MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	Ordinance 11-18 - Parrish Lakes DRI#28	**TYPE AGENDA ITEM**	Advertised Public Hearings - Consent
DATE REQUESTED	11/10/11 PC	**DATE SUBMITTED/REVISED**	10/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	None
DEPARTMENT/DIVISION	Building and Development Services/Comprehensive Planning-Public Hearings	**AUTHORIZED BY TITLE**	Lisa Barrett / Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	Lisa Barrett/748-4501 ext. 6884	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Lisa Barrett/ Planning Manager/ 748-4501 ext. 6884
ADMINISTRATIVE APPROVAL			

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

I move to continue the public hearing for Ordinance 11-18 Parrish Lakes DRI #28 to no date set and to be readvertised.

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

380.06 (11) Florida Statutes and Rule 9J-2.022, FAC

BACKGROUND/DISCUSSION

- Continued from 7/14/11 and 8/11/11

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

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	PA-12/02 / Proposed Ordinance 12-02 Comprehensive Plan Text Amendment modifying the exemption to commercial locational criteria for Myakka City	**TYPE AGENDA ITEM**	Advertised Public Hearings - Consent
DATE REQUESTED	11/10/11 PC	**DATE SUBMITTED/REVISED**	10/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	Would prevent a project from being developed.
DEPARTMENT/DIVISION	Building and Development Services / Comprehensive Planning and Public Hearings	**AUTHORIZED BY TITLE**	Lisa Barrett, Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	Kathleen Thompson / 748-4501 ext. 6841	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Kathleen Thompson / Planning Manager / 748-4501 ext. 6841
ADMINISTRATIVE APPROVAL			

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

I move to recommend transmittal of PA-12-02 (Ord. 12-02) 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

- During the 1997 Evaluation and Appraisal Report (EAR) based amendments, the commercial locational criteria for Myakka City was modified to allow commercial to be located within 1,500' of SR 70 (east and west) at Wauchula Road, instead of the standard 1,000' criteria.
- During a recent pre-application meeting, staff discovered this policy was inconsistent with the zoning of the area. The 1,500' frontage along SR 70, west of the Wachula Road intersection, did not extend to the edge of the Village Zoning/RES-3 FLU designation (Myakka City).
- The original intent of the extended commercial location criteria distance was to include, at a minimum, the city area (Village zoning).
- Measuring the frontage from the intersection of Wauchula Road, westward along SR 70 to the edge of the Village zoning (RES-3 FLU) is approximately 1640'. Therefore, staff is recommending the western portion of the commercial locational criteria for SR 70 be extended to measure 1640' from the intersection of Wauchula Road.

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:	n/a	**AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)**	n/a

P.C.: 11/10/11

PLAN AMENDMENT PA-12-02 (PROPOSED ORDINANCE 12-02)

Adoption of a Plan Amendment of Manatee County, Florida amending Ordinance 89-01, as amended, (The Manatee County Comprehensive Plan), providing for a Comprehensive Plan text amendment to the Future Land Use Element to modify the exemption to commercial locational criteria for Myakka City, providing for severability; and providing an effective date.

P.C. 11/10/11 B.C.: 12/01/11

App.Rec. County Initiated Type of Amendment: Text

RECOMMENDED MOTION:

Based upon the evidence presented, comments made at the Public Hearing, the technical support documents, and finding the request to be in compliance with the provisions of Chapter 163, Part II, Florida Statutes, and consistent with the Manatee County Comprehensive Plan, I move to recommend TRANSMITTAL of Manatee County Plan Amendment 12-02.

PLAN AMENDMENT SUMMARY SHEET

Name: **County Initiated Text Amendments**

File Number: **PA-12-02/ Proposed Ordinance-12-02**

REQUEST: **Adoption of a Comprehensive Plan text amendment to the Future Land Use Element to modify the exemption to commercial locational criteria for Myakka City.**

PLAN AMENDMENT DETAILED REVIEW

As part of the 1997 Evaluation and Appraisal Report (EAR) based amendments, staff reviewed the commercial potential for Myakka City. To encourage commercial uses to support the residents of the area, a modification to commercial locational criteria was approved that allowed commercial to be located within 1,500' of SR 70 (east and west) at Wauchula Road, instead of the standard 1,000' criteria.

At a recent pre-application meeting, staff discovered this policy was inconsistent with the zoning of the area. The 1,500' frontage along SR 70, west of the Wachula Road intersection, did not extend to the edge of the Village Zoning/RES-3 FLU designation (Myakka City). The original intent was to include, at a minimum, the city area (Village zoning). Measuring the frontage from the intersection of Wauchula Road, westward along SR 70 to the edge of the Village zoning (RES-3 FLU) is approximately 1640'. Therefore, staff is recommending the western portion of the commercial locational criteria for SR 70 be extended to measure 1640' from the intersection of Wauchula Road.

The remaining measurements, 1,500' eastward along SR 70 and 1,000' north and south along Wauchula Road, are sufficient as is.

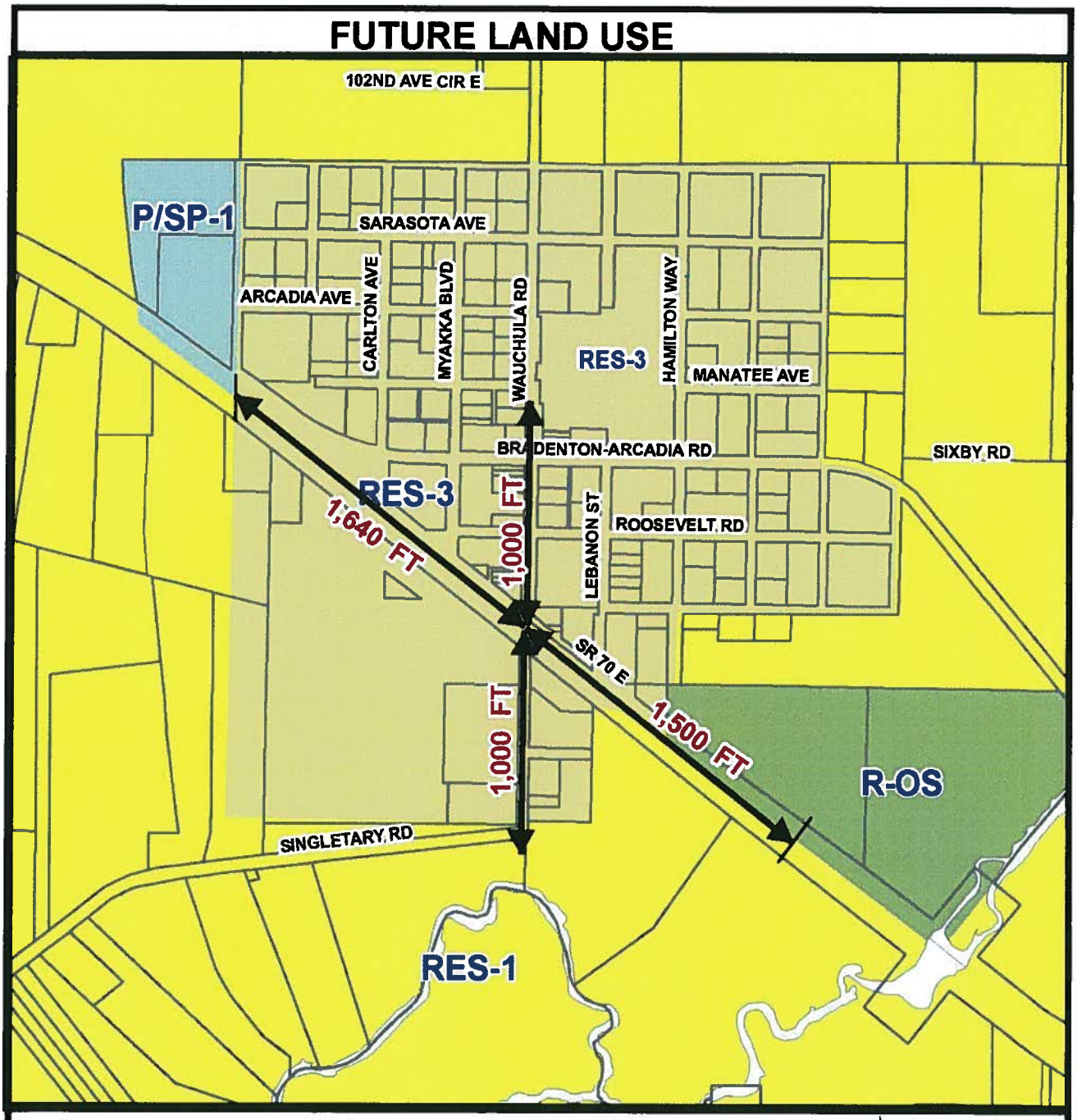
PROPOSED LANGUAGE (shown in strikeout and underline format)

Objective:	2.10.4	**Locational Criteria and Development Standards:** Consistency of all commercial uses approved with required locational criteria and development standards.
		***
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:

* * *

- commercial uses located within the rural community of Myakka City which is designated as those lands on Sheet 29 of the Future Land Use Map shown as Res-3 or Res-1 on May 11, 1989, provided that they are located along State Road 70 within ~~1,500~~ 1,640 feet west from its intersection with Wauchula Road, and 1,500 feet east 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).



Parcel ID #(s) 184630002

Manatee County
Staff Report Map

Map Prepared 6/6/2011
1 inch = 585 feet

Project Name:	Myakka City Dollar General - Pre App		
Project #:	N/A		
DTS#:	N/A		
Proposed Use:	Commercial		
S/T/R:	Sec 13 Twn 36 Rng 21		
Acreage:	1.2		
Existing Zoning:	VIL,A-1	CHH:	NONE
Existing FLU:	RES-1,RES-3	Watershed:	NONE
Overlays:	NONE	Drainage Basin:	MYAKKA RIVER
Special Areas:	NONE	Commissioner:	Donna Hayes

0 250 500 750 1,000
Feet

ATTACHMENTS:

1. Consistency with State Statutes
2. Copy of Newspaper Advertising

ATTACHMENT #1

CONSISTENCY OF THE LOCAL COMPREHENSIVE PLAN AMENDMENT WITH FLORIDA STATUTES

PA-12-02 (Proposed Ordinance12--02)

The proposed amendment is consistent with Florida Statutes 163 Part II

163.3184 Process for adoption of comprehensive plan or plan amendment states "in compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245 and 163.3248

163.3177 Required and optional elements of comprehensive plan; studies and surveys
This plan amendment request maintains the structure of the Comprehensive Plan.

163.3178 Coastal Management
This plan amendment request maintains the structure of the Comprehensive Plan.

163.3180 Concurrency
This plan amendment request maintains the structure of the Comprehensive Plan.

163.3191 Evaluation and appraisal of comprehensive plan
Manatee County completed the required EAR and the EAR based plan amendments in 2004 and 2006. The next EAR update is scheduled for December 2013.

163.3245 Sector plans
There are no sector plans established at this time.

163.3248 Rural Land Stewardship areas
There are no Rural Land Stewardship areas established at this time.

All State goals and policies taken from Chapter 187.201, Florida Statutes.

The proposed amendment is consistent with the following goals and policies of the State Comprehensive Plan:

187.201 (21)(b)(1)

Copy of Newspaper Advertising

Bradenton Herald

NOTICE OF LAND USE CHANGE

OFFICIAL ACTIONS AFFECTING OR REGULATING USE OR REAL PROPERTY IN UNICORPORATED MANATEE COUNTY – NOTICE TO REAL PROPERTY OWNERS AND GENERAL PUBLIC

The Manatee County Planning Commission will hold a public hearing to consider an amendment to the Manatee County Comprehensive Plan and changes to the use of certain lands within the unincorporated area of Manatee County with the intent to make a recommendation to the Board of Manatee County Commissioners:

Date: **Thursday, November 10, 2011**
Time: **9:00 A.M. or soon thereafter**
Place: **Manatee County Government Administrative Center**
1112 Manatee Ave. West; Board Chambers (1st Floor)

Additional amendments to the following may be necessary to implement these changes and ensure internal consistency.

PLAN AMENDMENT PA-12-02 (PROPOSED ORDINANCE 12-02)

Adoption of a Plan Amendment of Manatee County, Florida amending Ordinance 89-01, as amended, (The Manatee County Comprehensive Plan), providing for a Comprehensive Plan text amendment to the Future Land Use Element to modify the exemption to commercial locational criteria for Myakka City, providing for severability; and providing an effective date.

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

Rules of Procedure for this public hearing are in effect pursuant to Resolution 05-239(PC). Copies of this Resolution may be obtained from the Planning Department (See address below).

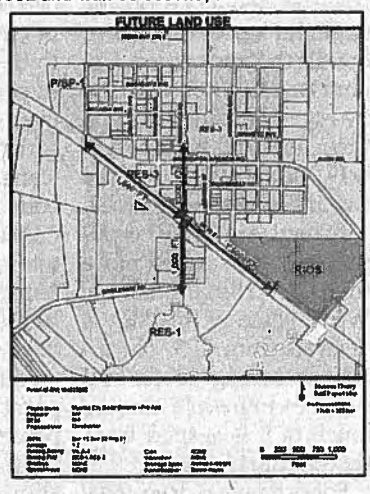
Please Send Comments To: **Manatee County Building and Development Services Department**
Attn: Project Coordinator
1112 Manatee Ave. West, 2nd Floor
Bradenton, FL 34206
Planning.agenda@mymanatee.org

All written comments will be entered into the record.

For More Information: Copies of the proposed amendments will be available for review and copying at cost approximately seven (7) days prior to the public hearing. Information may also be obtained by calling **748-4501, Ext. 6878**, between 8:00 AM and 5:00 PM.

Americans with Disabilities: The Manatee County Planning Commission does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Commission'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 second; FAX 745-3790.

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



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Copy of Newspaper Advertising

Sarasota Herald Tribune

NOTICE OF LAND USE CHANGE

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Bradenton, FL 34206
Planning.agenda@mymanatee.org

All written comments will be entered into the record.

For More Information: Copies of the proposed amendments will be available for review and copying at cost approximately seven (7) days prior to the public hearing. Information may also be obtained by calling **748-4501, Ext. 6878,** between 8:00 AM and 5:00 PM.

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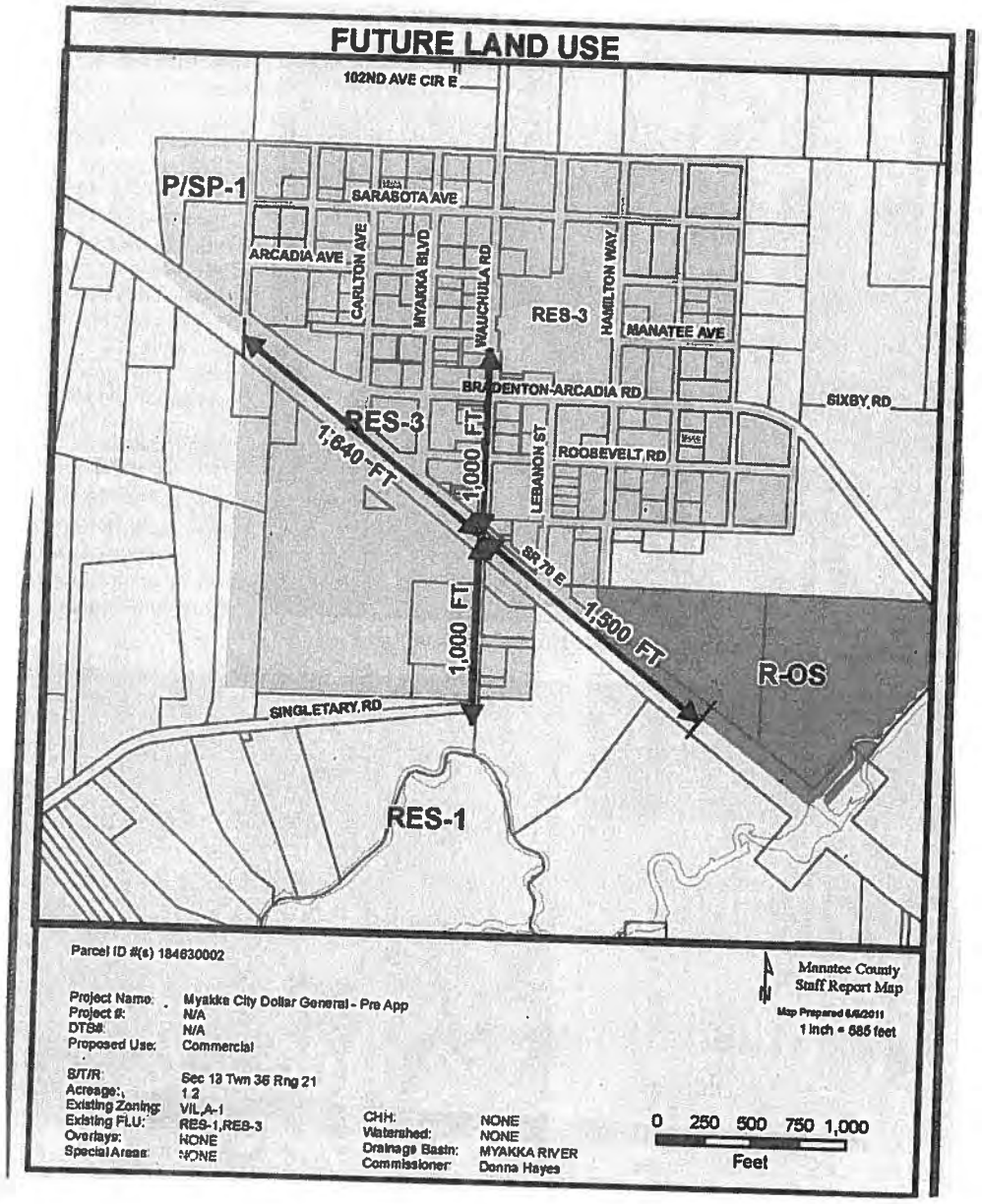
According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings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


FUTURE LAND USE
102ND AVE CIR E
P/SP-1
SARASOTA AVE
ARCADIA AVE
CARLTON AVE
MYAKKA BLVD
WAUCHULA RD
RES-3
HAMILTON WAY
MANATEE AVE
BRADENTON-ARCADIA RD
SIXBY RD
RES-3
1,640 FT
1,000 FT
LEBANON ST
ROOSEVELT RD
SR 70 E
1,500 FT
R-OS
1,000 FT
SINGLETARY RD
RES-1
Parcel ID #(s) 184630002
Project Name: Myakka City Dollar General - Pre App
Project #: N/A
DTS#: N/A
Proposed Use: Commercial
S/T/R: Sec 13 Twn 36 Rng 21
Acreage: 1.2
Existing Zoning: VIL,A-1
Existing FLU: RES-1,RES-3
Overlays: NONE
Special Areas: NONE
CHH: NONE
Watershed: NONE
Drainage Basin: MYAKKA RIVER
Commissioner: Donna Hayes
Manatee County
Staff Report Map
Map Prepared 6/6/2011
1 inch = 585 feet
0 250 500 750 1,000
Feet

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

SUBJECT	Ordinance 11-30 Sexually Oriented Businesses	**TYPE AGENDA ITEM**	Advertised Public Hearing – Consent
DATE REQUESTED	11/10/11 PC	**DATE SUBMITTED/REVISED**	11/01/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	Delay in Adoption
DEPARTMENT/DIVISION	Building & Development Services Department	**AUTHORIZED BY TITLE**	Lisa Barrett, Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	John Osborne, AICP, Planning and Zoning Official / 748-4501 ext. 6825	**PRESENTER/TITLE TELEPHONE/EXTENSION**	John Osborne, AICP, Planning and Zoning Official / 748-4501 ext. 6825
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 11-30 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, Manatee County Land Development Code, Ordinance 05-21 (Sexually Oriented Businesses)

BACKGROUND/DISCUSSION

This is an update of Land Development Code (LDC) for consistency with Ordinance 05-21, which covers Sexually Oriented Businesses. This ordinance was adopted in 2005, but the LDC was never updated. The goal of the changes are also to limit the content of the LDC to land development related rules, not community aesthetics or enforcement level details associated with the adopted ordinance. For the purposes of this staff report, the major amendments are identified below:

- **Definitions Update**
  Remove *Adult Entertainment* portion of definition section and replace with definitions from Ordinance 05-21 relating to *Sexually Oriented Businesses*.
- **Update Language**
  Update language throughout LDC reflecting new definitions and terminology associated with Ordinance 05-21 and County organizational changes (*Building and Development Services Department)*.
- **Removal of Unnecessary Language**
  Removes unnecessary and inconsistent language regarding minimum age requirements, incidental materials vendors, which are better reflected by the current Ordinance 05-21.

COUNTY ATTORNEY REVIEW

Check appropriate box	
[X]	**REVIEWED** **Written Comments:** [ ] **Attached** [X] **Available from Attorney (Attorney's initials: JM/SAS)**
	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 Ordinance 05-21		n/a	
COST:		SOURCE (ACCT # & NAME) :	
COMMENTS:		AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	

P.C. 11/10/11

LDCT-11-04 / ORD-11-30 – County Initiated Land Development Code Amendment - Sexually Oriented Businesses (DTS #20110207(1)

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AMENDING CHAPTER 7 OF THE LAND DEVELOPMENT CODE, SEXUALY ORIENTED BUSINESSES; AMENDING SECTION 201 DEFINITIONS, AMENDING SECTION 510 CERTIFICATE OF LEVEL OF SERVICE COMPILANCE, AMENDING CHAPTER 6 FIGURE 6-1, AMEND SECTION 707 REFERNCING ORDINANCE 05-21, AMENDING SECTION 737 REFLECTING ORDINANCE 05-21, AMENDING SECTION 1206 REFLECTING ORDINANCE 05-21 AND INDEX OF THE LAND DEVELOPMENT CODE REFLECTING ORDINANCE 05-21; AMENDING OTHER SECTIONS OF LAND DEVELOPMENT CODE FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

P.C.: 10/13/11, 11/10/11 **B.O.C.C.:** 12/01/11, 01/05/12

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 APPROVAL of Manatee County Zoning Ordinance No. ORD-11-30, as recommended by staff.

PROJECT SUMMARY	
CASE#	**LDCT-11-04/ ORD-11-30**
PROPOSED USE(S):	**Update Land Development Code for Consistency with Ordinance 05-21, Sexually Oriented Businesses**
CASE MANAGER:	**John Osborne, AICP, Planning & Zoning Official**
STAFF RECOMMENDATION:	**APPROVAL**

DETAILED DISCUSSION

This is an update of the Land Development Code (LDC) for consistency with Ordinance 05-21, which covers Sexually Oriented Businesses. This ordinance was adopted in 2005, but the LDC was never updated. The goal of the changes are also to limit the content of the LDC to land development related rules, not community aesthetics or enforcement level details associated with the adopted ordinance. For the purposes of this staff report, the major amendments are identified below.

Updated provisions to include:

- **Definitions Update**
  Remove *Adult Entertainment* portion of definition section and replace with definitions from Ordinance 05-21 relating to *Sexually Oriented Businesses*.

- **Update Language**
  Update language throughout LDC reflecting new definitions and terminology associated with Ordinance 05-21 and County organizational changes (*Building and Development Services Department)*.

- **Removal of Unnecessary Language**
  Removes unnecessary and inconsistent language regarding minimum age requirements, incidental materials vendors, which are better reflected by the current Ordinance 05-21.

The changes are illustrated in a strike-out underline format to a variety of sections of the LDC.

Amend Chapter 2, Section 201. Definitions as follows:

Incidental Adult Materials Vendor. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS.)

Physical Culture Establishment. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS)

Special Cabarets. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS)

Specified Sexual Activities. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS.)

~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS

~~*Adult Bookstore* shall mean any establishment, having more than ten (10) percent of its business stock, as measured in relation to total gross floor area of the business, including books, magazines, films, newspapers, photographs, paintings, drawings, or other publications or graphic media, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities, or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such materials; however, a place will not be considered an adult bookstore if it is an incidental adult materials vendor.~~

~~*Adult Entertainment Establishment* shall mean any adult bookstore, adult photographic studio, adult theater, physical cultural establishment, or special cabaret.~~

~~*Adult Photographic Studio* shall mean any establishment which offers or advertises the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas.~~

~~*Adult Theater* shall mean any establishment, located in an enclosed building or an enclosed space within a building or an open air theater designed to permit viewing by patrons seated in or on vehicles, which presents either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.~~

~~*Incidental Adult Materials Vendor* shall mean a place where at all times, not more than ten (10) percent of the business stock, as measured in relation to total gross floor area of the business, is devoted to books, magazines, films, newspapers, photographs, paintings, drawings, or other publications or graphic media, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities, or specified anatomical areas, which materials will hereinafter be referred to as "adult materials";~~

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified anatomical areas.

Adult Bookstore or *Adult Video Store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations, which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A principal business purpose means that the commercial establishment:

(1) Has a substantial portion of its displayed merchandise which consists of said items; or

(2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; or

(3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items; or

(4) Derives a substantial portion of its revenues from the sale or rental; for any form of consideration, of said items; or

(5) Maintains a substantial section of its interior business space for the sale or rental or said items; or

(6) Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial

establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

Adult motel means a motel, hotel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of specified sexual activities or specified anatomical areas; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult motion picture theater means a commercial establishment where films, motion pictures, videocassettes, slides, photographic reproductions, or electronic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

~~*Incidental Adult Materials Vendor* shall mean a place where at all times, not more than ten (10) percent of the business stock, as measured in relation to total gross floor area of the business, is devoted to books, magazines, films, newspapers, photographs, paintings, drawings, or other publications or graphic media, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities, or specified anatomical areas, which materials will hereinafter be referred to as "adult materials";~~

Physical Culture Establishment shall mean any establishment which offers or advertises massage, body rubs, or physical contact with specified anatomical areas, whether or not licensed. Establishments which routinely provide medical services by state licensed medical practitioners or technicians licensed by the State to operate electrolysis equipment shall be excluded from the definition of adult physical culture establishments.

