDMU-98-08(Z)(G)(R4) to approve changes to the General Development Plan and Ordinance as follows: 1)an extension to the expiration date of the Certificate of Level of Service, 2) an extension to the buildout date for Phase II, and 3) an amendment to the land use equivalency matrix; providing for severability; and providing for an effective date.

The Heritage Harbour DRI is generally located at the intersection of I-75 and SR 64, south of the Manatee River, and west of Upper Manatee River Road (2,784.7 + acres).

PDMU-11-10(P) – AUTO ZONE #4931
DTS#20110180
An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, approving a Preliminary Site Plan for a 7,381 square foot Commercial Retail Establishment (auto parts store) on approximately 0.95 acres on the northeast corner of 31st Street Court East and S.R. 70 (53rd Ave. E.), approximately 2,172 feet east of U.S.301 and 620 feet west of 33rd Street East, at 3111 53rd Avenue East, Bradenton; subject to stipulations as conditions of approval; setting forth findings; providing for severability; providing a legal description, and providing an effective date.

Z-11-06 – SHEILA D. LEACH/SWEETBERRIES REZONE
DTS # 20110215
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 0.17 acres (part of a 0.57± acre parcel), on the northwest corner of SR 64 (Manatee Avenue West) and 45th Street West, at 4500 Manatee Ave. W., Bradenton from the RSF-4.5 (Residential Single-Family, 4.5 dwelling units 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

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 Publication: August 17, 2011