Semi-nude or *State of Semi-Nudity* means a condition in which a person is not nude, but is showing a majority of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or is showing the majority of the male or female buttocks.

Semi-nude model studio means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation;

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

Sexual device means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

Sexual encounter center shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of touching, wrestling or tumbling between persons when one or more of the persons is semi-nude.

Sexually Oriented Business means an "adult bookstore," an "adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," a "sexual device shop," or a "sexual encounter center" as defined in Ordinance No. 05-21.

Special Cabarets shall mean any ~~bar, bring your own bottle club, dance hall, restaurant, or other~~ place of business not defined in Ordinance 05-21 which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or other entertainers, or

waiters or waitresses, or other employees or any other persons that either engage in specified sexual activities, or display specified anatomical areas, or any such establishment which advertises for, or a sign or signs identifying which, uses the words "topless," "nude," "bottomless," or other words of a similar import.

Specified Anatomical Areas shall mean:

~~(A) Less than completely and opaquely covered:~~

(1) ~~Human genitals or pubic region;~~ Less than completely and opaquely covered: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(2) ~~The entire cleft of the male or female buttocks, also known as the natal cleft;~~ Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~(3) Female breasts including the nipple and the areola and outside area of such gland wherein the outside area is: 1)Reasonably compact and contiguous to the areola and 2) contains at least the nipple and areola and 1/4 of the outside surface area of such gland.~~

~~(B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

Specified Sexual Activities ~~shall~~ means ~~that~~ any of the following ~~will be considered specified sexual activities~~:

~~(A) Human genitals in a state of sexual stimulation or arousal;~~

~~(B) Acts of human masturbation, sexual intercourse, or sodomy, whether actual or simulated;~~

~~(C) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.~~

(1) sexual intercourse, oral copulation, masturbation, or sodomy; or

(2) excretory functions as a part of or in connection with any of the activities described in (1) above.

Viewing Room shall mean the room, booth, or area where a patron of sexually oriented

business would ordinarily be positioned while watching a film, videocassette, or other visual reproduction.

~~*Incidental Adult Materials Vendor.* (See ADULT ENTERTAINMENT.)~~

Physical Culture Establishment. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS DEFINITIONS.)

Special Cabarets. (See ~~ADULT ENTERTAINMENT~~ SEXUALLY ORIENTED BUSINESS DEFINITIONS.)

~~*Specified Sexual Activities.* (See ADULT ENTERTAINMENT.)~~

SEXUALLY ORIENTED BUSINESS ***[Not all definitions in Ord. 05-21 are proposed to be listed in the LDC. What is the appropriate language to be added here to reference Ordinance 05-21 for other defined terms, e.g. "specified sexual activities", "specified anatomical areas", "nude", "semi-nude", "sexual device", etc. which are used within the context of the definitions listed below.]***

Sexually Oriented Business means an "adult bookstore," an "adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," a "sexual device shop," or a "sexual encounter center" as defined in Ordinance No. 05-21.

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified anatomical areas.

Adult Bookstore or *Adult Video Store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations, which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A principal business purpose means that the commercial establishment:

(1) Has a substantial portion of its displayed merchandise which consists of said items; or

(2) Has a substantial portion of the wholesale value of its displayed merchandise which

consists of said items; or

(3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items; or

(4) Derives a substantial portion of its revenues from the sale or rental; for any form of consideration, of said items; or

(5) Maintains a substantial section of its interior business space for the sale or rental or said items; or

(6) Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

Adult motel means a motel, hotel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of specified sexual activities or specified anatomical areas; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult motion picture theater means a commercial establishment where films, motion pictures, videocassettes, slides, photographic reproductions, or electronic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

Nude, Nudity or *State of Nudity* means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Semi-nude or *State of Semi-Nudity* means a condition in which a person is not nude, but is showing a majority of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or is showing the majority of the male or female buttocks.

Semi-nude model studio means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation;

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

Sexual device means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

Sexual encounter center shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of touching, wrestling or tumbling between persons when one or more of the persons is semi-nude.

Viewing Room shall mean the room, booth, or area where a patron of sexually oriented

business would ordinarily be positioned while watching a film, videocassette, or other visual reproduction.

Amend Chapter 5, Section 510.2.3. Prohibited Certificate. Subparagraph (b) as follows:

b. ~~Adult entertainment~~ Sexually oriented business permit.

Amend Chapter 6, Figure 6-1 MISCELLANEOUS USES - add

Sexually Oriented Business See Section 707

Amend Chapter 7, Table of Contents as follows:

Sec. 707. ~~Adult Entertainment~~ Sexually Oriented Business Uses.

Amend Chapter 7, Section 707 as follows:

Section 707. ~~Adult Entertainment~~ Sexually Oriented Business Uses

707.1. *Location.* No ~~adult entertainment establishment~~ Sexually Oriented Business shall be located within five hundred (500) feet of any unincorporated area in Manatee County zoned A-1, the RSF districts, RDD districts, RSMH districts, RMF districts, PDR, PDMH, PDRV, VIL districts, nor within two thousand (2,000) feet of any day care center or public recreation facility. No ~~adult entertainment establishment~~ Sexually Oriented Business shall be located within two thousand five hundred (2,500) feet of any church or school.

707.1.1. *Entranceway Location Prohibition.* No ~~adult entertainment establishment~~ Sexually Oriented Business shall be located within or adjacent to property, designated as entranceways, Section 737 of this Code.

707.1.2. *Location as to Other ~~Adult Entertainment~~ Sexually Oriented Business Uses.* It shall be unlawful to locate any ~~adult entertainment establishment~~ Sexually Oriented Business within one thousand (1,000) feet of any other ~~adult entertainment establishment~~ Sexually Oriented Business.

707.1.3. *Method of Measuring Distances.* Distances shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

707.1.4. *Applicability of Other Laws and Ordinances.* Nothing in this Section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this Code or other applicable law or regulation. Additionally, nothing in this Code shall be construed to authorize, allow, or permit the establishment of any business, the performance of any activity, or the possession of

any item, which is obscene under the judicially established definition of obscenity.

707.2. *Waiver.*

707.2.1. *Criteria.* The Board of County Commissioners after study and recommendation by the ~~Planning Department, the Building~~ ~~Division of the Planning~~ Building and Development Services Department~~,~~ and Hearing Officer, may grant a waiver of the locational provisions for any ~~adult entertainment establishment~~ Sexually Oriented Business upon a finding that all of the following requirements have been met:

707.2.1.1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of the Code will be observed;

707.2.1.2. That the proposed use will not enlarge or encourage the development ~~or~~ of a "skid row" or blighted area; and

707.2.1.3. That the establishment of an additional such regulated use in the area will not be contrary to any program of neighborhood conservation, and will not interfere with any program of urban renewal.

707.2.2. *Procedure for Hearing Waiver Requests.* Any waiver request shall be the subject of public hearings before the Board of County Commissioners.

707.3. *Non-conforming ~~Adult Entertainment Establishments~~ Sexually Oriented Business Uses*

707.3.1. ~~Adult entertainment establishments~~ Sexually Oriented Businesses which have been established at their existing locations prior to August 21, 1987, shall be considered a non-conforming use and may continue to operate subject to Chapter ~~II~~ 11, Non-Conformities and Manatee County Ordinance No. 05-21.

707.3.2. Subsequent to its establishment in a permitted location under this Section, ~~an adult entertainment establishment~~ a Sexually Oriented Business operating as a conforming use is not rendered a non-conforming use by the location of:

707.3.2.1. A church or school within 2,500 feet of such ~~an adult entertainment establishment~~ a Sexually Oriented Business and day care center or public recreation facility within two thousand (2,000) feet of such ~~an adult entertainment establishment~~ a Sexually Oriented Business; or

707.3.2.2. Property in any unincorporated area of the County which has been subsequently rezoned to A, A-1, RSF-1, RSF-2, RSF-3, RSF-4.5, RDD-3, RDD-4.5, RSMH 4.5 and 6, PDR, PDMH, PDRV, PDO, PR-S, PR-M, NC-S, NC-M or CON within 500 feet of such ~~an adult entertainment establishment~~ a Sexually

Oriented Business.

707.3.3. If a non-conforming distance situation can be eliminated by the abatement of one or more such ~~adult entertainment~~ Sexually Oriented Businesses ~~establishment~~, the establishment which has been in business for the longest period of time shall be permitted to remain.

707.4. *License.* All ~~Adult Entertainment~~ Sexually Oriented Business uses shall comply with the licensing and other provisions of the ~~Adult Entertainment~~ Sexually Oriented Business Code, ~~Ordinances 84-11as amended~~ Manatee County Ordinance No. 05-21.

~~707.5. *Minimum Age Requirements.*~~

~~707.5.1. *Adult Entertainment Establishments.* No adult entertainment establishment shall allow minors by virtue of age in any such establishment at any time.~~

~~707.5.2. Incidental Materials Vendors shall not allow minors by virtue of age into areas of their establishments that contain adult materials or products.~~

~~707.6. *Incidental Materials Vendors.*~~

~~707.6.1. *Determination.* Such business or place shall provide within three (3) days of a request by the Planning Department, such information as may be required to determine whether more than ten (10) percent of the business stock is devoted to adult materials.~~

~~707.6.2. *Location of Adult Materials.* All adult materials shall be kept in a location where no portion is visible to the public in the establishment, and said materials are not available to the customers of such place as a self service item.~~

707.~~7~~ 5. *Enforcement.* ~~In addition to the~~ eEnforcement procedures for violation of this Code are set forth in Chapter 12~~, adult entertainment establishments not in conformity with the requirements of this Section are declared to be nuisances, and the Planning Director shall bring such establishments to the attention of the Board, which may direct the Office of the County Attorney to bring appropriate civil action in the court of appropriate jurisdiction for their abatement~~.

Amend Chapter 7, Section 737.4.2. as follows:

737.4.2. No ~~adult entertainment~~ Sexually Oriented Business uses, as defined ~~by this Code~~ in Manatee County Ordinance 05-21, shall be allowed in or adjacent to any entranceway.

Amend Chapter 12, Section 1206.3.1. *Schedule of Violations and Penalties* table as follows:

SECTION NUMBER	*TITLE*
707	~~Adult Entertainment~~ Sexually Oriented Business Uses

ATTACHMENTS

1. **Copy of Newspaper Advertising**
2. **Ordinance 11-30**
3. **SOB Ordinance 05-21**

APPLICABLE COMPREHENSIVE PLAN POLICIES & ANALYSIS

Policy: 2.1.2.3 Permit the consideration of new residential and non-residential development with characteristics compatible with existing development, in areas which are internal to, or are contiguous expansions of existing development if compatible with future areas of development.

The amendments still permit the consideration of new SOBs. However, the LDC maintains the appropriate separation requirements and distances from schools, churches, etc, as originally established in the Code.

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 Obj's. 2.6.1 - 2.6.3)

All development still utilizes the criteria of this policy. However, SOBs have additional criteria. The amendments still permit the consideration of new SOBs, but the LDC maintains additional review criteria including appropriate separation requirements and distances from schools, churches, etc, as originally established in the Code.

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]

All development still utilizes the criteria of this policy. However, SOBs have additional criteria. The amendments still permit the consideration of new SOBs but the LDC maintains additional review criteria including appropriate separation requirements and distances from schools, churches, etc, as originally established in the Code.

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.

All development still utilizes the criteria of this policy. However, SOBs have additional criteria. The amendments still permit the consideration of new SOBs but the LDC maintains additional review criteria including appropriate separation requirements and distances from schools, churches, etc, as originally established in the Code.

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

All development still falls under this objective. However, SOBs have additional criteria. The amendments still permit the consideration of new SOBs but the LDC maintains additional review criteria including appropriate separation requirements and distances from schools, churches, etc, as originally established in the Code.

DRAFT
09/07/11

ORDINANCE NO. 11-30

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 201, LAND DEVELOPMENT CODE, TO REPEAL ALL ADULT ENTERTAINMENT RELATED DEFINITIONS; REPEALING IN ITS ENTIRETY SECTION 707, LAND DEVELOPMENT CODE; CREATING A NEW SECTION IN THE LAND DEVELOPMENT CODE FOR SEXUALLY ORIENTED BUSINESS RELATED DEFINITIONS, IN SECTION 201, DEFINITIONS; CREATING A NEW SECTION 707 IN THE LAND DEVELOPMENT CODE CONSISTING OF SEXUALLY ORIENTED BUSINESS REGULATIONS; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF THE SEXUALLY ORIENTED BUSINESS REGULATIONS; AMENDING OTHER SECTIONS OF THE LAND DEVELOPMENT CODE FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Fla. Stat., as amended and retitled the Community Planning Act by Chapter 2011-139, Laws of Florida and Chapter 125, Florida Statutes, as amended. Section 163.3202, Fla. Stat. (2011), requires local land development regulations to contain specific and detailed provisions consistent with and to implement their adopted Comprehensive Plan.

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

1. Sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including public masturbation, lewdness, and prostitution.

2. There is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse impacts on surrounding areas.

3. Documents contained in the legislative record compiled for Ordinance No 05-21, as well as the secondary effects information identified in the legislative history of Ordinance No. 05-21 provide legislative support for this Ordinance.

4. It is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Florida Constitution, but to enact an ordinance to further the content-neutral governmental interests of the County, to wit, the controlling of secondary effects of sexually oriented businesses.

5. Section 707 of the Manatee County Land Development Code (the "Land Development Code" or "the Code"), and Definitions, in Section 201 of the Code, along with other code provisions, established regulations regarding the placement and criteria for approval of adult entertainment uses within the unincorporated area of Manatee County.

6. It is in the interest of the public health, safety and welfare of the citizens of the County to repeal Section 707 of the Code and adopt new and restated sexually oriented business regulations and other related amendments for consistency, as set forth in this Ordinance, in order to better implement the Manatee County Comprehensive Plan by basing the regulation of sexually oriented businesses upon the land use characteristics and not the conduct within such businesses and to clarify the intent and purpose of these regulations.

7. The Manatee County Planning Commission held a duly noticed and advertised public hearing on _____, 2011, received public comment, the staff report and has reviewed the amendments set forth in this ordinance and has found these amendments to the Land Development Code to be consistent with the Manatee County Comprehensive Plan and recommended their adoption to the Board.

8. The Board of County Commissioners held two duly noticed advertised public hearings on _____, 2011, and _____, 2011, received public comments, the staff recommendation and report of the Planning Commission and has found this ordinance would serve to update the Land Development Code consistent with the related licensing requirements contained in Chapter 2-2.5 of the Manatee County Code of Ordinances and thus serves a valid public purpose.

Section 3. Amendment of Chapter 2, Definitions and Rules of Construction, Land Development Code.

Chapter 2 of the Code is hereby amended in Section 201, Definitions: To repeal all definitions indexed under the heading "Adult Entertainment" and related cross references. Section 201, Definitions, is hereby amended and restated to add an entirely new section for definitions related to sexually oriented businesses. A copy of the amended Section 201 regarding sexually oriented businesses, is attached hereto, labeled Exhibit A to this ordinance, and made a part hereof by reference.

Section 4. Amendment of Chapter 5, Development Review Procedures.

Chapter 5, Development Review Procedures, Section 510.2.3 Prohibited Certificate, is hereby amended in Subparagraph (b) and restated as amended as set forth in Exhibit B to this Ordinance.

Section 5. Zoning Districts, Section 602, Standard Zoning Districts.

Figure 6-1, Schedule of Permitted, Administrative and Special Use by District is hereby amended to add a note pertaining to sexually oriented businesses. Said amended Subparagraph in Figure 6-1 is restated in its entirety set forth in Exhibit C to this Ordinance and made a part hereof by reference.

Section 6. Amendment of Chapter 7, Development Standards of General Applicability, Land Development Code.

Chapter 7 is hereby amended in Section 707, Adult Entertainment: To repeal in its entirety all regulations in Section 707 regarding adult entertainment. Said new regulations pertaining to sexually oriented businesses shall be contained in a new Section 707 as attached hereto, labeled Exhibit D to this ordinance and made a part hereof by reference.

Chapter 7 of the Code is hereby amended in Section 737, Entranceways, with specific reference to Section 737.4.2. Said amended subsection is amended and restated in its entirety in Exhibit E to this Ordinance.

Section 7. Amendment of Chapter 12, Enforcement.

Chapter 12, Enforcement, Section 1206.3.1, Schedule of Violations and Penalties, is hereby amended with specific reference to sexually oriented businesses. Said amended provision of Section 1206.3.1 is restated in its entirety as Exhibit F to this Ordinance.

Section 8. Severability.

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

Section 9. Codification.

The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to codify the amendments in Sections 3 through 7 of this Ordinance into the Land Development Code, but shall not codify the remaining Sections.

Section 10. Applicability.

The amendments set forth in this ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 11. Effective Date.

This Ordinance shall become effective as provided by law,

PASS AND DULY ADOPTED with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this _____ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Carol Whitmore, Chairman

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

By: _____
Deputy Clerk

DRAFT
09/07/11

EXHIBIT A

SEXUALLY ORIENTED BUSINESSES

Section 201 - Definitions.

~~Incidental Adult Materials Vendor (see Adult Entertainment).~~

~~Physical Culture Establishment (see Adult Entertainment).~~

~~Special Cabarets (see Adult Entertainment).~~

~~Specified Sexually Activities (see Adult Entertainment).~~

Sexually Oriented Businesses:

"*Adult Bookstore*" or "*Adult Video Store*" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations, which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A "principal business purpose" means that the commercial establishment:

(1) has a substantial portion of its displayed merchandise which consists of said items; or

(2) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; or

(3) has a substantial portion of the retail value of its displayed merchandise which consists of said items; or

(4) derives a substantial portion of its revenues from the sale or rental; for any form of consideration, of said items; or

(5) maintains a substantial section of its interior business space for the sale or rental or said items; or

(6) maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-

producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified anatomical areas."

"*Adult Cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

"*Adult Motel*" means a motel, hotel, or similar commercial establishment which:

(1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

"*Adult Motion Picture Theater*" means a commercial establishment where films, motion pictures, videocassettes, slides, photographic reproductions, or electronic reproductions, which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

"*Characterized by*" means to describe the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

"*Employ,*" "*Employee,*" and "*Employment*" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"*Establish*" or "*Establishment*" shall mean and include any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(3) The addition of any sexually oriented business to any other existing sexually oriented business.

"*Influential Interest*" means any of the following: (1) the actual power to control the operation, management, policies, or premises of a business or entity, including the power exercised by an "operator" as defined herein, or (2) holding an office (e.g., president, vice president, secretary, treasurer, etc.) or directorship in a legal entity which operates a sexually oriented business.

"*Licensee*" shall mean a person in whose name a license to operate a sexually oriented business has been issued pursuant to Chapter 2-2.5, Manatee County Code of Ordinances, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

"*Nude*," "*Nudity*" or "*State of Nudity*" means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

"*Operate*" or "*Cause to Operate*" shall mean to cause to function or to put or keep in a state of doing business.

"*Operator*" means any person on the premises of a sexually oriented business who puts or keeps the business in operation or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be an operator of a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

"*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

"*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business structure, the grounds, private walkways, parking lots, and/or parking garages adjacent thereto, which are under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Sec. 2-2.5-4, Manatee County Code of Ordinances.

"*Regularly*" means the consistent and repeated doing of the act so described.

"*Semi-Nude*" or "*State of Semi-Nudity*" means a condition in which a person is not nude, but is showing a majority of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or is showing the majority of the male or female buttocks.

"*Semi-Nude Model Studio*" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation;

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

"*Sexual Device*" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"*Sexual Device Shop*" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

"*Sexual Encounter Center*" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

"*Sexually Oriented Business*" means an "adult bookstore," an "adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," a "sexual device shop," or a "sexual encounter center."

"*Specified Anatomical Areas*" means and includes:

(1) Less than completely and opaquely covered: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"*Specified Criminal Activity*" means:

(1) any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

a. Fla. Stat. § 794.011 (Sexual battery);

b. Fla. Stat. § 796.03 through § 796.07 (Prostitution offenses);

c. Fla. Stat. § 800.04 (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age);

d. Fla. Stat. Ch. 847 (Obscenity offenses);

e. Fla. Stat. § 893.13 (Controlled substance offenses);

f. Fla. Stat. Ch. 895 (Offenses concerning racketeering and illegal debts);

g. Any of the foregoing statutory offenses as amended from time to time; or

(2) attempt, solicitation, or conspiracy to commit one of the foregoing statutory offenses; or

(3) any offenses in other jurisdictions that, had the predicate act(s) been committed in Florida, would have constituted any of the foregoing offenses.

Notwithstanding anything in this definition of "specified criminal activity," a conviction that is later reversed, vacated, overturned or expunged by a court of law shall not be considered a "specified criminal activity" under this ordinance.

"*Specified Sexual Activity*" means any of the following:

(1) sexual intercourse, oral copulation, masturbation, or sodomy; or

(2) excretory functions as a part of or in connection with any of the activities described in (1) above.

"*Substantial*" means at least thirty-five percent (35%) of the item(s) so modified.

"*Transfer of Ownership or Control*" of a sexually oriented business shall mean any of the following:

(1) The sale, lease, rental, or sublease of the business;

(2) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"*Viewing Room*" shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other visual reproduction.

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09/07/11

EXHIBIT B

SEXUALLY ORIENTED BUSINESSES

Chapter 5, Development Review Procedures

Section 510, Certificates of Level of Service Compliance

* * *

510.2.3. *Prohibited Certificate*. An applicant may not apply for or receive a certificate concurrently with the approval of the following development orders, actions or approvals:

* * *

b. ~~Adult entertainment permit~~ Sexually Oriented Business license.

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09/07/11

EXHIBIT C

SEXUALLY ORIENTED BUSINESSES

Chapter 6, Zoning Districts

Section 602, Standard Zoning Districts

Figure 6-1, Schedule of Permitted, Administrative and Special Use by District.

Note: All Sexually Oriented Businesses shall meet the requirements of this Code including, without limitation, Section 707.

DRAFT
09/07/11

EXHIBIT D

SEXUALLY ORIENTED BUSINESSES

Chapter 7, Development Standards of General Applicability

Section 707, Sexually Oriented Businesses

707.1. *Purpose and Findings*

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the purpose nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the purpose nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of County Commissioners, and on findings, interpretations, and narrowing constructions incorporated in numerous cases, including, but not limited to *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *California v. LaRue*, 409 U.S. 109 (1972); as well as in the cases of *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County*, 337 F.3d 1251 (11th Cir. 2003); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Wise Enters. v. Unified Gov't of Athens-Clarke County*, 217 F.3d 1360 (11th Cir. 2000); *BZAPs, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 U.S. 1186 (9th Cir. 2004); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Ward*

v. County of Orange, 217 F.3d 1350 (11th Cir. 2000); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F.Supp. 1428 (M.D. Fla. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *Board of County Commissioners v. Dexterhouse*, 348 So. 2d 916 (Ct. App. Fla. 1977); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota-1980; Houston, Texas - 1997; Indianapolis, Indiana - 1984; Amarillo, Texas - 1977; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; Centralia, Washington - 2003; Greensboro, North Carolina - 2003; and also on findings of physical abuse from the papers entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; Expert Report of Richard McCleary, Ph.D., Dec. 18, 2004; Affidavits of Tom McCarren; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Board of County Commissioners finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, undesirable and criminal behavior associated with alcohol consumption, negative impacts on surrounding properties, litter, and sexual assault and exploitation.

(2) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing secondary effects, which is the County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses as well as sexually

oriented businesses that may locate in the County in the future. The County finds that the cases and secondary effects documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

707.1.1. *Applicability of Other Code or Regulatory Requirements.* Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this Code, or other applicable law or regulation, including but not limited to, Ordinance No. 05-21, codified as the Sexually Oriented Business Code in the Manatee County Code of Ordinances, as Chapter 2-2.5.

707.1.2. *Locational Requirements for Sexually Oriented Businesses.* No sexually oriented businesses shall be located within five hundred (500) feet of any unincorporated area in Manatee County zoned A-1, the RSF districts, RDD districts, RSMH districts, RMF districts, PDR, PDMH, PDRV, VIL districts, nor within two thousand (2,000) of any day care center or public recreation facility. No sexually oriented business shall be located within two thousand, five hundred (2,500) feet of any church or school.

707.1.3. *Entranceway Prohibition.* No sexually oriented business shall be located within or adjacent to property designated as an entranceway, pursuant to Section 737 of this Code.

707.1.4. *Locational Restrictions in Relation to Other Sexually Oriented Businesses.* It shall be unlawful to locate any sexually oriented business within one thousand (1,000) feet of any other sexually oriented business.

707.1.5. *Method of Measuring Distances.* Distances shall be measured from property line to property line along the shortest distance between property lines, without regard to the route of normal travel.

707.2. *Waiver.*

707.2.1 *Process to Request Waiver of Locational Requirements.* Waivers, as specified in this section, may be permitted subject to the criteria set forth below. Applications for waivers shall be reviewed and considered for approval without imposing a limitation or restriction on the content of any communicative materials. Each waiver shall be considered unique and shall not set a precedent for the authorization of other waivers.

707.2.2. *Application Requirements.*

(a) An application for a waiver shall be accompanied by documentation that establishes how the applicant meets the criteria of this section.

(b) The application for a waiver shall be accompanied by data and analysis including a scaled drawing that indicates the distance proposed from the sexually oriented business to the other uses specified in Sections 707.1 of this Code. The scale drawing accompanying the waiver shall depict the location of the sexually oriented business requesting the waiver and the existing locations of any of the zone districts specified in Section 707.1 of this Code, whether the proposed sexually oriented business will be located in an entranceway, the location of other sexually oriented businesses, day care centers or public recreation facilities or churches or schools.

707.2.3. *Criteria for Considering Waivers.*

(a) The Board of County Commissioners, upon receipt of a recommendation and report from the Building and Development Services Department, may approve, approve with modifications or deny a waiver. The action of the Board to grant a waiver or grant a waiver with conditions or safeguards or deny waivers shall be documented in the form of a resolution containing the legal description of the property to which the waiver applies, together with the terms of the waiver and any additional conditions or safeguards imposed. Violation of any conditions and safeguards when made a part of the terms under which the waiver was granted, shall be deemed a violation of this Code. The Board shall conduct a public hearing to hear applications for waivers and the proceeding shall be advertised and conducted in accordance with the procedures in this Code.

(b) The Board of County Commissioners shall receive the proposed waiver, shall consider the written staff analysis and the testimony at the public hearing, and shall grant, grant with conditions or deny the application. The criteria considered by the Board shall be as follows:

i. That the proposed sexually oriented business will not be contrary to the public interest or interest to nearby properties and that the spirit and intent of this Code will be observed; and

ii. That the proposed sexually oriented business will not enlarge encourage the development of a "skid row" or blighted area; and

iii. That the establishment of an additional sexually oriented business in the area will not be contrary to any program of neighborhood preservation and will not interfere with any program of urban redevelopment.

707.3. *Non-Conforming Sexually Oriented Businesses.* Sexually oriented businesses which have been established at their existing locations prior to August 21, 1987 shall be considering a non-conforming use and may continue to operate subject to Chapter 11 of this Code regarding non-conformities and compliance with Chapter 2-2.5 of the Manatee County Code of Ordinances shall also be required.

707.3.1. In the event a sexually oriented business is established in a permitted location and operating as a conforming use in accordance with this Code, such sexually oriented business is not rendered a non-conforming use by the location of:

(a) A church within two thousand, five hundred (2,500) feet of such sexually oriented business, a day care center or public recreation facility within two thousand (2,000) feet of such sexually oriented business; or

(b) Property in any unincorporated area of the County which has been rezoned subsequent to the establishment of the sexually oriented business to the following zone districts: A, A-1, RSF-1, RSF-2, RSF-3, RSF-4.5, RDD-3, RDD-4.5, RSMH 4.5 and 6, PDR, PDMH, PDRV, PDO, PR-S, PR-M, NC-S, NC-M or CON within five hundred (500) feet of such sexually oriented business.

707.3.2. If a non-conforming distance situation can be eliminated by the abatement of one or more such sexually oriented businesses, the sexually oriented business which has been in business for the longest period of time shall be permitted to remain. It shall be the responsibility of each respective sexually oriented business to submit factual data to the Building and Development Services Department to substantiate the date of establishment of each sexually oriented business as contended by the applicant requesting the non-conforming status.

707.4 *Requirements in Related Codes.* Sexually oriented businesses shall be required to comply with all the licensing and other provisions of the Sexually Oriented Business Code codified in Chapter 2-2.5 of the Manatee County Code of Ordinances.

707.5 *Enforcement.* In addition to the enforcement procedures for violation of this Code set forth in Chapter 12, sexually oriented businesses not in conformity with the requirements of this Section, may be declared to be nuisances by the Board of County Commissioners who may direct the Office of the County Attorney to bring appropriate civil action in the court of appropriate jurisdiction.

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09/07/11

EXHIBIT E

SEXUALLY ORIENTED BUSINESSES

Chapter 7, Entranceways

Section 737.4.2

No ~~adult entertainment uses~~ sexually oriented business, as defined in this Code, shall be allowed in or adjacent to any entranceway.

DRAFT
09/07/11

EXHIBIT F

SEXUALLY ORIENTED BUSINESSES

Chapter 12, Enforcement

Section 1206.3.1. Schedule of Violations and Penalties

A violation of any provision of this Code is a civil infraction. The civil penalties to be assessed for violation of any provision of specific sections of this Code shall be as follows:

* * *

SECTION NUMBER	TITLE	CIVIL PENALTY (DOLLAR) FIRST VIOLATION	REPEAT VIOLATIONS
707	Sexually Oriented Business ~~Adult Entertainment Uses~~	150	400

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

SUBJECT	Z-11-07 – TCW Investments, LLC	**TYPE AGENDA ITEM**	Advertised Public Hearing – Consent
DATE REQUESTED	11/10/11 PC	**DATE SUBMITTED/REVISED**	10/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services/Comprehensive Planning and Public Hearings	**AUTHORIZED BY TITLE**	Lisa Barrett/Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	Rossina Leider/748-4501ext.6859 DTS#20110254	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Rossina Leider/Senior 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-11-07 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 of a vacant site, approximately 0.78 acres (33,824 square feet) from NC-S (Neighborhood Commercial-Small) to LM (Light Manufacturing). The property is located on the northeast corner of US 41 North and 49th Street East (Experimental Farm Road), Palmetto.
- The implementation of the Land Development Code in 1990 changed the zoning of the parcel from C-2 (Heavy Commercial District) to NC-S (Neighborhood Commercial-Small).
- The site is surrounded by industrial, commercial, and utility uses and zoning.
- The Future Land Use Category for this property is Industrial-Light (IL).
- The site is within a commercial node, with frontage along of two functionally classified roadways designated as Collector or higher (US 41 and 49th Street East) and meets commercial locational criteria.
- The maximum Floor Area Ratio (FAR) in the LM zoning district is 0.35 (without Special Approval). Based on the maximum FAR allowed on IL FLUC, the parcel (0.78 acres) could accommodate:
  - a 11,838 ± square foot building without Special Approval (0.35 FAR), or
  - a 25,368 ± square foot building (0.75 FAR) with Special Approval. Projects which contain manufacturing, processing, or assembly use as a primary use are exempt from Special Approval.
  - a 33,824 ± square foot building (1.0 FAR) with Special Approval for hotels only.
- The 0.78 ± acre site exceeds the minimum lot requirements for the LM zoning district (10,000 square foot).
- All requirements of LM zoning district and LDC provisions regarding buffering, access, parking, tree preservation, etc. will be assessed with future site plan.
- Staff recommends approval.

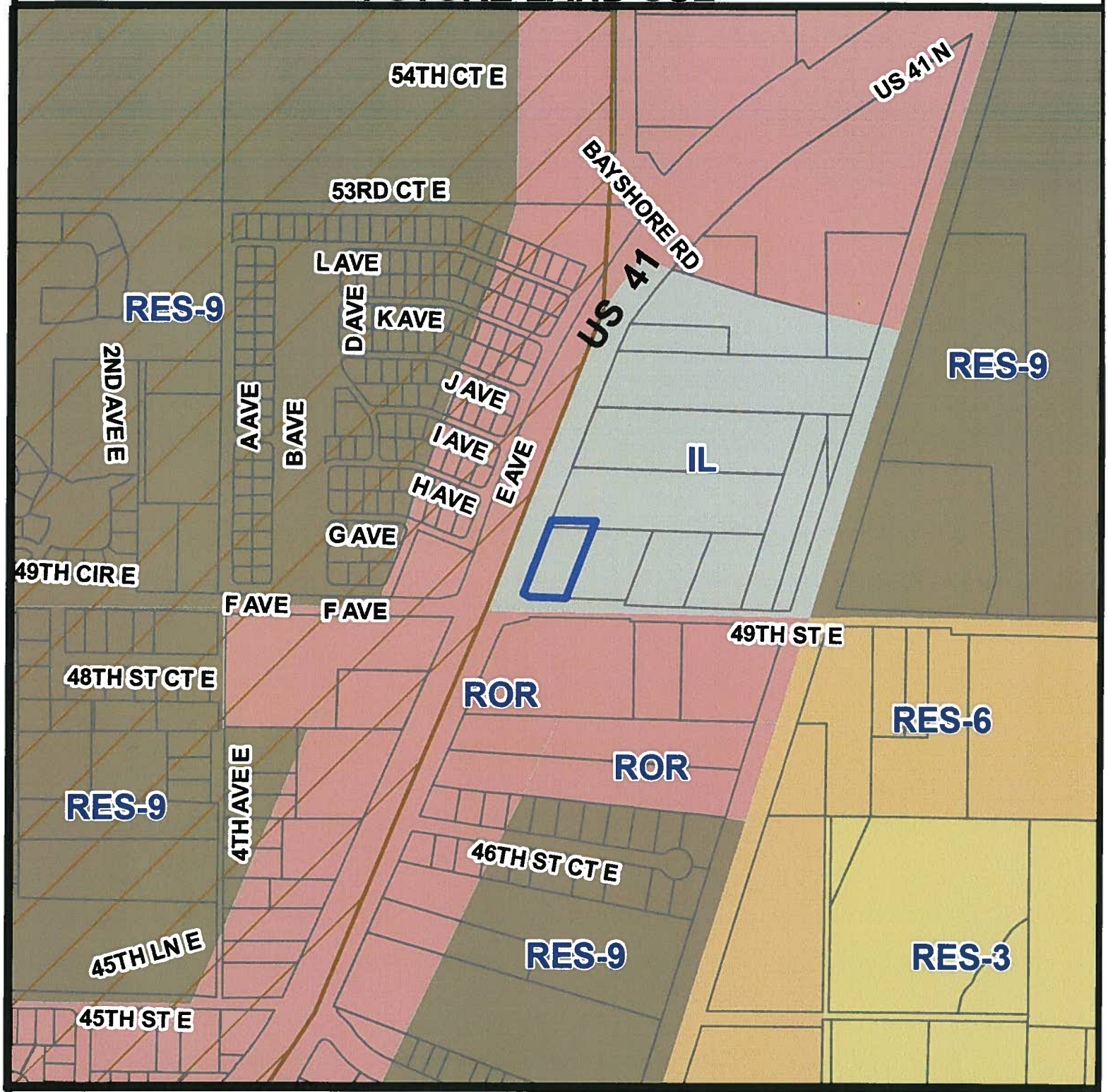
COUNTY ATTORNEY REVIEW

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		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) 2257900007

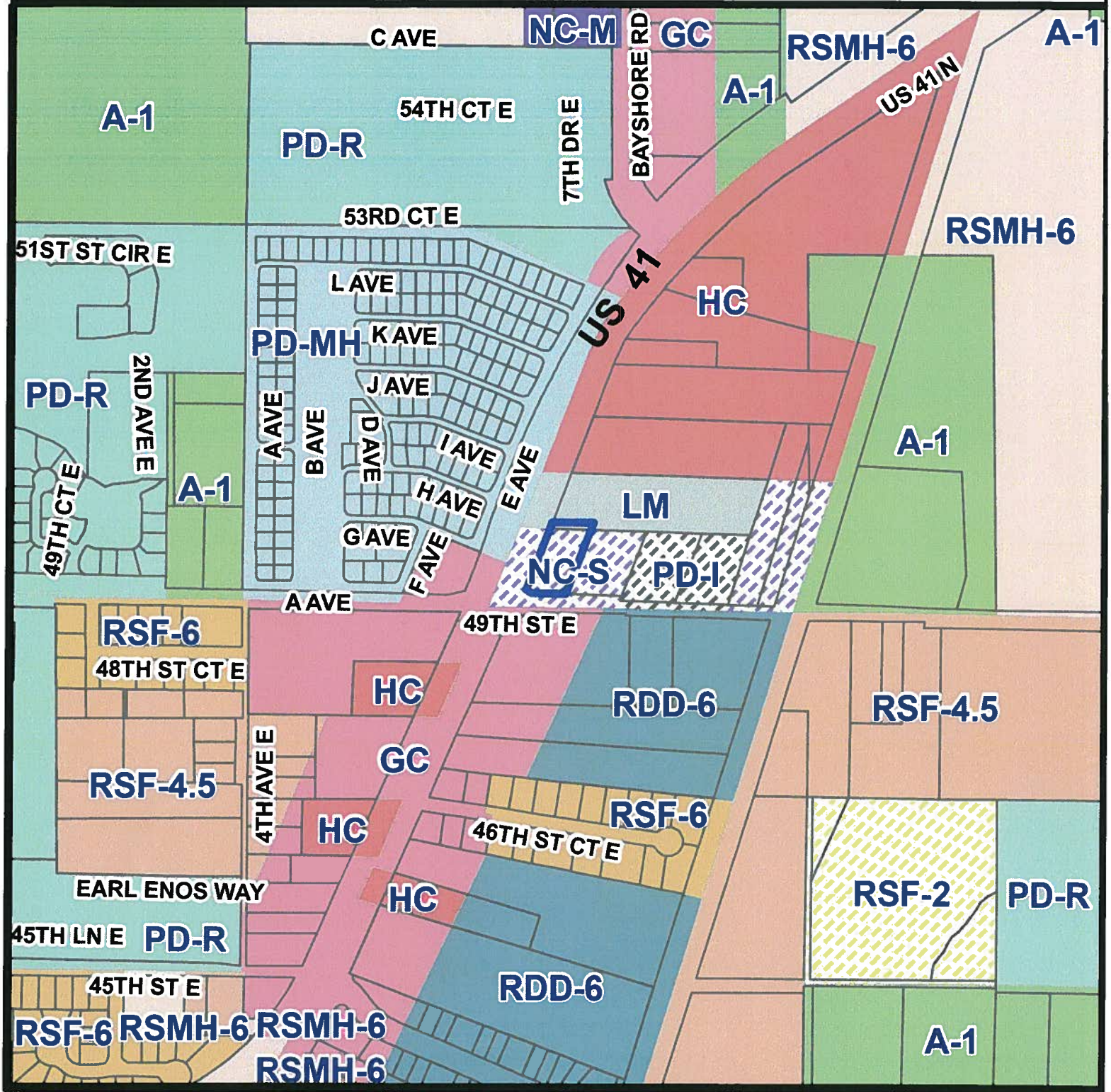
Manatee County
Staff Report Map

Map Prepared 10/6/2011
1 inch = 450 feet

Project Name:	TCW Investments
Project #:	Z-11-07
DTS#:	20110254
Proposed Use:	Rezone to LM
S/T/R:	Sec 36 Twn 33 Rng 17
Acreage:	0.78
Existing Zoning:	NC-S
Existing FLU:	IL
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	TERRA CEIA BAY
Commissioner:	Michael Gallen

Coastal Evacuation Area

ZONING



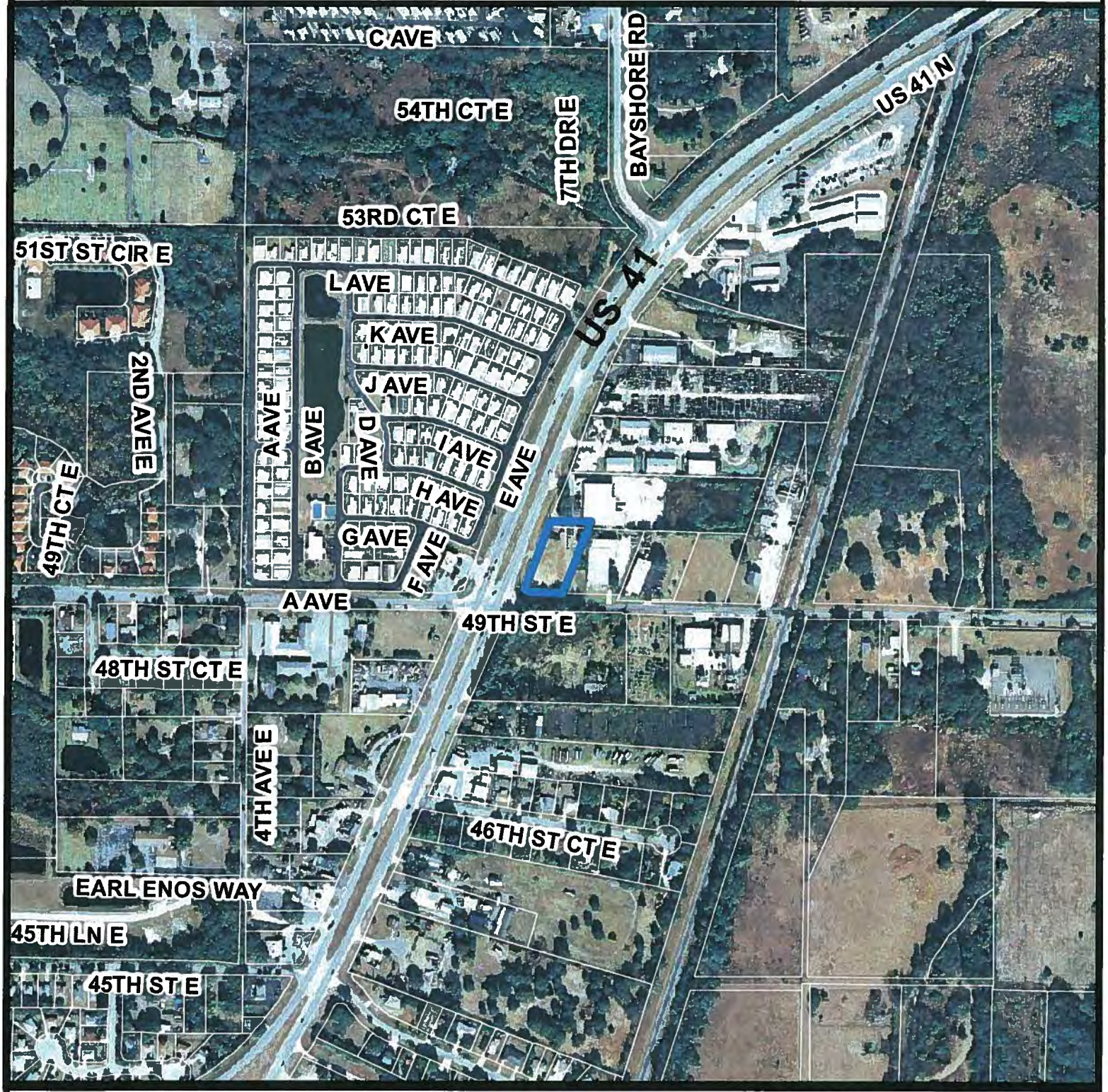
Parcel ID #(s) 2257900007

Manatee County
Staff Report Map

Map Prepared 10/6/2011
1 inch = 485 feet

Project Name:	TCW Investments
Project #:	Z-11-07
DTS#:	20110254
Proposed Use:	Rezone to LM
S/T/R:	Sec 36 Twn 33 Rng 17
Acreage:	0.78
Existing Zoning:	NC-S
Existing FLU:	IL
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	TERRA CEIA BAY
Commissioner:	Michael Gallen

AERIAL



Parcel ID #(s) 2257900007

Manatee County
Staff Report Map

Map Prepared 10/6/2011
1 inch = 485 feet

Project Name:	TCW Investments
Project #:	Z-11-07
DTS#:	20110254
Proposed Use:	Rezone to LM
S/T/R:	Sec 36 Twn 33 Rng 17
Acreage:	0.78
Existing Zoning:	NC-S
Existing FLU:	IL
Overlays:	NONE
Special Areas:	NONE
CHH:	NONE
Watershed:	NONE
Drainage Basin:	TERRA CEIA BAY
Commissioner:	Michael Gallen

P.C. 11/10/2011

Z-11-07 – TCW Investments, LLC (DTS #20110254)

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 the rezoning of approximately 0.78 acres at the northeast corner of US 41 North and 49th Street East (Experimental Farm Road) at 4908 US 41 N., Palmetto from NC-S (Neighborhood Commercial-Small) to the LM (Light Manufacturing) zoning district; setting forth findings; providing a legal description; providing for severability, and providing an effective date.

P.C.: 11/10/2011 **B.O.C.C.: 12/01/2011**

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-11-07, as recommended by staff.

PROJECT SUMMARY	
CASE#	**Z-11-07 (DTS #20110254)**
PROJECT NAME	**TCW Investments, LLC**
APPLICANT(S):	**TCW Investments, LLC**
PROPOSED ZONING:	**LM (Light Manufacturing)**
EXISTING ZONING:	**NC-S (Neighborhood Commercial-Small)**
CASE MANAGER:	**Rossina Leider**
STAFF RECOMMENDATION:	**APPROVAL**

DETAILED DISCUSSION

The request is for a rezone of a vacant site, approximately 0.78 acres (33,824 square feet) from NC-S (Neighborhood Commercial-Small) to LM (Light Manufacturing). The property is located on the northeast corner of US 41 North and 49th Street East (Experimental Farm Road), Palmetto (Parcel ID 2257900007).

The implementation of the Land Development Code in 1990 changed the zoning of the parcel from C-2 (Heavy Commercial District) to NC-S (Neighborhood Commercial-Small) and it is in the IL (Industrial-Light) FLUC.

The existing NC-S zoning district is intended to provide for limited retail uses, personal services, and offices in free-standing parcels or small shopping centers to serve residential neighborhoods. The proposed LM zoning district is intended to provide areas for light manufacturing, processing or assembling uses, intensive commercial uses, and other light industrial uses in appropriate locations within the county.

The IL FLUC lists the following uses for consideration in the range of potential uses: light industrial, offices, research/corporate, warehouse/distribution, intensive commercial, wholesale commercial, neighborhood retail, service, selected residential, short-term agricultural, recreational, public or semi-public, schools, privately-operated airports, appropriate water-dependent/water-related/water-enhanced, and hotels/motels. The maximum Floor Area Ratio (FAR) is 0.35 without Special Approval, except for projects with a primary use of manufacturing, processing, or assembling which allows a maximum 0.75 FAR and 1.0 FAR for hotels (Special Approval required).

The site is within a commercial node, with frontage along of two functionally classified roadways designated as Collector or higher (US 41 and 49th Street East) and meets commercial locational criteria.

The LM zoning district is generally consistent with the IL FLUC designation and development trends and timing within the area. There is existing LM zoning north of the proposed project site, and uses further north and east are more industrial in nature than commercial or retail.

The site will have direct access to 49th Street East classified as a Collector roadway and to US 41 North classified as an Arterial.

The applicant owns the adjacent warehouse/distribution facility to the north which was rezone from NC-S (Neighborhood Commercial-Small) to LM (Light Manufacturing) in 2005. Therefore, the site may potentially be used for an expansion of the adjacent existing facility.

SITE CHARACTERISTICS AND SURROUNDING AREA	
ADDRESS:	**4908 US 41 N., Palmetto**
GENERAL LOCATION:	**Northeast corner of US 41 North and 49th Street East (Experimental Farm Road)**
ACREAGE:	**0.78 ± acres**
EXISTING USE(S):	**vacant**
FUTURE LAND USE CATEGORY(S):	**IL (Industrial-Light)**
DENSITY / INTENSITY:	**Max F.A.R. permitted:** - **0.35/0.75 with Special Approval in LM Zoning** - **0.35 /0.75 with Special Approval (except for manufacturing, processing, or assembly use) in IL FLUC** - **1.0 for hotels in IL FLUC (Special Approval required)**
OVERLAY DISTRICT(S):	**None**
SURROUNDING USES & ZONING	
NORTH	**Warehousing/Distribution (Pro Marine) zoned LM (Light Manufacturing)**
SOUTH	**Across 49th Street E., vacant zoned GC (General Commercial)**
EAST	**Utility facility (Verizon Telecommunications) zoned NC-S (Neighborhood Commercial-Small)**
WEST	**Across US 41 N, service station (7 Eleven) zoned GC (General Commercial) and a mobile home park**

	(Skyway Village) zoned PDMH (Planned Development Manufactured Home)	
SITE DESIGN DETAILS		
LOT SIZE(S):	33,824 ± sq. ft. Exceeds minimum lot size (10,000 sq. ft) required for LM zoning.	
SETBACKS: (*) 75' required if adjacent to residential district or FLUC of RES or UF not meeting commercial locational criteria. No yard required if abutting a railroad for that portion of the building to be used for the transportation of products and materials to and from the site.	LM Zoning: Front Side Rear	 25' 20 '/75'/0' (*) 20 '/75'/0' (*)
OPEN SPACE:	15% required in LM zoning (0.12 ± acres minimum). No site plan submitted at this time.	
ACCESS:	Future location of access points will be based on FDOT separation requirements to intersection of US 41 N and 49th Street E.	
FLOOD ZONE(S):	C – Panel 120153 0191B	
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
TCW Investments (Rezone from NC-S to LM)	17,000	0.12	IL	2005
Kyzor Complex Industrial	30,000	0.21	IL	1999

POSITIVE ASPECTS

- The site is surrounded by industrial, commercial, and utility uses and zoning.
- LM zoning may be found to be more compatible with the IL Future Land Use Category than the current NC-S zoning.
- Logical expansion of the adjacent LM zoning district to the north.
- The site may have access to an Arterial roadway (US 41 N) and a Collector roadway (49th Street East).

NEGATIVE ASPECTS

- Future development activities may be restricted by some constraints (right-of-way dedication, tree preservation, stormwater management, etc.)

MITIGATING MEASURES

- All requirements of LM zoning district and LDC provisions regarding buffering, access, parking, tree preservation, etc. will be assessed with future site plan.

STAFF RECOMMENDED STIPULATIONS

Not applicable. This is a "straight rezone" from NC-S to LM. All requirements of the IL FLUC and LM 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)

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 industrial, commercial, and utility uses and zoning to the north, south, east and west. There is LM (Light Manufacturing) zoning to the north and HC (Heavy Commercial) further north, GC (General Commercial) zoning to the south and west, NC-S (Neighborhood Commercial –Small) to the east and further east PD-I (Planned Development Industrial). To the northwest there is a mobile home park zoned PDMH (Planned Development Manufactured Home).

   The proposed zoning (LM) is compatible with the existing development pattern and zoning of nearby properties along this portion of the US 41 corridor and 49th Street East and a logical expansion of adjacent industrial zoning district. Impacts to residential uses in the area should be minimal, as the mobile home park to the west is separated from the site by the US 41. Other surrounding uses are not residential.

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 the NC-S zoning has been adopted in 1990 it appears that the conditions in this area have been changed. The adjacent property to the north has been rezoned to LM (Pro Marine) and the parcel to the east is a utility use (unmanned Verizon Station). Development pattern in this segment of US 41 and 49th Street East is characterized by industrial, commercial, and utility uses. The proposed amendment to LM 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?**
NC-S and LM zoning districts are appropriate for the IL FLUC. However, the proposed zoning better conforms to the Comprehensive Plan since the majority of the established uses along this segment of the US 41 are more industrial in nature.

The LM zoning district allows light manufacturing, processing or assembling uses, intensive commercial uses, and other light industrial uses in appropriate locations within the county. The IL FLUC permits neighborhood retail uses up to 30,000 sq. ft., light industrial, offices, research/corporate, warehouse/distribution, intensive commercial, wholesale commercial, neighborhood retail, service, selected residential, short-term agricultural, recreational, public or semi-public, schools, privately-operated airports, appropriate water-dependent/water-related/water-enhanced, and hotels/motels.

4. **Conflicts with Public Improvements. Will the proposed change conflict with existing or planned public improvements?**
The applicant has been advised that additional right-of-way may be required for future roadway improvements. This will be determined with future site plan submittal.

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

   a. **Will the proposed change adversely affect traffic patterns or congestion?**
   Based on the Traffic Impact Statement dated October 2011 and the subsequent analysis for TCW Investments LLC, The Building and Development Services, Transportation Planning Division recommends approval of the Traffic Impact Statement. The applicant has addressed the Comprehensive Plan requirements and provided appropriate traffic-related information to substantiate the findings. At the time of Final Site Plan a complete Traffic Analysis for this project may be required.

   b. **Will the proposed change adversely impact population density or development intensity such that the demand for schools, sewers, streets, recreational areas and facilities, and other public facilities and services are adversely affected?**
   LM zoning is intended to provide areas for light manufacturing, processing or assembling uses, intensive commercial uses, and other light industrial uses in appropriate locations within the county. This is an industrial/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 sixteen (16) inch diameter potable water main and a twelve (12) inch force main along the west side of US 41. There is a sanitary gravity sewer service to the property that is connected to an eight (8) inch sanitary gravity sewer collection system running along the east side of US 41. There is an eight (8) inch potable water main and eight (8) inch sanitary gravity sewer collection system along Experimental Farm Road.

6. **Neighborhood Changes. Will the proposed change adversely affect the health, safety or welfare of the neighborhood?**
The proposed zoning amendment should have no 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 LM zoning district allows a minimum lot size of 10,000 square feet, and a minimum lot width of 100 feet. The range of uses permitted in the LM zoning district include light manufacturing, processing or assembling uses, intensive commercial uses, and other light industrial uses in appropriate locations.

The maximum Floor Area Ratio (FAR) in the LM zoning district is 0.35 (without Special Approval). Based on the maximum FAR allowed on IL FLUC, the parcel (0.78 acres) could accommodate:

- a 11,838 ± square foot building without Special Approval (0.35 FAR), or
- a 25,368 ± square foot building (0.75 FAR) with Special Approval. Projects which contain manufacturing, processing, or assembly use as a primary use are exempt from Special Approval.
- a 33,824± square foot building (1.0 FAR) with Special Approval for hotels only.

The proposed amendment is in conformance with all applicable requirements of the LDC. Compliance with the standards of the LM 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 has industrial and commercial zoning designation compatible with the LM zoning category and the IL FLUC.

9. **Expanding Districts. Is the proposed amendment the logical expansion of adjacent zoning districts?**
The proposed amendment is a logical expansion of the adjacent industrial zoning district to the north.

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?**
There are no residential areas adjacent to the site. 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 LM zoning district and all other requirements of the LDC will be reviewed and verified with future site plan approvals for this site.)

COMPLIANCE WITH COMPREHENSIVE PLAN

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

Policy 2.1.2.7 Appropriate Timing.
The timing of this rezone is appropriate given development trends in the area. The surrounding area is characterized by industrial, commercial and utilities uses to the north, east, and west. To the northwest, across US 41, there is a mobile home park development.

Policy 2.2.1.18.2 Range of Potential Uses.
Uses permitted in the IL Future Land Use Category include light industrial, offices, research/corporate, warehouse/distribution, intensive commercial, wholesale commercial, neighborhood retail, service, selected residential, short-term agricultural, recreational, public or semi-public, schools, privately-operated airports, appropriate water-dependent/water-

related/water-enhanced, and hotels/motels.

Uses permitted in the LM zoning district are consistent with the IL Future Land Use Category.

Policy 2.2.1.17.3 Range of Potential Density/Intensity.
The maximum Floor Area Ratio in the IL FLUC is 0.75 (1.0 for hotels only). Special Approval is required for projects exceeding 0.35 FAR except for projects which contain manufacturing, processing, or assembly use as a primary use. The maximum building area for neighborhood retail uses is small - 30,000 square feet (without Special Approval only 3,000 square feet is allowed).

The site has potential without Special Approval for an 11,838 ± square foot building (0.35 FAR) and 25,368 ± square foot building (0.75 FAR) for projects which contain manufacturing, processing, or assembly as a use.

Policy 2.6.1.1 Compatibility.
The range of land uses permitted in LM zoning will be compatible with surrounding land uses and zoning as previously detailed in this staff report. The LM 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__ **(Transportation Impact Statement only)**

NEAREST ROADWAY	LINK(S)	ADOPTED LOS	EXISTING LOS
49th Street East (Experimental Farm Road)	US 41 to Canal Road (Link #4050)	D	C

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:	2.1.2.3	Permit the consideration of new residential and non-residential development with characteristics compatible with existing development, in areas which are internal to, or are contiguous expansions of existing development if compatible with future areas of development.
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:	2.2.1.18	**IL:** Establish the Industrial-Light future land use category as follows:
Policy:	2.2.1.18.1	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 range of light industrial and other employment-oriented uses. Also, to prohibit new residential development other than individual single-family units on lots of record in areas transitioning from agriculture to urban uses. This prohibition is intended to avoid adverse impacts on such uses and minimize the intrusion of residential uses in an industrial area. Also, to prohibit the development or use of these areas for locating heavy industries which have objectionable impacts with regard to height of accessory or incidental structures (e.g., smokestacks), noise, smoke, dust, vibration, or glare. Also, to establish areas for intensive commercial development which would have significant adverse impacts if located adjacent to expansive residential use areas. Also, to provide for the development of neighborhood retail uses which would provide for the needs of workers in, or visitors to, or residents nearby, any area designated under this category. Also, to provide for lodging places to accommodate visitors to IL areas and to nearby areas.

Policy:	2.2.1.18.2	Range of Potential Uses (see Policies 2.1.2.3 - 2.1.2.7, 2.2.1.5): Light industrial uses, offices, research/corporate uses, warehouse/distribution uses, intensive commercial uses, wholesale commercial uses, neighborhood retail uses, service uses, selected residential uses, short-term agricultural uses, recreational uses, public or semi-public uses, schools, privately-operated airports, appropriate water-dependent/water-related/water-enhanced uses (see also Objectives 4.2.1 and 2.10.4), and hotels/motels.
Policy:	2.2.1.18.3	Range of Potential Density/Intensity: Maximum Gross Residential Density: 1 dwelling unit per acre Maximum Net Residential Density: 1 dwelling unit per acre Maximum Floor Area Ratio: 0.75 1.0 inside the CRA's and UIRA Maximum Floor Area Ratio for Hotels: 1.0 Maximum Square Footage for Neighborhood Retail Uses: Small (30,000sf)
Policy:	2.2.1.18.4	Other Information: a) Any project exceeding a floor area ratio of 0.35 shall require special approval, except for projects which contain a single industrial user and for which use of the project site is primarily for a manufacturing, processing, or assembly use. b) Wholesale commercial uses, intensive commercial uses, and those small commercial uses which are located or proposed within an office or industrial park which has received special approval, as defined herein, are exempt from any commercial locational criteria contained in this element. c) Light industrial uses are differentiated from heavy industrial uses not permitted within this category by definition of "objectional impact," as referenced and further defined in Policy 2.2.1.18.1 above. Additional clarification on means of measuring and determining "objectionable impact" is found in Policy 2.6.3.1. d) New residential uses shall be limited to individual single family dwelling units that are:

		I. 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 II. developed without generating a requirement for either subdivision review, or final site or development plan review, or equivalent development order review.
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]

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, November 10, 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 11-38/COOPER CREEK (DRI #14)
Request: An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

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

1.Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
2.Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3.Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
4.Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
5.Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
6.Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7.Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8.Update Exhibit "C" to include post development areas under a Conservation Easement.
9.Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10.Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11.Any other revisions deemed necessary or appropriate during the public hearing process.
12.Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

PDMU-96-01(G)(R9) – COOPER CREEK CENTER
An Ordinance of the Board Of County Commissioners of Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R8) to amend the Development Order to extend the build out date, expiration date, and CLOS expiration date pursuant to extensions granted with house bill 7207; allow an additional 20,000 sq. ft. Of commercial use and 83,000 sq. ft. office use; allow a tradeoff allowance for an additional 20,000 sq. Ft. of school use with a corresponding reduction of commercial and/or office; add a tradeoff for an assisted living facility (ALF) for residential; permit additional access points from Cooper Creek Boulevard; add Neighborhood Commercial and ALF as permitted uses in Parcel K, and ALF in Parcel G; modify the definition of Conservation Area to mean areas under a conservation easement to Manatee County or as shown on Exhibit "C"; update Exhibit "C"; delete Table 3; eliminate reference to Exhibit "H"; delete Stipulation B(14); amend the General Development Plan to implement these changes; amend stipulations to facilitate these changes; amend stipulations to update conditions and departmental references; setting forth findings; providing for severability; and providing an effective date. Cooper Creek is generally located northwest of University Parkway and I-75 intersection (604.68 ± acres).

Z-11-07 – TCW INVESTMENTS, LLC
DTS #20110254
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 the rezoning of approximately 0.78 acres on the northeast corner of US 41 North and 49th Street East (Experimental Farm Road) at 4908 US 41 N., Palmetto from the NC-S (Neighborhood Commercial-Small) to the LM (Light Manufacturing) 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
10/19/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

MANATEE PUBLIC NOTICES

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

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12.Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

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

Date of pub: October 19, 2011

PLANNING
AUG 10 2011
DEPARTMENT

MANATEE COUNTY GOVERNMENT
BUILDING & DEVELOPMENT SERVICES DEPARTMENT
ZONING DISCLOSURE AFFIDAVIT

Project name: Pro Marine

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 Check if owner (X) or contract purchaser ( )	PERCENTAGE STOCK, INTEREST OR OWNERSHIP
Todd Werner	80%
James Naset	5%
Todd Werner Irrevocable Trust	15%

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

Signature: Todd Werner President

(Applicant): Todd Werner, President

STATE OF FLORIDA
COUNTY OF Manatee

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 5th day of August 2011,
by Todd Werner, who is personally known to me or who has produced _____
as identification.

(type of identification)

ANGELA BORCK
MY COMMISSION # DD 781107
EXPIRES: April 21, 2012
Bonded Thru Notary Public Underwriters

My Commission Expires: 4/21/2012

Commission No: DD781107

Angela Borck
Notary Signature

Angela Borck
Print or type name of Notary

Title or Rank

Revised 2/8/10
B-4

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	Ordinance 11-38 – Cooper Creek (DRI #14)	**TYPE AGENDA ITEM**	Advertised Public Hearings - Consent
DATE REQUESTED	11/10/11PC	**DATE SUBMITTED/REVISED**	10/31/11
BRIEFINGS? Who?	None	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services / Public Hearings	**AUTHORIZED BY TITLE**	Lisa Barrett, Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	Lisa Barrett / 748-4501 ext. 6884 DTS20100214	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Lisa Barrett / Planning Manager / 748-4501 ext. 6884
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 11-38 per the recommended motion in the staff report attached to this memo.

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

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

BACKGROUND/DISCUSSION

- This request is for an amendment to the Cooper Creek DRI (Development of Regional Impact).
- Accompanying the amendment to the DRI as a Notice of Proposed Change (or NOPC) is the amendment to the General Development Plan and Zoning Ordinance.
- The changes to the Ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

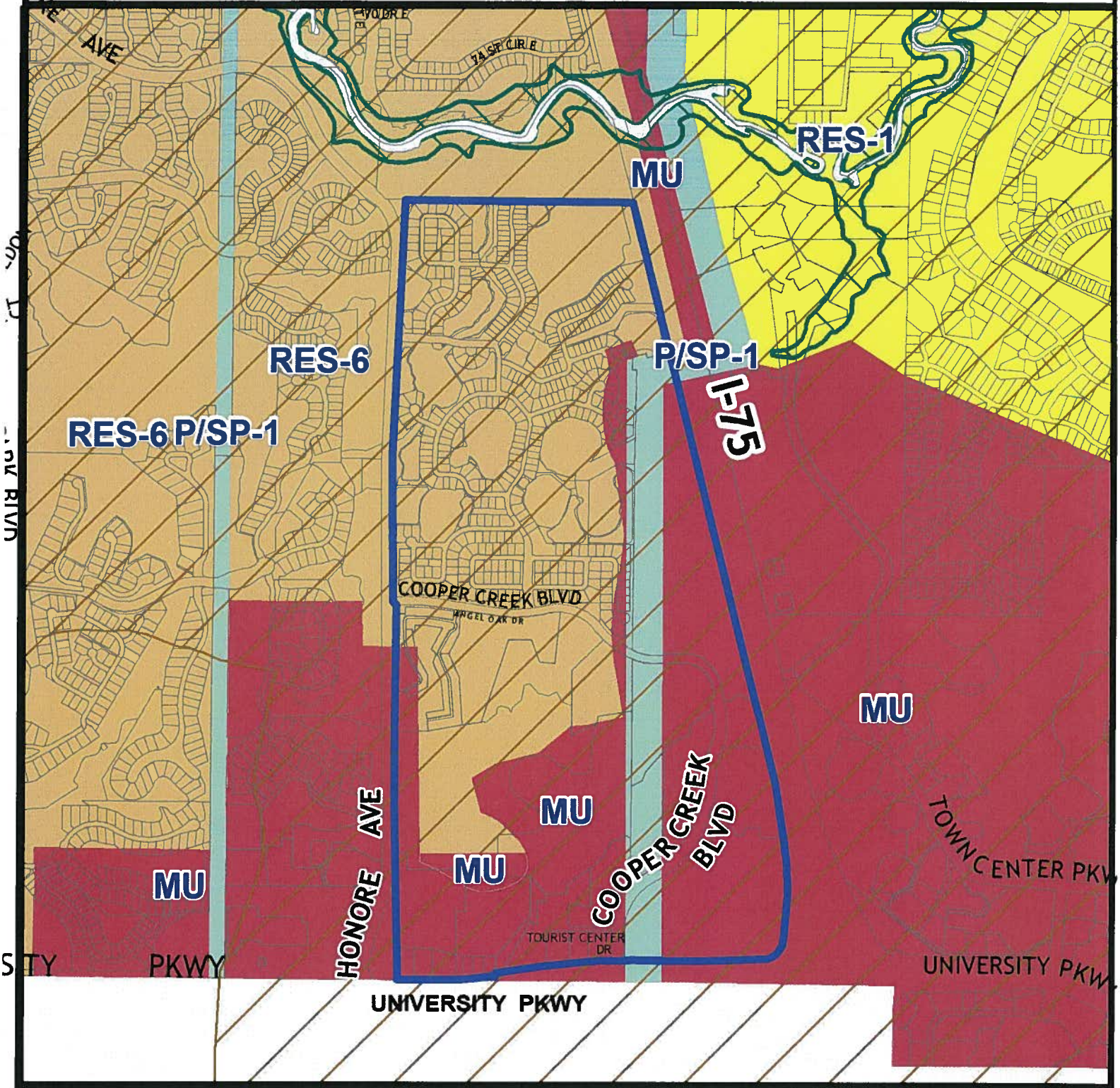
  1. Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
  2. Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
  3. Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
  4. Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
  5. Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
  6. Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
  7. Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
  8. Update Exhibit "C" to include post development areas under a Conservation Easement.
  9. Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
  10. Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
  11. Any other revisions deemed necessary or appropriate during the public hearing process.
  12. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

- The Developer has rebutted the presumption by clear and convincing evidence that the proposed NOPC modifying the Cooper Creek DRI constitutes a Substantial Deviation.
- The Tampa Bay Regional Planning Council (TBRPC) has completed their review of the project. The TBRPC provided an NOPC Report that was considered and approved at the October 10, 2011 TBRPC Council Meeting. The report concludes that the proposal is not a Substantial Deviation.
- Staff recommends approval of the request.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
☒	**REVIEWED** **Written Comments:** ☐ **Attached** ☒ **Available from Attorney (Attorney's initials:** SAS)
☐	**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) Multiple

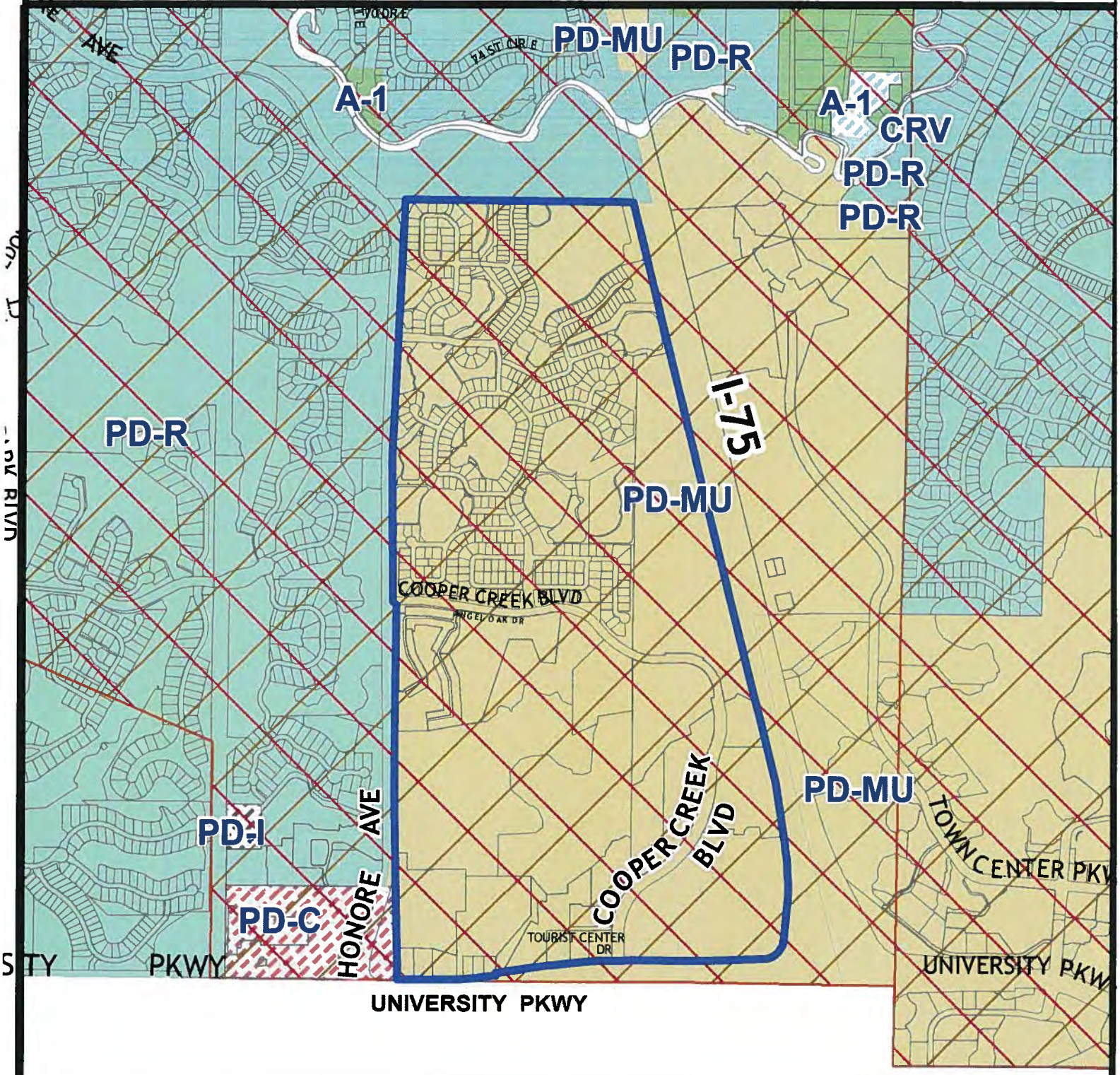
Manatee County
Staff Report Map
Map Prepared 4/19/2011
1 inch = 1,393 feet

Project Name:	Cooper Creek DRI - NOPC
Project #:	ORD-11-38 / DRI 14
DTS#:	20110260
Proposed Use:	DRI
S/T/R:	Sec 36,25 Twn 35 Rng 18
Acreage:	604.68
Existing Zoning:	PD-MU
Existing FLU:	RES-6, MU, P/SP-1
Overlays:	ST
Special Areas:	NONE
CHH:	NONE
Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

Overlays

Evers Watershed (WPE)

ZONING



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Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

Manatee County
Staff Report Map

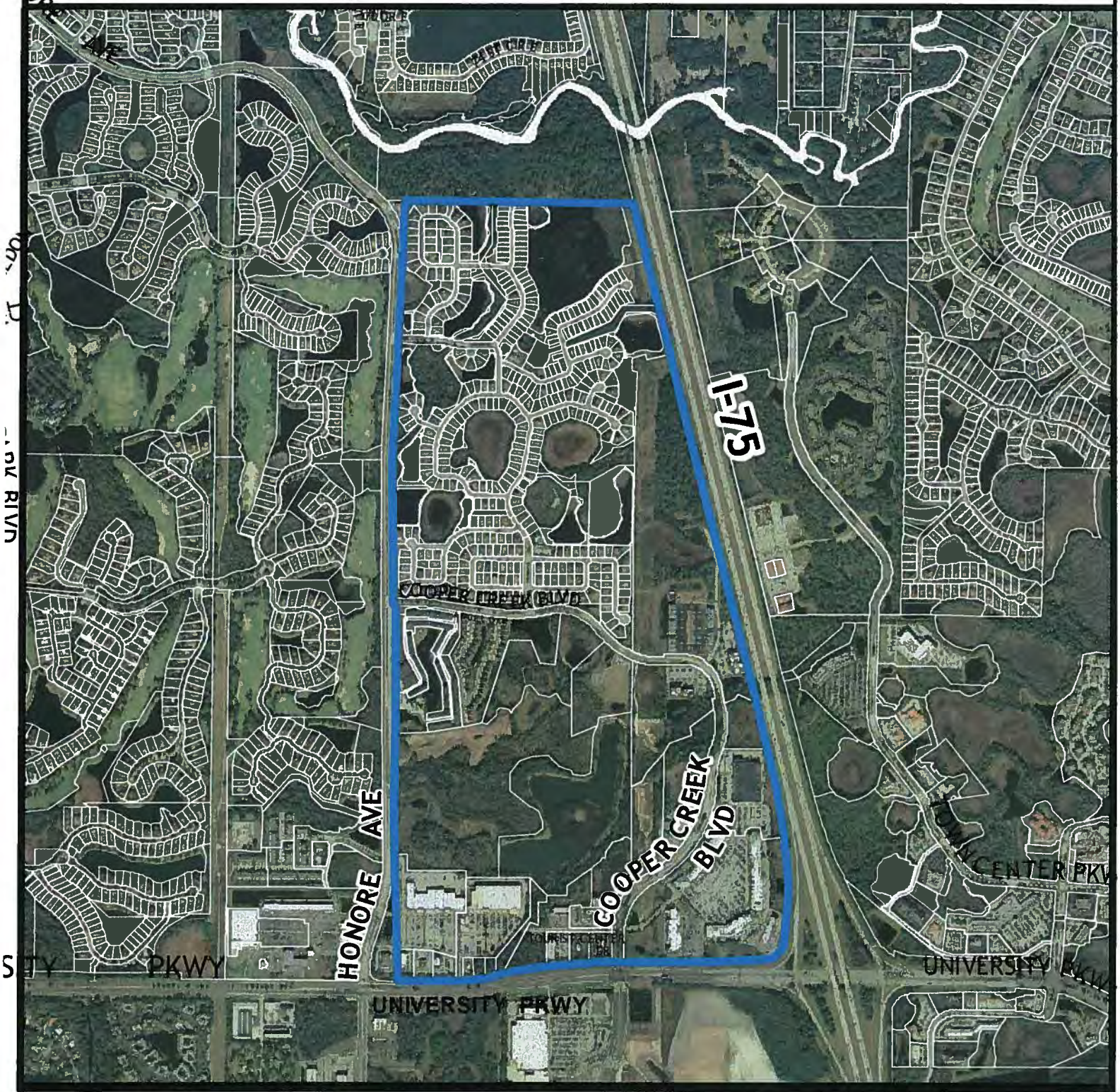
Map Prepared 4/19/2011

1 inch = 1,393 feet

Overlay

- Special Treatment
- Evers Watershed (WPE)

AERIAL



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Existing Zoning:	PD-MU
Existing FLU:	RES-6, MU, P/SP-1
Overlays:	ST
Special Areas:	NONE
CHH:	NONE
Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

P.C. 11/10/2011

ORDINANCE 11-38/COOPER CREEK (DRI #14)

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

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

1. Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
2. Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3. Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
4. Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
5. Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
6. Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7. Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8. Update Exhibit "C" to include post development areas under a Conservation Easement.
9. Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10. Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11. Any other revisions deemed necessary or appropriate during the public hearing process.
12. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

P.C.: 11/10/11 **B.O.C.C.: 12/01/11**

RECOMMENDED MOTION:

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan, the Manatee County Land Development Code, Section 380.06, Florida Statutes, and Rule 9J-2.025, Florida Administrative Code, as conditioned herein, I move to RECOMMEND APPROVAL, finding that the Developer has provided sufficient information to rebut the presumption that the proposed NOPC modifying the Cooper Creek DRI Development Order constitutes a Substantial Deviation; and recommend APPROVAL of Manatee County Ordinance 11-38, amending and restating Ordinance 11-16, as recommended by staff.

CASE SUMMARY

CASE NO.: **Ordinance 11-38 (DRI #14)**

APPLICANT: **Cooper Creek Center**

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

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

1. **Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.**
2. **Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.**
3. **Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.**
4. **Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.**
5. **Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.**
6. **Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.**
7. **Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.**
8. **Update Exhibit "C" to include post development areas under a Conservation Easement.**
9. **Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.**
10. **Delete Table 3 which provides minimum wetland preservation and conservation area ratios.**
11. **Any other revisions deemed necessary or appropriate during the public hearing process.**
12. **Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or**

requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

STAFF RECOMMENDS: Approval

REQUEST, LOCATIONAL INFORMATION, AND LAND USE CHARACTERISTICS

- **Approval of modifications to the Cooper Creek Development Order and Map H. The 604.75 acre project is northwest of the University Parkway and I-75 intersection.**
- **To the NORTH is vacant land zoned PDR/WP-E/ST approved for single-family residences in Riva Trace.**
- **To the SOUTH, across University Parkway, is a shopping center in an approved multi-use DRI, in Sarasota County.**
- **To the EAST is I-75.**
- **To the WEST are the University Park Country Club DRI and a shopping center zoned PDR/PDC/WP-E/ST.**

SUMMARY: (LB)

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

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

History

The Development Order (DO) for Cooper Creek Center was originally approved on January 9, 1986 and became effective on January 13, 1986 (Resolution 85-236). The DO has been amended eleven times, the latest occurring on May 24, 2011.

The project consists of:

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

[1] May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.
[2] Includes one existing communication antennae structure.
[3] May include up to an additional 6,000 sq. ft. of school upon corresponding decrease of office or commercial uses.

Tradeoffs between land uses are also currently established within the Development Order. The applicant is updating the tradeoffs with this request.

Pursuant to House Bill 7207 extension, buildout for the Cooper Creek DRI is now December 30, 2019 and will be reflected with the proposed changes.

The Tampa Bay Regional Planning Council (TBRPC) has completed their review of the project. The TBRPC has provided an NOPC Report to be considered at the October 10th, 2011 TBRPC Council Meeting. The report concludes that the proposal is presumed to create a Substantial Deviation; however, it is the opinion of the agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representation stated in the Discussion of the Region's Report. The TBRPC Report is attached and all recommendations/representation are provided in the proposed development order (shown in strike-thru/underline format). The Final Report, once issued by the TBRPC, will be provided at the Planning Commission public hearing.

POSITIVE ASPECTS OF THE APPLICATION

- **The extension of the build out dates and the expiration date of the Development Order is consistent with the Board's direction to allow active developments to continue to move forward toward completion.**
- **Much of the language in the Development Order has been clarified as to expiration dates and the level of development currently approved.**

STAFF ANALYSIS

ANALYSIS OF REQUEST & SUBSTANTIAL DEVIATION ANALYSIS

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

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

PROPOSED CHANGES:

Proposed Change

1. Update the buildout date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.

Applicable Statutes

Subsection 380.06(19)(c)2, Florida Statutes, states:

"In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension...The 4-year extension is not a substantial deviation, is not subject to further development-ofregional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension."

Staff Discussion

The buildout date and expiration date of the current development order, Ordinance 11-16 recognized an additional 7 year extension of the buildout date (to December 30 2015) and Development Order expiration date (to December 30, 2016) in accordance with revisions to Subsection 380.06(19)(c), F.S, and the enactment of SB 360 and SB 1752.

The current request to extend buildout date to December 30, 2019 and expiration date to December 30, 2020 is consistent with House Bill 7207.

Staff Conclusion and Recommendation

The DRI Development Order is being proposed to be amended consistent with the 4 year extension granted by House Bill 7207 for the build out date and expiration dates.

Proposed Change

2. **Extend the CLOS expiration date to December 30, 2019.**
3. **Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.**

Applicable Statutes

Subsection 380.06(19)(c)2, Florida Statutes, states:

"In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension...The 4-year extension is not a substantial deviation, is not subject to further development-ofregional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension."

Subsection 380.06(19)(b)3, Florida Statutes, states:

"An increase in land area for office development by 10 percent or an increase of gross floor area of office development by 10 percent or 100,000 gross square feet, whichever is greater" is not a Substantial Deviation. [underlined to express emphasis]

Subsection 380.06(19)(b)6, Florida Statutes, states:

"An increase in commercial development by 60,000 square feet of gross floor area, or of parking spaces provided for customers for 425 cars or a 10-percent increase of any of these, whichever is greater" is not a Substantial Deviation. [underlined to express emphasis]

Subsection 380.06(19)(b)9, Florida Statutes, states

"A proposed increase to an approved multi-use development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded."

Subsection 380.06(19)(b)10, Florida Statutes, states:

"A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development of regional impact review" [underlined to express emphasis]

Staff Discussion

The following constitutes the justification that the proposed expansions of 20,000 sq. ft. of Commercial and 83,000 sq. ft. of Office is not a Substantial Deviation, consistent with Subsection 380.06(19)(b)9, Florida Statutes:

LAND USE	EXISTING APPROVED ENTITLEMENTS	S/D THRESHOLD	PROPOSED EXPANSION	% OF SUBSTANTIAL DEVIATION
Commercial	774,000	**<10% of approved (i.e. 77,400)** or 60,000 sq. ft., whichever is greater	20,000	25.84
Office	140,000	**<15%** of approved (i.e. 77,400) or **100,000 sq. ft.**, whichever is greater	83,000	83.00
Mixed Use	N/A	**<110% of approved**	108.84% (sum of 25.84+83.00)	98.95

A traffic study has also been submitted and approved, which utilizes a build-out date of 2019. The additional commercial and office square feet are proposed consistent with the recent update to Florida Statute, Chapter 380.06(19) which allows a proposed increase to an approved multi-use DRI, where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is less than 110%, is not considered a substantial deviation. The proposed additions to the approved commercial and office square feet do not exceed these criteria. It is expected that the additional square footage will be constructed in areas located to the north of the existing office park and/or BJ's located in Parcel J, or in previously approved outparcels along University Parkway. The proposed development provides for infill development of an existing mixed use center in the urbanized area of Manatee County.

Staff Conclusion and Recommendation

It is staff's and the TBRPC's conclusion that the changes will not cause additional regional impacts, therefore, the requests should not be found to be a Substantial Deviation.

Proposed Change

4. **Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft.**
5. **Amend General Condition A. (4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility (ALF) use.**

Applicable Statutes

Staff Discussion

The current development approval includes 20,000 square feet for school, and an additional 6,000 square feet of school allowed as a tradeoff for commercial and/or office. The applicant has pointed out that the school use, which includes both vo-tech and secondary education facilities, as well as a school of special education (dance studio) is located within existing office buildings. In order to allow potential increases in the school use, the applicant has requested an additional 20,000 SF of school use, as an alternative to commercial and/or office space. With this approval, a maximum of 46,000 square feet of school (which is being defined to not include a public or private K-12 school) will be allowed.

The tradeoff for an ALF would allow for a reduction in residential for the addition of an Assisted Living Facility. Parcel G has a current site plan approval for 74 multi-family units (unbuilt), or if this request is approved, would allow an Assisted Living Facility (ALF) to be constructed either in Parcel G or in the northern end of Parcel K (adjacent to the interstate).

In order to permit any tradeoff between land uses there is a condition within both the Zoning Ordinance and Development Order which requires the applicant address any changes to traffic, water, wastewater, solid waste, parks, transit, etc. The impacts for such tradeoffs must be shown to be less than or meet the approved CLOS requirements for the project.

Staff Conclusion and Recommendation

It is staff's conclusion that the change will not cause additional regional impacts, therefore, this request should not be found to be a Substantial Deviation. The tradeoff condition within the Development Order, Stipulation A.(4) requires sufficient analysis (traffic study addressing trip generation, distribution, potable water, wastewater, etc.) to evaluate all local and regional impacts.

Proposed Change

6. **Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.**

Applicable Statutes

Subsection 380.06(19)(e)2.d., Florida Statutes, states:

"changes in the configuration of internal roads that do not affect external access points" is not a Substantial Deviation.

Subsection 380.06(19)(e)3, Florida Statutes, states:

"any land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a Substantial Deviation. This presumption may be rebutted by clear and convincing evidence."

Staff Discussion

Additional access points are conceptually depicted on Map H and the GDP. New driveways will be reviewed at the time of Final Site Plan with any future development proposals. The TBRPC has no regional concerns, as the driveways are proposed internal to the project.

The applicant also requests to have small (5,000 SF or less) commercial uses located along with the office uses in Parcel K, in order to allow uses such as a small restaurant in the existing office park. The total area of commercial (non-office) use would not exceed 50,000 SF.

The potential for an ALF in Parcel G is proposed as an alternative use to the approved multi-family development or alternative use to commercial and/or office in Parcel K.

Staff recommends stipulations be placed within the Zoning Ordinance to limit the

amount of commercial square footage permitted on Parcel K and also to prohibit the ALF within the noise contours of I-75 unless mitigated. Otherwise, staff has no objection to the request.

Staff Conclusion and Recommendation

Staff recommends approval of the requests.

The change to add internal access points does not create a Substantial Deviation.

The change to add additional uses within specific parcels is presumed to be a Substantial Deviation; however, the presumption has been rebutted.

Proposed Change

7. **Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.**
8. **Update Exhibit "C" to include post development areas currently under a Conservation Easement.**
9. **Amend General Conditions, Section D. (6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.**
10. **Delete Table 3 which provides minimum wetland preservation and conservation area ratios.**

Applicable Statutes

Subsection 380.06(19)(e)2.j., Florida Statutes, states:

"Changes that modify boundaries and configuration of areas described in subparagraph (b)14. Due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order."

Staff Discussion

The definition of Conservation Area in the current Ordinance is "as defined by TBRPC and shown on Exhibit C last revised on July 28, 1999". Exhibit "C" dated 1999 shows Conservation Areas, which have since been modified or in some cases expanded as a

result of development. Because TBRPC does not have a definition of Conservation Area, and because such areas, including wetland and upland preservation areas are regulated by either the State (SWFWMD) or Manatee County, the applicant proposes to change the definition to "mean areas under a Conservation Easement and those areas shown on Exhibit "C" revised in August 2011". The updated Exhibit "C" includes many of the same areas shown on the 1999 Exhibit, but deletes areas that were permitted as part of a development plan (as anticipated in the Ordinance) and includes areas that have been put into a Conservation Easement (both upland and wetland) as a result of mitigation efforts. The acreage for Conservation Area shown on the 1999 Exhibit "C" was 51.96 Acres and the proposed 2011 Exhibit "C" lists 88.08 Acres in Conservation. The Preservation acreage has not changed, although the area shown in Preservation includes the Creek and a 50 ft. buffer, consistent with the Manatee County Comprehensive Plan.

Staff Conclusion and Recommendation

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

Proposed Change

11. **Any other revisions deemed necessary or appropriate during the public hearing process.**
12. **Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-06, DRI #14, as amended; and provides for severability and an effective date.**

Applicable Statutes

Subsection 380.06(19)(e)3, Florida Statutes, states:

"any land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a Substantial Deviation. This presumption may be rebutted by clear and convincing evidence."

Staff Discussion

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

Staff Conclusion and Recommendation

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

Again, on October 10th, 2011, the TBRPC issued a NOPC report for the Cooper Creek request. The Council found that the proposal is not a Substantial Deviation. The recommended language provided by the Council has been incorporated into the revised Development Order to justify the finding that the request is not a Substantial Deviation.

ATTACHMENTS:

1. Copy of Newspaper Advertising
2. NOPC Report from TBRPC for October 10th, 2011 Council Meeting
3. Ordinance 11-38

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, November 10, 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 11-38/COOPER CREEK (DRI #14)
Request: An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

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

1.Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
2.Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3.Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
4.Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
5.Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
6.Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7.Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8.Update Exhibit "C" to include post development areas under a Conservation Easement.
9.Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10.Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11.Any other revisions deemed necessary or appropriate during the public hearing process.
12.Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

PDMU-96-01(G)(R9) – COOPER CREEK CENTER
An Ordinance of the Board Of County Commissioners of Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R8) to amend the Development Order to extend the build out date, expiration date, and CLOS expiration date pursuant to extensions granted with house bill 7207; allow an additional 20,000 sq. ft. Of commercial use and 83,000 sq. ft. office use; allow a tradeoff allowance for an additional 20.000 sq. Ft. of school use with a corresponding reduction of commercial and/or office; add a tradeoff for an assisted living facility (ALF) for residential; permit additional access points from Cooper Creek Boulevard; add Neighborhood Commercial and ALF as permitted uses in Parcel K, and ALF in Parcel G; modify the definition of Conservation Area to mean areas under a conservation easement to Manatee County or as shown on Exhibit "C"; update Exhibit "C"; delete Table 3; eliminate reference to Exhibit "H"; delete Stipulation B(14); amend the General Development Plan to implement these changes; amend stipulations to facilitate these changes; amend stipulations to update conditions and departmental references; setting forth findings; providing for severability; and providing an effective date. Cooper Creek is generally located northwest of University Parkway and I-75 intersection (604.68 ± acres).

Z-11-07 – TCW INVESTMENTS, LLC
DTS #20110254
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 the rezoning of approximately 0.78 acres on the northeast corner of US 41 North and 49th Street East (Experimental Farm Road) at 4908 US 41 N., Palmetto from the NC-S (Neighborhood Commercial-Small) to the LM (Light Manufacturing) 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.

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THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.
MANATEE COUNTY PLANNING COMMISSION
Manatee County Building and Development Services Department
Manatee County, Florida
10/19/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

MANATEE PUBLIC NOTICES

NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY

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

Date of pub: October 19, 2011

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

October 10, 2011

The Honorable Carol Whitmore, Chair
Manatee County Board of County Commissioners
P. O. Box 1000
Bradenton, FL 34206

Subject: ***DRI #103 - Cooper Creek, Notice of Proposed Change Report, Manatee County***

Dear Madam Chair:

The enclosed agenda item regarding the above-referenced matter was considered and approved by the Tampa Bay Regional Planning Council at its October 10, 2011 meeting.

Please contact the Council staff if further information concerning this item is needed.

Sincerely,

William D. Dodson
Chair

WDD/bj

Enclosure

cc: Ms. Betsy Benac, Benderson Development Company, LLC
Mr. John Osborne, AICP, Manatee County Planning
Ms. Lisa Barrett, Manatee County Planning
Ms. Trisha Neasman, AICP, SWFWMD
Mr. Rax Jung, FDOT, District One
Ms. Brenda Winningham, FDEO

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 #103 - COOPER CREEK
MANATEE COUNTY

On August 25, 2011 (dated August 24, 2011), the Applicant submitted a Notice of Proposed Change application requesting modifications to the Development Order. Supplemental information in the form of a Cooper Creek NOPC "Transportation Concurrency Analysis" was received via e-mail on August 29th and via mail on September 8th. Additional information in the form of clarifications was transmitted via email on September 20th (from Betsy Benac/Benderson Development Company LLC), September 21st (Kimley-Horn & Associates staff through Betsy Benac/BDC LLC), and updated graphics on September 28th. The following provides a summary of project entitlements and history, a description of the proposal, and the Council recommendation.

PROJECT DESCRIPTION

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

The Development Order had been previously been amended 11 times, most recently on May 24, 2011 (Ordinance No. 11-16). The amendments have cumulatively: consolidated the project into a single phase; extended each of the formerly approved phases and the Development Order expiration date; authorized any combination of approved land uses if the anticipated p.m. peak hour external vehicle trips anticipated do not exceed 2,832 trips; modified the trade-off mechanism and significantly modified the plan of development; modified the required transportation improvements, including two "safety" improvements; recognized new owners/Master Developers; authorized potential conversion of Parcel J **OR** Parcel K to Vo-Tech/School (maximum of 6,000 sq. ft.); authorized Commercial or Office development within Parcel J; exchanged 113 residential units (various residential parcels) for 20,000 sq. ft. Vo-Tech/School space (Parcel K); increased Commercial by 29,000 sq. ft. (in Parcels H, I and/or J); added an Honore Avenue access point and a "right-in/right-out" only access point along University Parkway; extended the frequency of future monitoring to Biennial (due on January 9th of all even-numbered years); and recognized additional seven year extensions of the buildout date (to December 30, 2015) and Development Order expiration date (to December 30, 2016) in accordance with revisions to Subsection 380.06(19)(c), F.S., and the enactment of SB 360 & SB 1752.

The approved plan of development is as follows:

BUILDOUT DATE	RESIDENTIAL (Units)	COMMERCIAL (Sq. Ft.)	OFFICE (Sq. Ft.)	VO-TECH/ SCHOOL (Sq. Ft.)	MOTEL (Rooms)
Dec. 30, 2015	767	774,000	140,000	20,000*	250

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

PROPOSED CHANGES UNDER THIS NOPC

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

- **expansion** of Commercial by 20,000 sq. ft. (to 794,000) and Office by 83,000 sq. ft. (to 223,000);
- extend the buildout date and Development Order expiration dates by additional four year periods in association with HB 7207 (to December 31, 2019 and December 31, 2020, respectively);
- modify the conversion restrictions to allow conversion between Office/Retail to Vo-Tech schools (or back again) at a 1:1 ratio;
- modify the limitations (i.e. "minimums" and 'maximums") associated with each project land use;
- modify the designated Conservation Areas illustrated in Exhibit C (and definitions thereof) to reflect *"recorded Conservation Easements and conservation areas (both wetlands and uplands)"* as well as existing *"wetlands in the developed portion of the site that may not be under a conservation easement"*;
- Modify Map H to reflect revised Conservation area designations and revise access to internal Cooper Creek Boulevard;
- modify General Condition D(6) to alternatively require mitigation for impacts in accordance with SWFWMD requirements, or Manatee County Comprehensive Plan if mitigation is not required by the State. The revised Conservation acreage and date of revised Exhibit C will be additionally incorporated into this Condition.

CONSISTENCY WITH SUBSECTION 380.06(19), FLORIDA STATUTES

Subsections 380.06(19)(b)3., 380.06(19)(b)6., 380.06(19)(b)8., 380.06(19)(b)9., 380.06(19)(b)10., 380.06(19)(c)2., 380.06(19)(e)2.d., 380.06(19)(e)2.i., and 380.06(19)(e)2.j. F.S. [respectively] identify the provisions applicable to this proposal. These citations read as follows respectively:

> *"An increase in land area for office development by 10 percent or an increase of gross floor area of office development by 10 percent or 100,000 gross square feet, whichever is greater"* is not a Substantial Deviation. [underlined to express emphasis]
>
> *"An increase in commercial development by 60,000 square feet of gross floor area, or of parking spaces provided for customers for 425 cars or a 10-percent increase of any of these, whichever is greater"* is not a Substantial Deviation. [underlined to express emphasis]
>
> *"A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less"* is not a Substantial Deviation.
>
> *"A proposed increase to an approved multi-use development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded."*
>
> *"A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development of regional impact review"* [underlined to express emphasis]

"In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension... The 4-year extension is not a substantial deviation, is not subject to further development-of-regional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension."

"changes in the configuration of internal roads that do not affect external access points" is not a Substantial Deviation.

"Any renovation or redevelopment within a previously approved development of regional impact which does not change land use or increase density or intensity of use" [above authorized increase(s)] is not a Substantial Deviation.

"Changes that modify boundaries and configuration of areas described in subparagraph (b)14. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order."

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 the justification that the proposed expansions of 20,000 sq. ft. of Commercial **and** 83,000 sq. ft. of Office is not a Substantial Deviation:

LAND USE	EXISTING APPROVED ENTITLEMENTS	S/D THRESHOLD	PROPOSED EXPANSION	% OF SUBSTANTIAL DEVIATION
Commercial	774,000	(10% of approved (i.e. 77,400) or 60,000 sq. ft., whichever is greater	20,000	25.84
Office	140,000	(15% of approved (i.e. 77,400) or 100,000 sq. ft., whichever is greater	83,000	83.00
Mixed Use	N/A	(110% of approved	108.84% (sum of 25.84+83.00)	98.95

2. *The definition of conservation area is proposed to be changed to reflect the use of conservation easements provided to Manatee County to protect these areas. The reference to 'TBRPC Conservation Areas' is being deleted, as there does not appear to be existing definition of such areas in the current Regional Policy Plan. No changes are proposed to any Preservation Areas.* [August 24, 2011 letter/Page 2/2nd Paragraph]

3. *The development order is proposed to be modified to eliminate Table 3, which provides for minimum wetland, preservation and conservation area mitigation ratios. This Table makes reference to TBRPC Conservation Areas, which are not defined in the Development Order, Chapter 380 FS or in the Manatee County Comprehensive Plan* [or TBRPC's current version of the Strategic Regional Policy Plan]. The identified mitigation ratios *"do not meet the standards for mitigation currently utilized by SWFWMD, FDEP and Manatee County, as the Manatee County Comprehensive Plan has been amended to include UMAM standards for classification and mitigation of wetlands."* [August 24, 2011 letter/Page 3/1st Paragraph]

4. The four-year extension of the buildout date (to December 30, 2019) and Development Order expiration date (to December 30, 2020) is being requested in accordance with Subsection 380.06(19)(c)2, F.S., as cited above. [August 24, 2011 correspondence/NOPC application/Page 2/Question #5/Response #4]

5. The current and proposed/revised Exhibit C *"are virtually the same with the exception of the Conservation area west of Cooper Creek along University Parkway, which shows the post development wetland areas and expanded mitigation/Conservation area to the north... The updated version of Exhibit 'C' is based on surveyed wetlands and some upland areas within Conservation easements, so the acreages are more precise"* [September 21, 2011 e-mail from Ms. Betsy Benac/Response #1]. Based on the newly-proposed definition of Conservation areas, the designated Conservation areas will actually increase from 51.96 to 88.08 acres as enumerated on the latest graphics transmitted by the Applicant and appended to this Report as ***Exhibit 3***.

6. The areas designated as "Conservation Area" on the proposed/revised Map H shall remain undisturbed or mitigated. Included in this designation are areas previously shown as "Conservation" on Exhibit 'C' but not necessarily in a Conservation easement. The requested modifications to Map H include the removal of the Borrow Lake (and corresponding "Conservation" designation) from Parcel "D." [September 21, 2011 e-mail from Ms. Betsy Benac/Response #2]

7. The "Other Wetland Areas" designation on proposed/revised Map H signifies *"those that were not shown on Exhibit "C" and are not in a conservation easement but are wetlands based on approved site plans. As such, they are protected under SWFWMD and Manatee County regulations. Most of these wetland areas are in or adjacent to residentially platted lands."* [September 21, 2011 e-mail from Ms. Betsy Benac/Response #2]

8. *Development may only be granted beyond Table 1 consistent with the tradeoff mechanism allowed in Condition A(4).* [September 21, 2011 e-mail from Ms. Betsy Benac/Response #8]

9. Table 1 shall be revised to reflect the number of trips projected in terms of the current (corresponding) transportation analysis (i.e. 3,058 Net External PM Peak Hour trips). This constitutes a 8.56% increase in comparison with the 2,817 Net External PM Peak Hour trips originally approved, an amount less than the 15% increase allotted by Subsection 380.06(19)(b)10, F.S., as cited above. [September 21, 2011 e-mail from Ms. Betsy Benac]

10. In terms of "minimums" and "maximums" associated with each project use, the following constitute the newly-proposed ranges: 744,000 - 844,000 sq. ft. for Retail, 173,000 - 273,000 sq. ft. for Office, 680 - 1,080 Residential Units, 175 - 325 Hotel Rooms, and 0 - 46,000 sq. ft. of Vo Tech/School space. Modifications from the currently approved entitlements would require simultaneous increase(s) and decrease(s) of approved uses along with a corresponding traffic study and utility impact analysis to demonstrate that the proposed revision(s) does not result in any additional impacts. Manatee County shall approve any/all future conversions that may be applicable and appropriate.

11. Table 1 of the Development Order shall be modified to reflect the following revised entitlements and buildout schedule:

BUILDOUT DATE	RESIDENTIAL (Units)	COMMERCIAL (Sq. Ft.)	OFFICE (Sq. Ft.)	VO-TECH/ SCHOOL (Sq. Ft.)	MOTEL (Rooms)
Dec. 30, 2019	767	794,000	223,000	20,000*	250

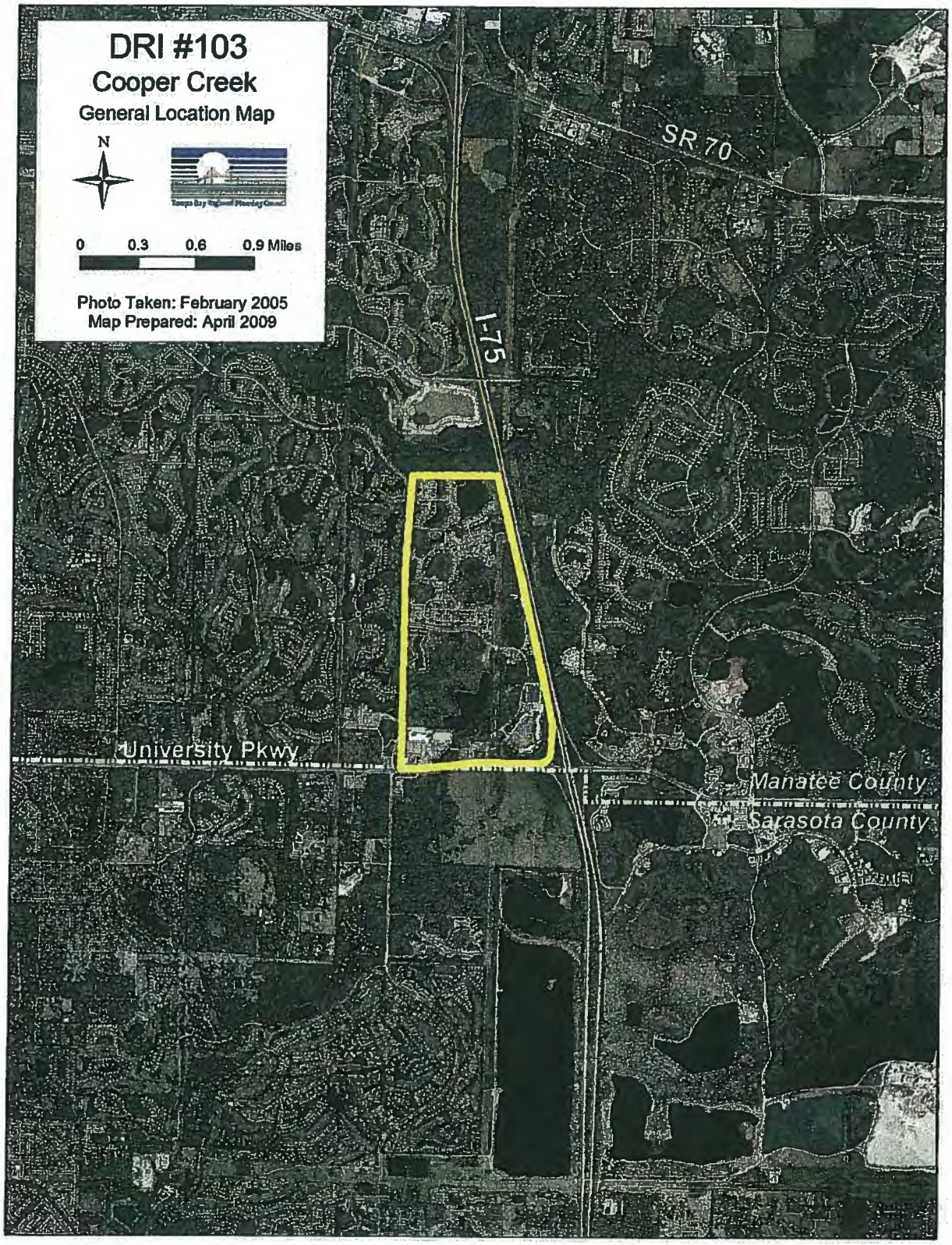
* - An additional 26,000 sq. ft. of Vo-Tech/School can be attained with a simultaneous reduction of Commercial (Parcel J) or Office (Parcel K) at a 1:1 ratio. In addition, the Vo-Tech School use can be restored to Office and/or Commercial at the same 1:1 ratio.

12. The Amendment shall include recognition to and attachment of Exhibits 2 (revised Map H/Master Development Plan) and 3 (Exhibit C/revised Preservation and Conservation Areas) of this Report.

RECOMMENDED ACTION

Indicate to Manatee County and the Florida Department of Community Affairs that the proposal is not a Substantial Deviation, as defined above. However, it is the opinion of this agency that the above-referenced verbiage should be incorporated into the Amendatory language, where applicable, to justify this finding.

EXHIBIT 1


DRI #103
Cooper Creek
General Location Map
N
0 0.3 0.6 0.9 Miles
Photo Taken: February 2005
Map Prepared: April 2009
SR 70
I-75
University Pkwy
Manatee County
Sarasota County

ORDINANCE 11-~~16~~ 38

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

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

WHEREAS, on December 23, 1986, February 10, 1987, March 29, 1990, April 5, 1993, June 22, 1995, November 4, 1997, September 7, 1999, May 28, 2002, December 1, 2005, and February 3, 2011, The Board of County Commissioner approved Resolutions R-86-323, R-87-58, R-90-39, R-93-100, R-95-135, Ordinance 97-23, Ordinance 99-40, 02-31, 05-54, ~~and~~ 11-07 and 11-16 respectively, approving amendments to the Development Order for Cooper Creek Center, which amendments were not found to be a substantial deviation to the originally approved Development Order; and

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

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

WHEREAS, the buildout date, pursuant to this amendment, for Cooper Creek Center expires on December 30,~~2015~~2019; and

WHEREAS, the expiration date of the Development Order, pursuant to this amendment, is December 30~~2016~~, 2020; and

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

1. Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
2. Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3. Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
4. Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
5. Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
6. Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7. Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8. Update Exhibit "C" to include post development areas under a Conservation Easement.
9. Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10. Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11. Any other revisions deemed necessary or appropriate during the public hearing process.
12. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

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

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

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

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

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

WHEREAS, the Planning Commission of Manatee County as the Local Planning Agency of Manatee County has held a duly noticed public hearing on ~~May 12,~~ November 10, 2011 to consider the NOPC application, has found said NOPC application consistent with the Manatee County Comprehensive Plan and has recommended approval of this ordinance, subject to the conditions specified herein; and,

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

WHEREAS, the Board of County Commissioners of Manatee County on , December 1 ~~May 24,~~ 2011 held a duly noticed public hearings on said NOPC and has solicited, received and considered all testimony, reports, comments, evidence, and recommendations from interested citizens, County and City agencies, and the applicant, as well as the review and report of the Manatee County Planning Department;

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

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 1st DAY OF DECEMBER ~~24th DAY OF MAY~~, 2011 AS FOLLOWS:

SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #14, ORDINANCE 11-~~07~~16.

Ordinance 11-~~07~~16 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the Cooper Creek Development of Regional Impact. All prior Development Orders shall be superceded by this Ordinance. Provided this amendment shall not be construed to terminate the rights of the Developer, if any, granted under Section 163.3167(8), Florida

Statutes, to the extent such rights have been previously granted and are not specifically herein or otherwise modified or amended.

SECTION 2. FINDINGS OF FACT

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

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

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

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

D. Development of the Cooper Creek Center site to date has proceeded in accordance and in compliance with the prior Development Order, as amended, and the Land Development Regulations of Manatee County.

1. The Developer has submitted the information requested in the County environmental consultant's Summary Report dated September, 1985.

2. The Developer has instituted and shall continue to conduct ~~conducted~~ the required water quality monitoring program.

3. The Developer has submitted a Master Drainage Plan which has been approved by Manatee County and TBRPC.

4. The County and Developer have entered into a Fee Agreement dated February 10, 1987 regarding the advance payment of Transportation Component Impact Fees, with which the Developer is in full compliance and which shall remain in full force and effect, and is attached hereto and make a part hereof by reference as "Exhibit D". The Developer* has obtained all impact fee credits due under this agreement.

5. The required improvements set forth in Exhibit C of R-86-323 have been constructed (Construct a second northbound to westbound left turn lane on Interstate 75 exit ramp to University Parkway).

6. The required transportation improvements set forth in Section 4, Development Conditions B(6) a., b., c., and d. of this Development Order, have been constructed by the Developer and accepted by Manatee County.

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

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

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

H. The Board of County Commissioners held a public hearing on December 1, ~~May 24~~, 2011 regarding the said NOPC described herein, in accordance with the requirements of The Manatee County Land Development Code (Ordinance 90-01, as amended) and the 2020 Manatee County Comprehensive Plan (Ordinance No. 89-01, as amended) and has further considered the testimony, comments, and information received at the Public Hearing.

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

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

K. This Development Order is issued based on information provided by the Developer* in the ADA*, as amended, and information provided in the sufficiency responses, NOPC's, and ensures compliance with the Manatee County Comprehensive Plan. Subject to the Development Order conditions listed in Section 4, the County has determined that, with the required transportation improvements listed in Conditions B. (2) and (7) of this Development Order, adequate Levels of Service exist until December 30, ~~2012~~ 2019 for this project in each of these areas referenced in subsection 1.J above, except potable water which will shall be addressed in accordance with the requirements of the Comprehensive Plan.

L. The build-out date is approved for December 30, ~~2015~~ 2019.

M. The proposed Development of Regional Impact regarding the property described in Section 6 herein is found to be consistent with the requirements of the

previously adopted Development Orders and The Manatee County Comprehensive Plan.

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

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

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

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

R. The authorized agents for the Developer* are ~~is~~ Elizabeth Benac and Todd Mathes of Benderson Development Company, LLC.

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

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

U. The Developer will be issued a Level of Service Certificate which will expire on December 30, ~~2012~~ 2019.

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

SECTION 3. CONCLUSIONS OF LAW

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

1. The Development will not unreasonably interfere with the achievement of the objectives of the Adopted State Land Development Plan applicable to the area.

2. The Development remains consistent with the report and recommendations of Tampa Bay Regional Planning Council issued on July 8, 1985, regarding DRI #103, and on October 10 ~~May 9,~~ 2011 regarding this NOPC.

3. This Development remains consistent with the State Comprehensive Plan.

4. This Development remains consistent with the Manatee County Comprehensive Plan and Land Development Code.

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

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

D. ~~The Board of County Commissioners finds that the changes do create a Substantial Deviation. However,~~ Pursuant to Section 380.06(19), Florida Statutes, the Developer has submitted clear and convincing evidence to rebut the presumption that the changes proposed by this NOPC and approved pursuant to Ordinance 11-~~16~~ 38 are a Substantial Deviation.

SECTION 4. DEFINITIONS

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

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

B. "Application*" and "Application for Development Approval*" or "ADA" shall mean Cooper Creek Center's Development of Regional Impact Application for Development Approval*, and the NOPC submitted on July 26, 1996, and revised on March 31, 1997 and August 19, 1997, the NOPC, submitted on January 27, 1999, the NOPC submitted on January 9, 2002, the NOPC submitted on May 17, 2005, the NOPC submitted on March 26, 2009, ~~and~~ the NOPC submitted on March 16, 2011 and the NOPC submitted on August 24, 2011(included as "Exhibit G").

C. "Best Management Practices*" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code (BMP list of approved practices by Board resolution for Special Overlay Districts-Evers Reservoir and Lake Manatee Watershed Areas).

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

E. "Conservation Area*" shall mean areas under a Conservation Easement to Manatee County ~~as defined by TBRPC~~ and those areas shown on revised "Exhibit C", last revised on ~~July 28, 1999~~ September, 2011.

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

G. "Developer*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-~~1~~I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the

Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.

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

I. "Development Order" shall mean the Ordinance Granting a Development Order for Cooper Creek Center, Ordinance11-~~16~~ 38.

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

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

1. Binding commitments for the actual construction with a posting of a cash bond or irrevocable letter of credit in a form satisfactory to the County; or

2. Actual construction; or

3. The placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required as long as said improvement is within the first two years of the Manatee County Capital Improvement Plan or the first two years of the FDOT Work Plan at the time of Preliminary Site Plan approval of a subphase or phase; or

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

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

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

N. "Owner*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3 Associates, a

New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest as to the Cooper Creek Center DRI and all its stipulations.

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

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

Q. "Preservation Areas*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", ~~last~~ revised on September, 2011~~July 28, 1999~~.

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

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

T. "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP* in combination with prior approvals of this project will be five percent (5%) or more of the Acceptable Level of Service*. This area will be determined in conjunction with any traffic study required for Development Approval after December 30, 2007. This area is generally depicted on Map J which was submitted with the ADA. This area will be revised as appropriate, based on a new Traffic Study*.

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

V. "Warranted*" shall mean a determination by the County based on generally accepted transportation engineering practices that the Acceptable Level of

Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order.

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

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

SECTION 5. DEVELOPMENT CONDITIONS

A.(1) Approved Development Totals and development authorized for construction pursuant to this D.O. are as set forth in Table 1. Building Permits for non-residential development and Final Plats (or Building Permits if platting is not required) for residential shall be obtained prior to December 30, 20~~15~~20.

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

A.(3) The Developer* has demonstrated the availability of adequate infrastructure, including roads, parks, transit, waste water service, solid waste service, fire, police, and other emergency services and will be issued a revised Level of Service Certificate which will expire December 30, ~~2012~~ 2019. Concurrency for potable water will be addressed at the Final Site Plan approval, pursuant to the Manatee County Comprehensive Plan Policies 2.4.1.2. and 2.4.1.5.

A.(4) Tradeoffs between the land uses set forth in Table 1 may be granted by the the ~~Planning~~ Building and Development Services Director ~~Board of County Commissioners~~ with an amendment to the General Development Plan approved by staff ~~the Board~~ along with a traffic study addressing any changes in trip generation, distribution, average queue length at intersections, and any mitigation necessary as a result of the tradeoff (Note: If the trip generation estimates as a result of the tradeoff are less than or equal to what was previously approved, a traffic study shall still be required to address the change in entering and exiting percentages, and consequently other measures of effectiveness). The ~~Board and~~ staff have not reviewed any such "tradeoff" and have not determined whether any "tradeoff" is appropriate. Any proposal for a "tradeoff" shall be reviewed for compliance with the provisions of this Development Order, the Manatee County Land Development Code, and the Manatee County Comprehensive Plan. The developer shall also be required to demonstrate that 1) the quantities of solid waste generated, potable water consumed, and wastewater, and 2) the impacts to the County Parks, Transit Services, EMS, and Sheriff, in the event of any tradeoffs, are less or meet County standards in effect at the time of tradeoff. The Developer* shall give ~~DCA~~ the State Land Planning Agency and the Tampa Bay Regional Planning Council notice of its intent to trade off land uses at least 15 days prior to the County's approval of any such trade off. The Notice shall identify the resulting impacts of the trade off in terms

of land use, traffic generation, potable water, wastewater, solid waste, and affordable housing. In addition, the DRI biennial report shall include information indicating cumulative amounts of development which have been approved by the County as of the biennial report date and the resulting impacts on traffic generation, potable water, wastewater, solid waste, and affordable housing. Following the County's ~~'s staff~~ approval of any such trade off, the County shall provide to the ~~Department of Community Affairs~~ State Land Planning Agency and TBRPC a copy of said approval. An amendment to applicable provisions of this Development Order pursuant to an NOPC or Substantial Deviation proceeding shall not be necessary or required to approve a "trade off" pursuant to this condition.

The following limitations shall apply to any tradeoff:

1. Residential uses shall not be increased nor decreased by more than 200 dwelling units. 680 to 1,080 Dwelling Units. An ALF may be permitted in lieu of dwelling units.

2. The mix of approved uses shall not be increased nor decreased by more than ~~49,000~~50,000 square feet of General Commercial or Office. ~~725,000~~ 744,000 to ~~844,000~~823,000 square feet for General Commercial and 173,000 ~~91,000~~ to ~~189,000~~ 273,000 Square Feet for Office

3. Hotel uses shall not be increased or decreased by more than 75 motel rooms. 175 to 325 Rooms.

~~4. School uses shall not be increasedor decreased by more than 6,000 square feet (20,000 to 26,000 Square Feet). A decrease of school use may result in a corresponding increase in office use.~~

TABLE 1
COOPER CREEK CENTER
PROJECT SUMMARY

TYPE OF DEVELOPMENT:	Multi-use
LOCATION:	Northwest quadrant of I-75 and University Parkway, in southeastern Manatee County

TOTAL DEVELOPMENT AREA:	**604 Acres**
Residential	317.2 Acres
Commercial/Hotel/School[1]	131.5 Acres
Office/School	30 Acres
Open Space (Roads, Right-of-Way, Conservation, Preservation, Floodway, etc.)	124.98 Acres

	Development Totals	
Residential	767 d.u.	
Commercial [1], [2], [3]	~~774,000~~ 794,000 Sq. Ft.(1)	
Office[1] [3]	~~140,000~~ 223,000 Sq. Ft.	
Motel	250 Rooms	
School[3]	~~0 to~~ 20,000 Sq. Ft.	
P.M. Peak Trips (net external)	~~2,817~~ 3,058 Trips	
BUILD-OUT DATE	December 30, ~~2015~~ 2019	

[1] May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.

[2] Includes one existing communication antennae structure.

[3] ~~May include up to an additional 6,000 sq. ft. of school upon corresponding decrease of office and/or commercial uses.~~ May include up to an additional 26,000 sq. ft. of ~~School*~~School upon corresponding decrease of office and/or

commercial use at a 1:1 ratio. All ~~School~~*School space may revert to office and/or commercial space.

A.(5) Existing agricultural uses on the property, in whole or in part, as an approved secondary use are hereby granted until development commences on the applicable section or portion of the site.

A.(6) Any excess infrastructure capacity constructed to potentially serve development beyond that described in Condition A.(1) shall be at the developer's risk and shall not be construed to vest additional Vertical Development* construction rights.

TRANSPORTATION CONDITIONS

B.(1) All residential development which does not have a Final Plat approval (or building permit if platting is not required) and all non-residential development which does not have a building permit prior to December 30, ~~2015~~ 2019 shall be subject to review and approval of a transportation analysis pursuant to Section 380.06 Florida Statutes and issuance of a transportation level of service certificate pursuant to the Manatee County Land Development Code. Completed.

B.(2) Maintenance of Acceptable Level of Service* on intersections or in the Study Area to be determined consistent with methodologies in accordance with Section 380.06, Florida Statutes shall be verified by the developer to the satisfaction of the County Transportation Authority* as part of each biennial report as required by Subsection 380.06(18), Florida Statutes.

B.(3) There shall be no approvals granted as to development beyond that specified in Table 1 unless a tradeoff is approved, consistent with the limitations of condition A(4) and the transportation improvements required have been completed or such improvements are determined as not warranted under the ~~Traffic studies*~~ required transportation analysis.

B.(4) The Developer* shall continue to demonstrate continuous progress towards building permit applications for the development totals set forth in Table 1. Continuous progress shall mean Final Plat approval (or the issuance of building permits if a Final Plat is not required) for 200 residential lots or dwelling units and the issuance of building permits for at least 50,000 square feet of non-residential use. Failure to demonstrate such progress may require a revised and updated Traffic Study* to demonstrate that Acceptable Levels of Service* are still projected to exist at the time building permits are issued. The determination that a revised and updated Traffic Study* is required shall be made by the Board of County Commissioners at a public hearing with notice to the developer, upon recommendation by the Planning Director.

B.(5) The Developer* shall provide for a bus bay area acceptable to Manatee County at one location within each commercial land use area and at one location on University Parkway near the project entrance at time of Development. (This condition provides the Transportation Management System required by TBRPC).

B.(6) The Developer* shall implement, at their expense, the following specified safety transportation improvements.

a. Signalize the intersection of University Parkway and Cooper Creek Boulevard. The signal shall be of the mast arms type. Completed.

b. Provide a westbound right-turn deceleration lane on University Parkway, at the intersection with Cooper Creek Boulevard. The turning lane length shall be 500 feet. Completed.

c. Provide an additional southbound left-turn lane on Cooper Creek Boulevard at the intersection with University Parkway. The resulting dual left-turn lanes shall have a queue length component of 225 feet each. The Southbound right-turn lane queue length should be 150 feet. The dual left-turn lanes shall be supplemented by guiding pavement markings to provide turning lane separation (2-ft long dashed lines with 4-ft gaps to channelize turning traffic). Completed.

d. Add one right hand, northbound to eastbound turn lane from Honore Avenue to Cooper Creek Boulevard, approximately 400 feet in length. Completed

e. Add one eastbound to northbound left turn lane from University Parkway to Cooper Creek Boulevard adjacent to the existing left turn lane prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.

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

ENVIRONMENT

Air Quality

C.(1) Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.

Water Quality, Wetlands* and Drainage

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

D.(2) The Developer* shall continue to conduct the approved comprehensive surface water quality and quantity monitoring program approved by the County. The program shall continue through one year beyond project buildout. The County may require that the program may be extended beyond buildout if conditions are observed that would require additional monitoring. All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

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

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

D.(3) The Developer* shall continue to conduct the comprehensive ground water quality and quantity monitoring program as previously approved by Building and Development Services Department .The program shall continue through one year beyond project buildout. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

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

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

D.(4) The Developer* shall be responsible for Operation and Maintenance for all portions of the Surface Water Management System, except for those portions which are dedicated to and accepted by the County.

D.(5) All development shall be subject to the requirements of Chapter 40D-4, F.A.C. All Wetlands* in the entire 604.68 acre development shall be subject to the requirements of Section 719 of the Manatee County Land Development Code or as otherwise approved by Manatee County.

D.(6) Impacts to Wetlands*, Preservation Areas*, and Conservation Areas* shall be mitigated in accordance with SWFWMD. In the event mitigation is not required by the applicable State agency, then impacts to wetlands, preservation areas and conservation areas shall be mitigated in accordance with the requirements of the Manatee County Comprehensive Plan and the Land Development Code. ~~Table 3~~. Mitigation shall be required prior to the completion of the parcel in which the impact occurs.

a. **Preservation and Conservation Areas***

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

The Conservation Areas* on site encompass approximately ~~51.96~~ 788 acres as indicated on the attached Revised Preservation/Conservation Map dated ~~August~~ September, 2011~~July 28, 1999~~, Exhibit C. All Conservation Areas* shall remain undisturbed or mitigated.

There shall be no impact to those Wetlands* encompassing approximately 16.41 acres, indicated as Preservation Areas* on the attached Revised Preservation/Conservation Map, dated ~~August~~September, 2011~~July 28, 1999,~~ Exhibit C. Impacts authorized pursuant to state and federal permits approved prior to the effective date of this development order and impacts for necessary infrastructure (such as roads, utility lines, recreational trails, and paths, per Manatee County Comprehensive Plan ~~as provided by TBRPC~~ policy) may be allowed.

b. **Wetland Areas***

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

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

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

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

All Post Development Wetlands*, Conservation and Preservation Areas*, and their buffers shall be protected by a recorded conservation easement to Manatee

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

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

~~TABLE 3~~

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

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

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

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

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

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

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

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

FLOODPLAINS

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

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

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

ECONOMICS

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

WILDLIFE HABITAT AND VEGETATION

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

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

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

WASTEWATER

I.(1) Sanitary sewer facilities including lift stations (pump stations) shall be designed, installed/constructed and equipped in accordance with the version of Manatee County Public Works Utility Standards that is in affect at the time of final site plan submittal.

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

~~a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box.~~

~~b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability.~~

~~c. Wet wells to contain sewage line surcharges or overflows.~~

~~d. Emergency by-pass pumpouts for tank trucks.~~

~~e. 100 percent redundancy in lift station pumping equipment.~~

I.(2) Wastewater services to be provided by Manatee County. The quantity reserved shall be pursuant to the CLOS.

I.(3) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (91-39).

I.(4) The Developer* shall not utilize on-site wastewater treatment.

WATER

J.(1) The Developer* shall require the installation of water conservation fixtures. Water saving devices shall be installed in accordance with the Florida Water Conservation Act (Section 553.14, Florida Statutes). The Developer* shall require the use of native vegetation and Xeriscape techniques, to be used in landscaping to the greatest extent possible.

J.(2) The Developer* shall use only non-potable water to meet non-potable demands. For purposes of this Development Order, "non-potable" water is defined as water emanating from any source other than a public water utility. No reclaimed water shall be used within the Evers Reservoir watershed provided that if spray effluent is permitted by Manatee County and other agencies having jurisdiction, no amendment to the Development Order shall be required to allow the Developer* to use spray effluent.

J.(3) The Developer* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources.

SOLID/HAZARDOUS WASTE

K.(1) The Developer* shall provide to all Cooper Creek Center businesses information that:

a. Indicates the types of wastes and materials that are considered to be hazardous and are to be stored or disposed of only in the specially-designated containers or areas;

b. Concerns the availability of existing companies that will accept wastes for recycle, reuse, exchange, and treatment; and

c. Advises of applicable statutes and regulations regarding hazardous wastes and materials.

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

ENERGY

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

a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;

b. Obtain energy audits provided by energy companies or other qualified agencies;

c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;

d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Cooper Creek Center construction;

e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;

f. Reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;

g. Institute and utilize recycling programs; and

h. Utilize energy efficient packaging or recyclable materials.

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

RECREATION AND OPEN SPACE

M.(1) All recreation and open space areas not dedicated to the County or other state agencies shall be maintained by the Developer*.

M.(2) A decrease in open space acreage shall require a substantial deviation determination conducted pursuant to Subsection 380.06(19), Florida Statutes.

PUBLIC SAFETY

N.(1) Sheriff and emergency medical services will be provided by Manatee County. The Developer* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for police and emergency medical services or any combination thereof. The Developer* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as allowed by the Land Development Code, if applicable. An agreement shall be approved prior to the next Final Site Plan approval. Provided, however, no approval shall be delayed if the applicant submits an agreement, and it is withheld because of the County's inability or failure to determine needs or pro-rata share determination for a period exceeding 2 months after its submittal. In no event, shall the developer's payment or pro-rata share exceed impact fee amount.

N.(2) The Cooper Creek Center development shall be designed and constructed to meet or exceed specifications of the State Fire Code - Rule 4A-3.012, FAC or be in compliance with Manatee County Comprehensive Plan and Land Development Code Requirements.

GENERAL CONDITIONS

O.(1) The Developer* shall be required to adhere to any and all commitments made in Section 6 incorporated herein, unless that commitment is superseded by a Development Order Condition in which case the Development Order Condition shall prevail.

O.(2) The Developer* shall submit biennial DRI reports in accordance with Section 380.06(18), Florida Statutes, to Manatee County, the Tampa Bay Regional Planning Council, the State Land Planning Agency, and other agencies, as may be appropriate, on or before the 9th of January of all even-numbered years starting in 2012, until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of Manatee County Building and Development Services Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Director decide that further orders and conditions are necessary. The Developer* shall be notified of any Board of County Commissioners hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, waiver, or change of any conditions, or any terms or conditions of this Development Order. The ~~annual~~ biennial report shall contain the following:

a. Any changes in the plan of development, or in the representation contained in the ADA*, or in the phasing for the reporting period and for the next period;

b. A summary comparison of development activity proposed and actually conducted for the 2 years;

c. Undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or Developer*;

d. Identification and intended use of lands purchased, leased, or optioned by the Developer* adjacent to this DRI site since the amended Development Order was issued;

e. An assessment of the Developer*'s and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments that are contained in the Application for Development Approval* and which have been identified by the County, the TBRPC, or the Department of Community Affairs as being significant;

f. Any known incremental DRI Applications for Development Approval* or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the reporting period;

g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;

h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;

i. A statement that all persons have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes; and

j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer* pursuant to Subsection 380.06(15)(f), Florida Statutes.

k. Reports or information pursuant to stipulations D(2), D(3), D(6), F(1), H(1),and L.(2) .

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

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

O.(5) The Developer* has elected, pursuant to Section 380.06(5)(c), Florida Statutes, to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the time the Development Order was issued on September 30, 1997. Accordingly, to the extent the provisions of Section 380.06(5)(c), Florida Statutes, affect the determination as to which rules are applicable to the Development, said election shall apply, notwithstanding any provision in this Development Order to the contrary.

O.(6) This Development Order shall expire December 30,~~2016~~ 2020. Buildout shall be completed by December 30,~~2015~~ 2019. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.

O.(7) This Ordinance shall constitute a Development Order issued in accordance with Chapter 380, Florida Statutes.

O.(8) In the event of a Development Order appeal or other legal challenge of the Development Order by the DCA or TBRPC, the Developer shall pay all costs and fees of County Staff and attorneys the County is required to expend related to said appeal or legal challenge at the rate of the processing fee for the Development Order under the current Building and Development Services Department fee schedules. Payment of all billings by the Developer related to such fees and costs shall be made within 45 days of the submittal of an invoice. Payment to County staff and County attorneys shall be at the rate of the processing fee for the Development Order under the current Building and Development Services Department fee schedule, and payment shall be remitted within forty-five days of submittal of an invoice.

SECTION 6. DEVELOPER* COMMITMENTS

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

SECTION 7. LEGAL DESCRIPTION

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

SECTION 8. COMMENCEMENT OF DEVELOPMENT

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

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

SECTION 9. RESTRICTIONS ON DOWN-ZONING

Prior to December 30, ~~2015~~ 2019, the County may not down-zone or reduce the intensity or unit density permitted by this order, unless the County can demonstrate that:

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

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

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

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

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

SECTION 10. BINDING ORDER UPON DEVELOPER*

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

SECTION 11. COMPLIANCE WITH CODES, ORDINANCES

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

SECTION 12. RENDITION

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

SECTION 13. NOTICE OF RECORDING

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

SECTION 14. SEVERABILITY

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

SECTION 15. EFFECTIVE DATE

This Ordinance shall become effective upon filing of a certified copy with the Department of State and rendered to the parties specified in Section 380.07(2), Florida Statutes, which ever occurs later; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 11-~~16~~ 38 during the pendency of any appeal.

SECTION 16. RECONCILE INTO ONE DOCUMENT

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

SECTION 17. REPEAL OF PRIOR ORDINANCE

Ordinance No. 11-16 ~~09-35~~ adopted by the Board of County Commissioners on May ~~19, 2009~~ 24, 2011 ~~and corrected as Ordinance 11-07 February 10, 2011~~ is hereby repealed and of no further force or effect.

ADOPTED AND APPROVED with a quorum present and voting by the Board of County Commissioners of Manatee County, Florida this the ~~24th day of May~~ 1st day of December, 2011.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: _____
Carol Whitmore, Chairman

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

BY: _____
Deputy Clerk

EXHIBITS A, B, C F, and G, ARE ATTACHED

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

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

"EXHIBIT A"

LEGAL DESCRIPTION COOPER CREEK CENTER

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

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

CONTAINING 604.68 ACRES, MORE OR LESS.

"EXHIBIT F"

DEVELOPER COMMITMENTS

1. The home sites shall be clustered around the sites/ natural features. (ADA Pg 12-1)

2. Infrastructure including water, sewer and electricity, along with roadway paving, shall be in place prior to certificate of occupancy. (ADA, Pg 32-2)

3. There shall be a minimum of three percent of the original coniferous remaining after development. (Pg 12-4, S.R.)

4. Standard fugitive particulate abatement procedures shall be used to control dust prior to construction of the various phases of Cooper Creek Center. (Pg. 13-5, S.R.)

5. Manatee County Air Pollution Rules take effect at the time of construction approval and shall apply throughout the balance of construction of Cooper Creek Center. (Pg. 13-5, S.R.)

6. Temporary erosion control measures shall be employed during project construction to minimize wind and water erosion. Temporary measures may include hay bales, silt screens, grassing, mulching, floating or staked silt barriers, sandbagging, or other appropriate methods described in the FDOT Standard Specifications for Road and Bridge Construction. Dust control measures such as watering, or the use of calcium chloride shall be employed as needed. (ADA, 14-2; SRII, pg A1-10)

7. Flood elevations shall generally not be altered by the development; however, the acreages within the flood hazard zones will shall change due to dredge and fill activities which shall occur as part of the construction of the stormwater management system and site grading plan. (Pg. 17-1, S.R.)

8. The 25-year flood elevations of Cooper Creek shall be shifted approximately 0.5 feet higher within the project by the construction of a new bridge across Cooper Creek and encroachment down to the 10-year floodplain of Cooper Creek. (Pg. 17-1, S.R.)

9. The 100-year flood elevation shall not be increased off-site due to the additional flow capacity provided by the new auxiliary floodway to be constructed in the uplands along the northwest side of Cooper Creek. (Pg. 17-1, S.R.)

10. There shall be no significant net change in surface and groundwater at buildout. The stormwater treatment ponds shall be instrumental in replenishing the groundwater storage. (SR, pg. C1-8)

11. Clearing of existing vegetation shall be selective, emphasizing conservation of valuable existing plant materials and wetlands. (ADA, pg 12-5)

12. The applicant agrees to cooperate with the Division of Archives and Manatee County in deciding the ultimate disposition of any archaeological or historical resources found during construction. (Pg. 19-1, S.R.)

13. The project shall comply with the requirement of Chapter 62.4, 62.25, 40D-4, 41D-40, and 40D-400, FAC, concerning water quality of stormwater discharge. (SRIII, pg. 6)

14. The wastewater collection system outside the public rights-of-way shall be maintained by the owner of the property. (Pg. 21-1, S.R.)

15. Water users in the industrial park shall have individual meters in order to encourage water conservation. (Pg. 21-2, S.R.)

16. The detention areas of the proposed drainage system shall be designed to contain the runoff from a 25-year, 24-hour storm event for post-development conditions. (ADA, Pg. 22-1)

17. The project design shall consider various methods of energy efficiency and incorporate energy-conserving materials, lighting and equipment. (ADA, 25-3)

18. The proposed facilities and open space shall be owned, operated, and maintained by the Developer, its successors and assigns. (SRIV, pg. 17)

19. Permanent erosion control features, such as permanent landscaping, shall be incorporated into the project at the earliest practical time. (ADA, Pg. 14-2)

20. When practical, conveyance within the drainage system shall incorporate isolated Wetland systems and shallow grassy swales to provide for additional treatment assimilation of nutrients, and additional percolation and evaporation; and utilize shallow grassy swales for conveyance. (ADA, 15-10)

21. Alterations to the floodplain and floodway of Cooper Creek shall allow portions of the floodplain and floodway to be utilized for development or stormwater management without reducing the conveyance of Cooper Creek or causing an increase in the 100-year flood stage. (Pg. 17-6, ADA)

22. A new crossing between powerline bridge and I-75 bridge may be constructed having a flow cross section at stage 18.0 feet msl at least equal to the existing box culvert crossing under University parkway. This crossing shall be either a bridge or a triple box culvert with the center barrel 2.0 feet lower than the outer barrels to provide for passage of animals along the Cooper Creek corridor. (Pg. 22-14, ADA)

23. Natural trail or other passive recreational elements may be constructed in Subbasin A outside the banks of the creek but within the floodway. These elements shall be design not to reduce the conveyance of Cooper Creek and its floodway. (Pg. 22-14, ADA)

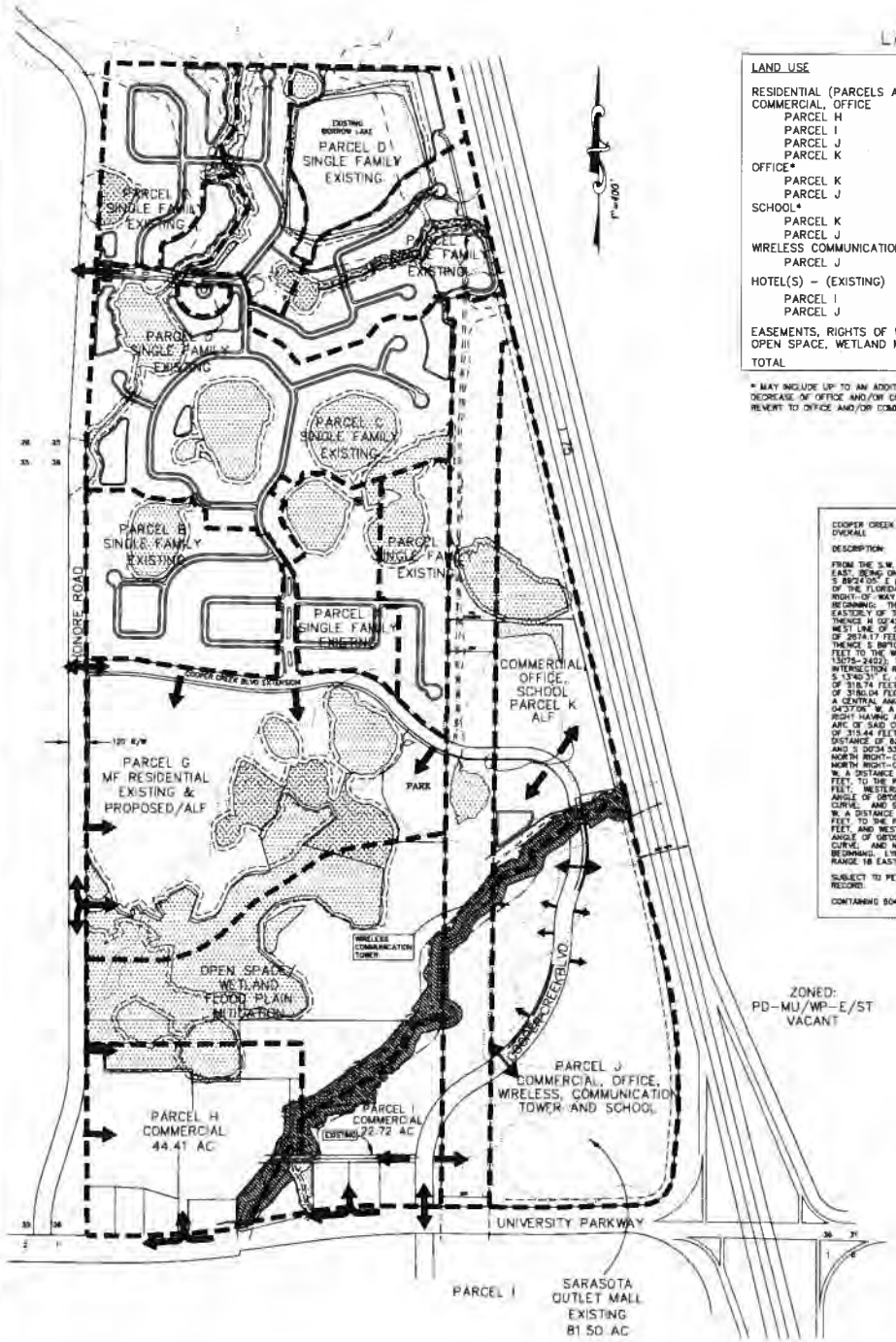
24. The fire flow required shall be based upon the proposed type of construction at the current recommendation of the National Board of Fire Underwriters at the time of construction. (Pg. 23-4, ADA)

25. The developer shall satisfy county and SWFWMD regulations regarding encroachments on the floodplain of Cooper Creek. (PBS&J/TBRPC meeting June 25, 1985)

26. No upland development is planned within the 25-year floodplain of the Braden River, Sub basins D, E, F and G. (Pg. 17-8, S.R.)

27. Four wildlife corridor areas located along the tributaries within the project shall be protected from any future development other than recreation and stormwater retention, through the use of easements and restrictive covenants. (P. 18-1, S.R. and Pg. 18-5, ADA)

Exhibit "B"



LAND USE SUMMARY

LAND USE	UNITS/SF	ACRES
RESIDENTIAL (PARCELS A–G)	767 UNITS	240.2±
COMMERCIAL, OFFICE	794,000 SF	238.5±
PARCEL H		
PARCEL I		
PARCEL J		
PARCEL K		
OFFICE*	223,000 SF	
PARCEL K		
PARCEL J		
SCHOOL*	20,000 SF	
PARCEL K		
PARCEL J		
WIRELESS COMMUNICATION TOWER		1.0±
PARCEL J		
HOTEL(S) – (EXISTING)	250 ROOMS	6.0±
PARCEL I		
PARCEL J		
EASEMENTS, RIGHTS OF WAY, WETLANDS, OPEN SPACE, WETLAND MITIGATION		124.98±
TOTAL		604.68

* MAY INCLUDE UP TO AN ADDITIONAL 25,000 SQ. FT. OF SCHOOL UPON CORRESPONDING DECREASE OF OFFICE AND/OR COMMERCIAL USE AT A 1:1 RATIO. ALL SCHOOL SPACE MAY REVERT TO OFFICE AND/OR COMMERCIAL SPACE

COOPER CREEK
OVERALL

DESCRIPTION:

FROM THE S.W. CORNER OF THE SECTION 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, BEING ON THE NORTH RIGHT-OF-WAY LINE OF COUNTY LINE ROAD, RUN S 88°24'05" E (WITH BEARINGS REFERRED TO GRID NORTH OF THE WEST ZONE OF THE FLORIDA STATE PLANE COORDINATE SYSTEM) ALONG THE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 303.58 FEET TO THE POINT OF BEGINNING; THENCE N 00°20'30" W, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 36, A DISTANCE OF 5343.35 FEET; THENCE N 00°45'45" E, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 25, TOWNSHIP 35 SOUTH, RANGE 18 EAST, A DISTANCE OF 2674.17 FEET TO THE NORTH LINE OF THE S.W. 1/4 OF SAID SECTION 25; THENCE S 89°10'54" E, ALONG SAID NORTH LINE, A DISTANCE OF 2336.77 FEET, TO THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 93 (I-75, SECTION 13075-2402); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE (AND INTERSECTION RIGHT-OF-WAY) THE FOLLOWING EIGHT COURSES; W2: S 13°40'31" E, A DISTANCE OF 8143.63 FEET; AND S09°40'31" E, A DISTANCE OF 318.74 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3780.04 FEET; AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°30'18", A DISTANCE OF 638.55 FEET; AND S 04°37'06" W, A DISTANCE OF 450.00 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 214.00 FEET; AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°40'27", A DISTANCE OF 313.44 FEET, TO THE P.T. OF SAID CURVE; AND S 88°17'27" W, A DISTANCE OF 828.42 FEET; AND N 89°25'07" W, A DISTANCE OF 2985.24 FEET; AND S 00°34'53" W, A DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT-OF-WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING EIGHT COURSES; W2: N 89°25'07" W, A DISTANCE OF 440.34 FEET; AND N 88°24'05" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5865.58 FEET; WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 828.88 FEET, TO THE P.T. OF SAID CURVE; AND S 82°30'06" W, A DISTANCE OF 549.31 FEET; AND S 01°53'34" W, A DISTANCE OF 33.33 FEET; AND S 82°30'06" W, A DISTANCE OF 12.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5828.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 795.11 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'05" W, A DISTANCE OF 320.21 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 26, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

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

CONTAINING 604.68 ACRES, MORE OR LESS.

ZONED:
PD-MU/WP-E/ST
VACANT

LEGEND

- PRESERVATION AREA – 19.416 AC
- CONSERVATION AREA – 88.084 AC
- OTHER WETLAND AREA
- PARCEL LINE
- EXISTING ALIGNED ACCESS DRIVES
- EXISTING ACCESS DRIVES
- EXISTING INTERSECTION ACCESS
- EXISTING RIGHT IN/OUT ACCESS
- PROPOSED ACCESS
- PROPOSED INTERSECTION ACCESS

DESIGN: RDG/TDC
DRAWN: ARB
DATE: 09.01.11
JOB NO.: 2400
SCALE: 1"=400'
SHEET

MAP H – REVISED
FOR
COOPER CREEK
LOCATED IN
SECTION 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST
MANATEE COUNTY, FLORIDA

THIS EXHIBIT IS FOR THE SOLE PURPOSE OF THIS DRAWING IS TO ILLUSTRATE THE APPROXIMATE DIMENSIONS AND LAYOUT OF THE DEPICTED PREMISES. NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, IS MADE WITH RESPECT TO THE ILLUSTRATION.

REVISIONS
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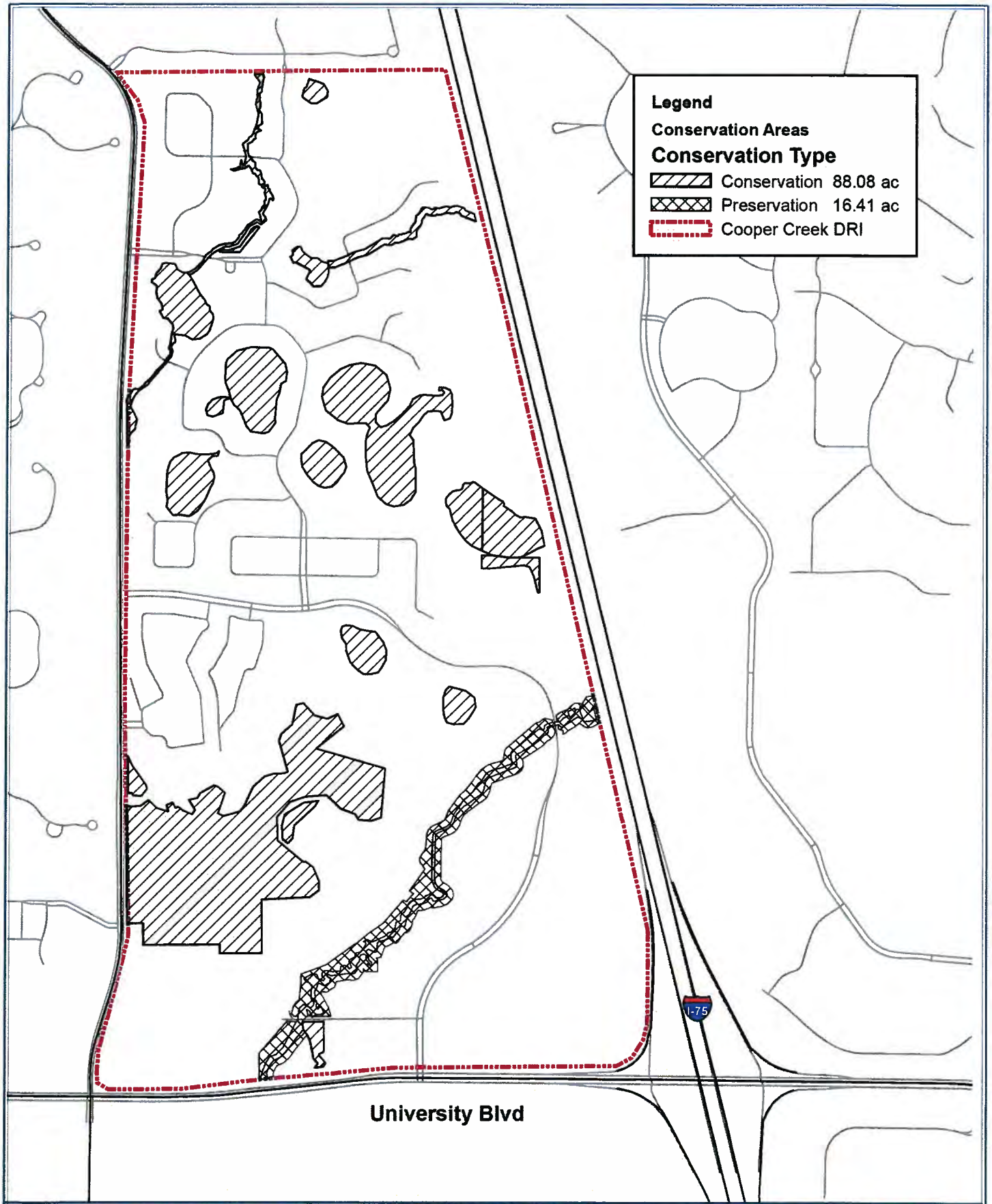
BENDERSON DEVELOPMENT COMPANY, LLC
8441 COOPER CREEK BLVD, UNIVERSITY PARK, FL 34201
Phone (941) 359-8181 Fax (941) 359-8188
www.bendersen.com



BENDERSON
DEVELOPMENT COMPANY, LLC
8441 Cooper Creek Blvd
University Park, FL 34201
941-359-8303

PROJECT: Cooper Creek DRI, Manatee County, FL

Exhibit "C" Cooper Creek DRI
Preservation and Conservation Areas
Manatee County, Florida

ORIGINAL DATE: 07/12/2011
REVISION DATE: 09/26/2011
JOB NUMBER: 2400
FILE NAME: Cooper Creek Conser....mxd
GIS OPERATOR: LEF

N
W E
S
1 inch = 1,000 feet

BENDERSON DEVELOPMENT COMPANY, LLC

8441 Cooper Creek Blvd.
University Park, FL 34201
Phone: (941) 359-8303
Fax: (941) 359-1478

Date:	08/24/11	Job Number:	2400
Project:	**Cooper Creek DRI #14 NOPC**		

TO: ***Ms. Lisa Barrett, Planning Manager***
Manatee County Building and Development Services

We are sending you the following items:

COPIES	DATE	NUMBER	DESCRIPTION
20	08/24/11		Completed Notification of a Proposed Change to a Previously Approved Development of Regional Impact (DRI) Subsection 380.06(19) , Florida Statutes
20	08/24/11		Ordinance 11-16 revised in add/delete format for NOPC
1	08/24/11		Check in the amount of $12,300 for Application Fee (Includes $7500 for NOPC and $4800 for GDP amendment)
20	08/24/11		Revised Map H
20	08/24/11		Revised Exhibit "C"
20	08/24/11		Letter explaining proposed changes
20	08/24/11		Land Development Application, including Agent Authorization Form (original submitted with General Development Plan modification)

REMARKS: Attached is the application for the NOPC as discussed.
If you have any questions, please contact me at (941) 360-7264. Thanks.

Sincerely,

Betsy Benac, AICP, LEED AP
Senior Project Planner

Exhibit "G"

MANATEE COUNTY GOVERNMENT
PLANNING DEPARTMENT
LAND DEVELOPMENT APPLICATION

FOR STAFF USE ONLY

Date: _____ File Number: _____

File Name: _____

This application shall be used for all land development rezone or comprehensive plan amendment request. Please attach appropriate standards or supplementary information, as applicable.

NAME OF THE PROJECT: Cooper Creek Center DRI #14

TYPE OF APPROVAL DESIRED: Notice of Approved Change to DRI (NOPC)

LIST CASE NUMBERS OF PREVIOUS APPROVALS: Ordinance 11-16 Cooper Creek Center

A. Property Information

1. Legal Description: See Attached
2. D. P. Number(s): 2054711059
3. Section: 25 and 36 Township: 35S Range: 18E
4. Subdivision Name (if Platted): N/A
5. Lot: NA 6. Block: NA
7. Address or Location of Property (See Address Coordinator, if physical address is needed): North of University Parkway and West of I-75
8. Present Zoning Classification: PD-MU/WP-E/ST
9. (If Rezone) Proposed Zoning Classification: NA
10. (If Comprehensive Plan Map Amendment) Proposed Future Land Use Category: NA
11. Future Land Use Category: MU
12. Flood Zone Category: X and AE Map/Panel Numbers: 120153 0365C
13. Property Size (to the nearest tenth of acre or sq. ft.: 604.68
14. Existing Use(s) of Subject Property (i.e.: vacant, residence, commercial, etc.): Residential, Commercial, Office, School, Cell Tower, Park, and Hotel
15. Surrounding Land Use(s) (i.e.: vacant, residence, commercial, etc.):
    a. North: Residential c. East: I-75 /Commercial
    b. South: University Parkway/Commercial d. West: Commercial/Residential
16. Description of Proposed Activity or Use (Attach separate Sheet if Necessary):
    Increase the allowable commercial retail SF to 794,000 SF; Increase the allowable office to 243,000 SF of which 26,000 SF may be traded for School of Special Education use. Add additional access points to Cooper Creek Blvd. to accommodate future development; modify GDP to reflect updated conservation and preservation (wetlands) areas; Add Commercial and ALF to allowable uses in Parcel K.

Exhibit "G"

B. Names/Addresses

List all person(s)having ownership in subject property

1. Name of Property Owner: **Dick Road-Blend-All Hotel Development, Inc., ET,Al**
   Address: **8441 Cooper Creek Boulevard, University Park, Florida**
   Zip: **34201** Telephone: **941-359-8303** Fax: **941-359-1478**
   Email Address: **betsybenac@benderson.com**

2. Name of Agent: **Elizabeth Benac, Benderson Development Company, LLC**
   Contact Person: **Elizabeth Benac**
   Address: **8441 Cooper Creek Boulevard, University Park, Florida**
   Zip: **34201** Telephone: **941-359-8303** Fax: **941-359-1836**
   Email Address: **betsybenac@benderson.com**

4. Name of Engineer: **N/A**
   Contact Person: _____
   Address: _____
   Zip: ___ Telephone: _____ Fax: _____
   Email Address: _____

5. Name of Architect: **NA**
   Contact Person: _____
   Address: _____
   Zip: _____ Telephone: _____ Fax: _____
   Email Address: _____

6. Name of Landscape Architect: _____
   Contact Person: _____
   Address: _____
   Zip: _____ Telephone: _ Fax: _____
   Email Address: _____

NOTE: UNLESS OTHERWISE NOTED, ALL WRITTEN CORRESPONDENCE WILL BE MAILED TO THE AGENT. IF THERE IS NO AGENT, COMMENTS WILL BE SENT TO THE PROPERTY OWNER.

Exhibit "G"

C. Signature

I hereby certify that the information in this application is true and correct. I have read this application and understand that other review processes and fees may be required prior to applying for and receiving Building Permits and/or Final Development Approval.

By executing this application, I acknowledge that I am familiar with the Rules of Procedure which apply to the boards or commissions which will act on my application and that I have read and understand such Rules of Procedures.

(Signature of Property Owner or Agent)
Elizabeth Benac, Benderson ~~Dev.~~ Co, LLC

Additional Information

CONTACT:

Planning Department
1112 Manatee Avenue West, Bradenton, FL 34205
P. O. Box 1000, Bradenton, FL 34206

Telephone: (941) 749-3070
Fax Number: (941) 749-3071

MANATEE COUNTY PLANNING DEPARTMENT WEB PAGE
http://www.mymanatee.org

Rev. 12/1/07
B-1

Exhibit "G"

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

August 24, 2011

Ms. Lisa Barrett, Planning Manager
Manatee County Building and Development Services

RE: Request for Notice of Proposed Change to the Cooper Creek DRI #14

Dear Lisa:

In response to the recently adopted modifications to Chapter 380.06 (19), and in order to allow for future infill development opportunities at the existing development, we are submitting the enclosed applications for a Notice of Proposed Change (NOPC) to a previously approved DRI. The changes proposed to the DRI include:

1. Provide an increase in the allowable area/square feet (SF) for retail commercial development of 20,000 SF, bringing the maximum allowable SF for Commercial Uses to 794,000 SF.
2. Provide an increase in the allowable area for office commercial development of 83,000 SF, with the ability to have an additional 20,000 SF of school of special education as a trade-off for the office.
3. Add Commercial and Assisted Living (ALF) as an allowable use in Parcel K.
4. Modify Map H to reflect the above referenced increases to the office and commercial uses, as well as to modify the Conservation Area to reflect areas that are under a conservation easement with Manatee County, in addition to existing wetlands in the developed portion of the site that may not be under a conservation easement. This change results in an increase in the amount of Conservation Area shown on the map.
5. Reflect new access points along Cooper Creek Blvd. to accommodate future development.
6. Update Exhibit "C" to reflect areas that are in a conservation easement or other wetlands existing in the developed portion of the site. Modify the definition of "Conservation Area" to reflect the existing conservation areas under easement to Manatee County as well as the other wetland areas shown on Exhibit "C". The reference to "TBRPC Conservation Areas" is being deleted.
7. Modify Development Condition A.(4) to change the limitations for tradeoffs to reflect the changes to the maximum allowable SF for office and commercial uses, to eliminate the restrictions on hotel uses, and to increase the amount of school that may be allowed as a tradeoff for office or commercial uses.
8. Eliminate Table 3, and change the requirement for wetland mitigation to be consistent with State requirements or the Manatee County Comprehensive Plan

when mitigation is not required by the State and modify Condition D(6) to reflect this change.

9. Recognize additional four year extensions of the buildout date (to December 30, 2019) and the Development Order expiration date (December 30, 2020) in accordance with HB 7207.

It is our position that these changes do not constitute a substantial deviation, under the recently amended Chapter 380.06. The calculations for the additional SF as a percentage of the 110% threshold as allowed in Chapter 360.09(19) e as amended are detailed below:

20,000 retail /77,400 SF (10% of the approved commercial SF)	=26%
83,000 office /100,000 SF	=83%
Total	=109%

Our application will include a traffic study prepared by Kimley Horn and Associates (to be provided under separate cover) which demonstrates that the total number of trips to be generated from the proposed additional SF do not exceed 15% of the trips approved with the original development order for the shopping center, and that the new access points along Cooper Creek Boulevard do not have a negative impact on the surrounding transportation network.

The changes proposed to Map H include the proposed increase in SF, and also a change to the area shown as Conservation Land. This change includes an updated Exhibit "C", which does not appear to have been modified since 1999. However, with construction of the development, changes have been made to the Conservation areas, and these changes have resulted in the recording of conservation easements to Manatee County. In some cases, areas shown as Conservation have been or are proposed to be mitigated (as anticipated by the Development Order). This change will correct the map to reflect only those wetland areas that exist or are proposed to be placed in a Conservation easement. The definition of conservation area is proposed to be changed to reflect the use of conservation easements provided to Manatee County to protect these areas. The reference to "TBRPC Conservation Areas" is being deleted, as there does not appear to be an existing definition of such areas in the current Regional Policy Plan. No changes are proposed to any Preservation Areas.

The development order is proposed to be modified to eliminate Table 3, which provides for minimum wetland, preservation and conservation area mitigation ratios. This table makes reference to TBRPC Conservation Areas, which are not defined in the Development Order, Chapter 360 FS or in the Manatee County Comprehensive Plan. The Development Order in Table 3 provides for mitigation ratios that do not

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

meet the standards for mitigation currently utilized by the SWFWMD, FDEP and Manatee County, as the Manatee County Comprehensive Plan has been amended to include UMAM standards for classification and mitigation of wetlands.

Please let us know if you have any questions regarding the proposed changes, and we look forward toward working with you on adoption of the NOPC and the GDP amendment.

Sincerely,

Betsy Benac, AICP, LEED AP

Benderson Development Company, LLC

FORM RPM-BSP-PROPCHANGE-1

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF COMMUNITY PLANNING
BUREAU OF LOCAL PLANNING
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399
850/488-4925

NOTIFICATION OF A PROPOSED CHANGE TO A PREVIOUSLY APPROVED DEVELOPMENT OF REGIONAL IMPACT (DRI) SUBSECTION 380.06(19), FLORIDA STATUTES

Subsection 380.06(19), Florida Statutes, requires that submittal of a proposed change to a previously approved DRI be made to the local government, the regional planning agency, and the state land planning agency according to this form.

1. I, **Elizabeth J Benac**, the undersigned owner/authorized representative of **Dick Road-Blend-All Hotel Development, Inc. (developer/owner)**, hereby give notice of a proposed change to a previously approved Development of Regional Impact in accordance with Subsection 380.06(19), Florida Statutes. In support thereof, I submit the following information concerning the **Cooper Creek Center** development, which information is true and correct to the best of my knowledge. I have submitted today, under separate cover, copies of this completed notification to **Manatee County,** to the **Tampa Bay** Regional Planning Council, and to the Bureau of Local Planning, Department of Community Affairs.

_____ _____
Date Signature

2. Applicant (name, address, phone)

Dick Road-Blend-All Hotel Development, Inc. 8441 Cooper Creek Blvd., University Park, FL 34201 (941) 359-8303

3. Authorized Agent (name, address, phone).

Elizabeth J. Benac, Benderson Development Company, LLC 8441 Cooper Creek Blvd. University Park, FL 34201 (941) 359-8303

Exhibit "G"

4. Location (City, County, Township/Range/Section) of approved DRI and proposed change.

Manatee County, Florida-Sections 25 and 36, Township 35S, Township 35S, Range 18 E

5. Provide a complete description of the proposed change. Include any proposed changes to the plan of development, phasing, additional lands, commencement date, build-out date, development order conditions and requirements, or to the representations contained in either the development order or the Application for Development Approval.

Indicate such changes on the project master site plan, supplementing with other detailed maps, as appropriate. Additional information may be requested by the Department or any reviewing agency to clarify the nature of the change or the resulting impacts.

The Proposed Changes include:

1. **Modification to the approved Land Uses in Project Summary Table 1 to include:**
   a. **An additional 20,000 SF of Commercial for a total of 794,000 SF (26% of max. allowable 77,400 SF)**
   b. **An additional 83,000 SF of Office and/or school Use for a total of 243,000 SF (83% of max. allowable 100,000 SF)**
   c. **Modified the Office Use to note that up to 26,000 SF of School may be permitted in lieu of Office SF .**
2. **Modifications to Map H to include:**
   a. **Additional Access points to Cooper Creek Blvd, a thoroughfare roadway internal to the project**
   b. **Added Commercial and Assisted Living Facility as an allowable land use in parcel K**
   c. **Land Use Changes listed above in #1 reflected in the Land Use Sumary Table**
3. **Modification to the Conservation Areas consistent with the proposed definition to include areas under a Conservation Easement to Manatee County and those areas shown on revised "Exhibit C" (as updated with this NOPC). The result is that the Conservation Area is much larger than on the current Map H and Exhibit "C".**
4. **Extend the build-out date and expiration dates in compliance with HB 7207; to 2019 and 2020 respectively**
5. **Amend the Definition of Conservation Area to delete the reference to TBRPC and substitute the language to "mean areas under a Conservation Easement to Manatee County and those areas shown on revised "Exhibit C".**
6. **Update "Exhibit C" to show Conservation Areas based on recorded Conservation Easements and conservation areas (both wetlands and uplands) existing (but not in an easement) within the developed portions of the project.**
7. **Amend General Condition D(6) to eliminate reference to Table 3, and change the requirement for mitigation of impacts to reference SWFWMD requirements, or the Manatee County Comprehensive Plan if mitigation is not required by the State. Update the acreage amount of the Conservation Areas and the date of the Exhibit C.**
8. **Delete Table 3 providing for Mitigation Ratios.**

9. **Modify Development Condition A.(4) to change the limitations for tradeoffs to reflect the changes to the maximum allowable SF for office and commercial uses, to eliminate the restrictions on hotel uses, and to increase the amount of school that may be allowed as a tradeoff for office or commercial uses.**

6. Complete the attached Substantial Deviation Determination Chart for all land use types approved in the development. If no change is proposed or has occurred, indicate no change. **(Please see attached)**

7. List all the dates and resolution numbers (or other appropriate identification numbers) of all modifications or amendments to the originally approved DRI development order that have been adopted by the local government, and provide a brief description of the previous changes (i.e., any information not already addressed in the Substantial Deviation Determination Chart). Has there been a change in local government jurisdiction for any portion of the development since the last approval or development order was issued? If so, has the annexing local government adopted a new DRI development order for the project? **The Development Order for Cooper Creek Center was originally approved on January 9, 1986 and became effective on January 13, 1986 (Resolution 85-236). Since then the DO has been amended 11 times. The most recent NOPC was approved to allow extensions of time consistent with SB 1752, and a new right-in/right-out access drive on University Parkway. The NOPC was found not to be a Substantial Deviation and approved on May 24, 2011 (Ordinance 11-16). There has not been any change to the local government jurisdicition (Manatee County) since the original DO approval in 1986.**

8. Describe any lands purchased or optioned within 1/4 mile of the original DRI site subsequent to the original approval or issuance of the DRI development order. Identify such land, its size, intended use, and adjacent non-project land uses within ½ mile on a project master site plan or other map. **No lands have been purchased by the Owner within ¼ mile of the original DRI site subsequent to the original approval or issuance of the DRI development order.**

9. Indicate if the proposed change is less than 40% (cumulatively with other previous changes) of any of the criteria listed in Paragraph 380.06(19)(b), Florida Statutes.

Do you believe this notification of change proposes a change which meets the criteria of Subparagraph 380.06(19)(e)2., F.S.
YES **X** NO _____

10. Does the proposed change result in a change to the buildout date or any phasing date of the project? If so, indicate the proposed new buildout or phasing dates. **Yes-the new buildout date will be December 30, 2019 and the Expiration date will be December 30, 2020, consistent with the recently approved 4-year allowable extension granted with HB 7207**

11. Will the proposed change require an amendment to the local government comprehensive plan? **No**

Exhibit "G"

Provide the following for incorporation into such an amended development order, pursuant to Subsections 380.06 (15), F.S., and 9J-2.025, Florida Administrative Code:

12. An updated master site plan or other map of the development portraying and distinguishing the proposed changes to the previously approved DRI or development order conditions. **An updated master site plan (Map H) has been provided**

13. Pursuant to Subsection 380.06(19)(f), F.S., include the precise language that is being proposed to be deleted or added as an amendment to the development order. This language should address and quantify:

a. All proposed specific changes to the nature, phasing, and build-out date of the development; to development order conditions and requirements; to commitments and representations in the Application for Development Approval; to the acreage attributable to each described proposed change of land use, open space, areas for preservation, green belts; to structures or to other improvements including locations, square footage, number of units; and other major characteristics or components of the proposed change; The proposed changes include:

Modification to the approved Land Uses in Project Summary Table 1 to include:

i. **An additional 20,000 SF of Commercial for a total of 794,000 SF (26% of max. allowable 77,400 SF)**

ii. **An additional 83,000 SF of Office and/or school Use for a total of 243,000 SF (83% of max. allowable 100,000 SF)**

iii. **Modified the Office Use to note that up to 26,000 SF of School may be permitted in lieu of Office SF .**

Modifications to Map H to include:

- **Additional Access points to Cooper Creek Blvd, a thoroughfare roadway internal to the project**
- **Added Commercial and Assisted Living Facility as an allowable land use in parcel K**

Land Use Changes listed above in #1 reflected in the Land Use Sumary Table

Modification to the Conservation Areas consistent with the proposed definition to include areas under a Conservation Easement to Manatee County and those areas shown on revised "Exhibit C" (as updated with this NOPC). The result is that the Conservation Area is much larger than on the current Map H and Exhibit "C".

Extend the build-out date and expiration dates in compliance with HB 7207; to 2019 and 2020 respectively

Amend the Definition of Conservation Area to delete the reference to TBRPC and substitute the language to "mean areas under a Conservation Easement to Manatee County and those areas shown on revised "Exhibit C".

Update "Exhibit C" to show Conservation Areas based on recorded Conservation Easements and conservation areas (both wetlands and uplands) existing (but not in an easement) within the developed portions of the project.

Amend General Condition D(6) to eliminate reference to Table 3, and change the requirement for mitigation of impacts to reference SWFWMD requirements, or the Manatee County Comprehensive Plan if mitigation is not required by the State. Update the acreage amount of the Conservation Areas and the date of the Exhibit C.

Delete Table 3 providing for Mitigation Ratios.

Modify Development Condition A.(4) to change the limitations for tradeoffs to reflect the changes to the maximum allowable SF for office and commercial uses, to eliminate the restrictions on hotel uses, and to increase the amount of school that may be allowed as a tradeoff for office or commercial uses.

b. An updated legal description of the property, if any project acreage is/has been added or deleted to the previously approved plan of development; **No Additions or changes to the legal description**

c. A proposed amended development order deadline for commencing physical development of the proposed changes, if applicable; N/A

d. A proposed amended development order termination date that reasonably reflects the time required to complete the development; **December 31, 2020**

e. A proposed amended development order date until which the local government agrees that the changes to the DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, if applicable; and

f. Proposed amended development order specifications for the annual report, including the date of submission, contents, and parties to whom the report is submitted as specified in Subsection 9J-2.025 (7), F.A.C.
See attached proposed Development Order in add/delete format

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Attraction/Recreation	# Parking Spaces			
	# Spectators			
	# Seats			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	External Vehicle Trips			
	D.O. Conditions			
	ADA Representations			
Airports	Runway (length)			
	Runway (strength)			
	Terminal (gross square feet)			
	# Parking Spaces			
	# Gates			
	Apron Area (gross square feet)			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	Site locational changes			
	Airport Acreage, including drainage, ROW, easements, etc.			
Airports (cont.)	# External Vehicle Trips			
	D.O. Conditions			
	ADA representations			
Hospitals	# Beds			
	# Parking Spaces			
	Building (gross square feet)			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	External Vehicle Trips			
	D.O. conditions			
	ADA representations			
Industrial	Acreage, including drainage, ROW, easements, etc.			
	# Parking spaces			
	Building (gross square feet)			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	# Employees			
	chemical storage (barrels and pounds)			
	Site locational changes			
Industrial (cont.)	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Mining Operations	Acreage mined (year)			
	Water withdrawal (gal/day)			
	Size of mine (acres), including drainage, ROW, easements, etc.			
	Site locational changes			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Office	Acreage, including drainage, ROW, easements, etc.	No Change	30+/- acres	
	Building (gross square feet)	243,000	160,000	Ordinance 11-16 clarified amount of office and school tradeoff adopted 5/24/11

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	# Parking Spaces	972	640	
	# Employees			
	Site locational changes			
	# External vehicle trips	See Traffic study	See Traffic Study	
	D.O. Conditions			
Office (cont.)	ADA representations			
Petroleum/Chemical Storage	Storage Capacity (barrels and/or pounds)			
	Distance to Navigable Waters (feet)			
	Site locations changes			
	Facility Acreage, including drainage, ROW, easements, ect.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Ports (Marinas)	# Boats, wet storage			
	# Boats, dry storage			
	Dredge and fill (cu. yds.)			
	Petroleum storage (gals.)			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	Site locational changes			
	Port Acreage, including drainage, ROW, easements, etc.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Residential	# Dwelling units	Tradeoff will allow range from 691 to 843 units.	Current limitations allow range from 680 units to 1080 units. Currently, 767 units are approved.	Tradeoff was exercised in 2009 to exchange 113 residential units for 20,000 SF of office/Vo-tech School and 29,000 SF of retail. Approved with Ordinance 11-07(Corrected Ordinance) 2/3/11.
	Type of dwelling units			
	# of lots			
	Acreage, including drainage, ROW, easements, etc.			
	Site locational changes	Allow residential uses (Manatee County considers Assisted Living Facility a residential		

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
		use) in Parcel K		
	# External vehicle trips			
	D.O. Conditions			
Wholesale, Retail, Service	Acreage, including drainage, ROW, easements, etc.	Allow Commercial in Parcel K -30+/- acres	Currently Commercial is allowed in Parcels H,I & J-150 +/- acres.	
	Floor Space (gross square feet)	794,000 SF	774,000 SF	Additional 29,000 SF allowed with a tradeoff of 113 residential units approved with Ordinance 11-07 (Corrective) adopted 2/3/11
	# Parking Spaces	3,176	3,096	
	# Employees			
	Site locational changes	Added Retail commercial uses to Parcel K to allow for mix within the existing office park		
	# External vehicle trips	See traffic study	See traffic study	
	D.O. Conditions			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	ADA representations			
Hotel/Motel	# Rental Units	No Change		
	Floor space (gross square feet)			
	# Parking Places			
	# Employees			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
R.V. Park	Acreage, including drainage, ROW, easements, etc.			
	# Parking Spaces			
	Buildings (gross square feet)			
	# Employees			
	Site locational changes			
	# External vehicle trips			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
	D.O. conditions			
	ADA representations			
Open Space (All natural and vegetated non-impervious surfaces)	Acreage	No Change		
	Site locational changes			
	Type of open space			
	D.O. Conditions			
	ADA representations			
Preservation, Buffer or Special Protection Areas Preservation (cont.)	Acreage	Increase in Conservation Area-from 51.96 AC to over 70 acres. No Change in Preservation Area.	51.96 AC	
	Site locational changes	Consistent with surveyed Conservation Easements and existing wetlands	Based on general mapping criteria	
	Development of site proposed			
	D.O. Conditions	Modify definition of Conservation Area to match State (SWFWMD)and	Conservation Areas as defined by TBRPC	

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
		Local Comp Plan requirements		
	ADA representations			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Exhibit "G"

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	PDMU-96-01(G)(R9) – Cooper Creek Center	**TYPE AGENDA ITEM**	Advertised Public Hearings – Consent
DATE REQUESTED	11/10/11PC	**DATE SUBMITTED/REVISED**	10/31/11
BRIEFINGS? Who?	No	**CONSEQUENCES IF DEFERRED**	N/A
DEPARTMENT/DIVISION	Building and Development Services / Comprehensive Planning and Public Hearings	**AUTHORIZED BY TITLE**	Lisa Barrett, Planning Manager
CONTACT PERSON TELEPHONE/EXTENSION	Lisa Barrett / 748-4501 ext. 6884 DTS20100214	**PRESENTER/TITLE TELEPHONE/EXTENSION**	Lisa Barrett / Planning Manager / 748-4501 ext. 6884
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-96-01(G)(R9) per the recommended motion in the staff report attached to this memo.

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

Manatee County Comprehensive Plan and Manatee County Land Development Code.

BACKGROUND/DISCUSSION

- This request is for an amendment to the Cooper Creek General Development Plan and Zoning Ordinance.
- Cooper Creek is a DRI (Development of Regional Impact). Accompanying the GDP amendment is an amendment to the DRI as a Notice of Proposed Change (or NOPC).
- This request is to:

1. Extend the ZO buildout date and expiration dates pursuant to HB 7207;
2. Extend the CLOS date to match buildout date;
3. Allow an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. of office use;
4. Allow a tradeoff allowance for an additional 20,000 sq. ft. of school use with a corresponding reduction of commercial and/or office;
5. Add a tradeoff for an ALF (Assisted Living Facility) for residential;
6. Add Neighborhood Commercial and ALF as permitted uses in Parcel K, and an ALF in Parcel G;
7. Permit additional access points from Cooper Creek Boulevard;
8. Modify the definition of conservation area to mean areas under a conservation easement to Manatee County or as shown on Exhibit C;
9. Update Exhibit C;
10. Delete Table 3;
11. Eliminate reference to Exhibit H;
12. Delete Stipulation B(14);
13. Amend the General Development Plan to implement these changes;
14. Amend stipulations to update conditions and departmental reference; and,
15. Amend stipulations to facilitate these changes.

- Staff recommends approval of the requests, with the exception of the request to delete Stipulation B(14). This stipulation requires reservation of additional right-of-way along I-75 for the future expansion of the I-75 corridor. See staff report for complete discussion.

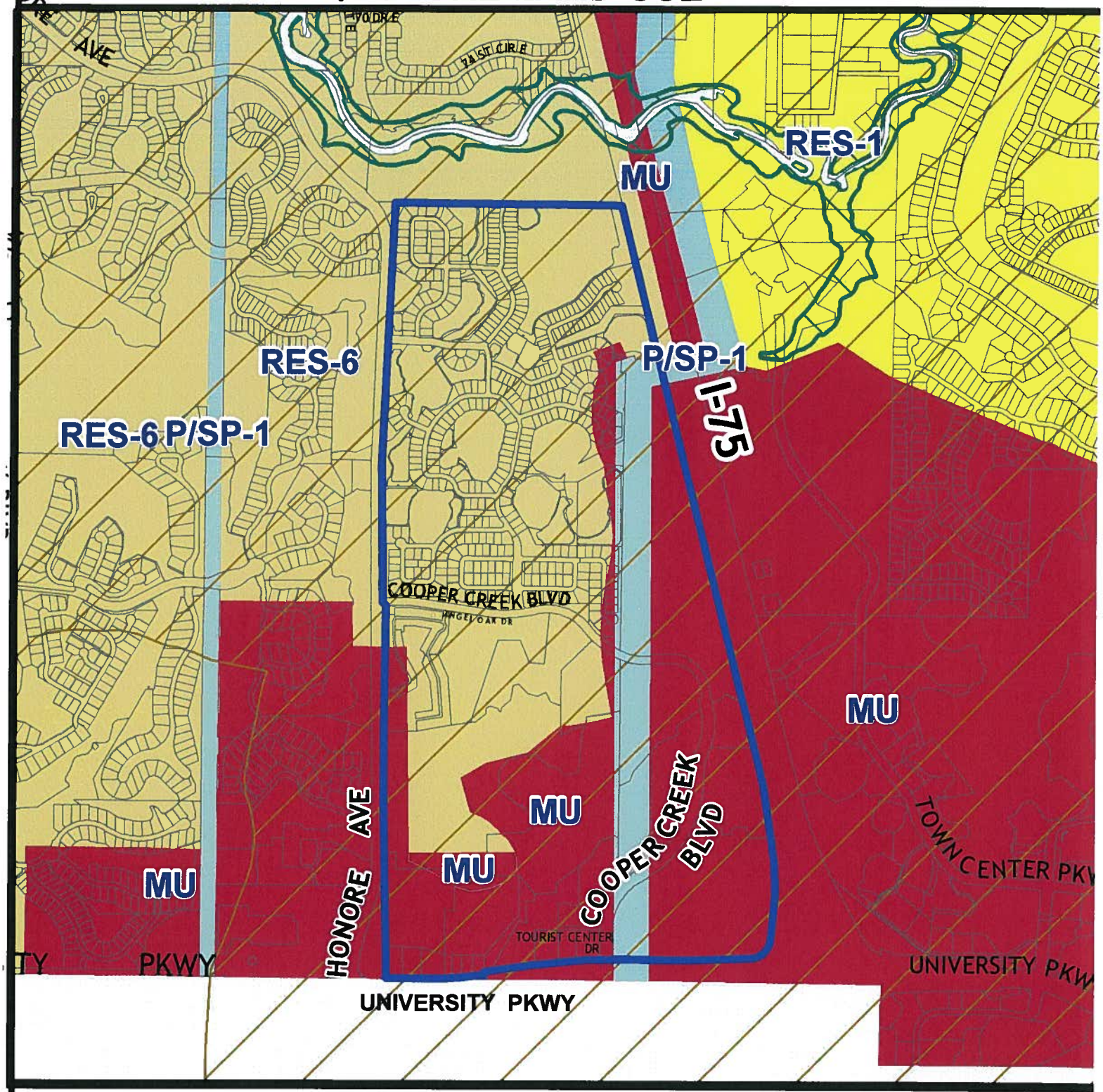
COUNTY ATTORNEY REVIEW

Check appropriate box	
☒	**REVIEWED** **Written Comments:** ☐ **Attached** ☒ **Available from Attorney (Attorney's initials:** SAS)
☐	**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) Multiple

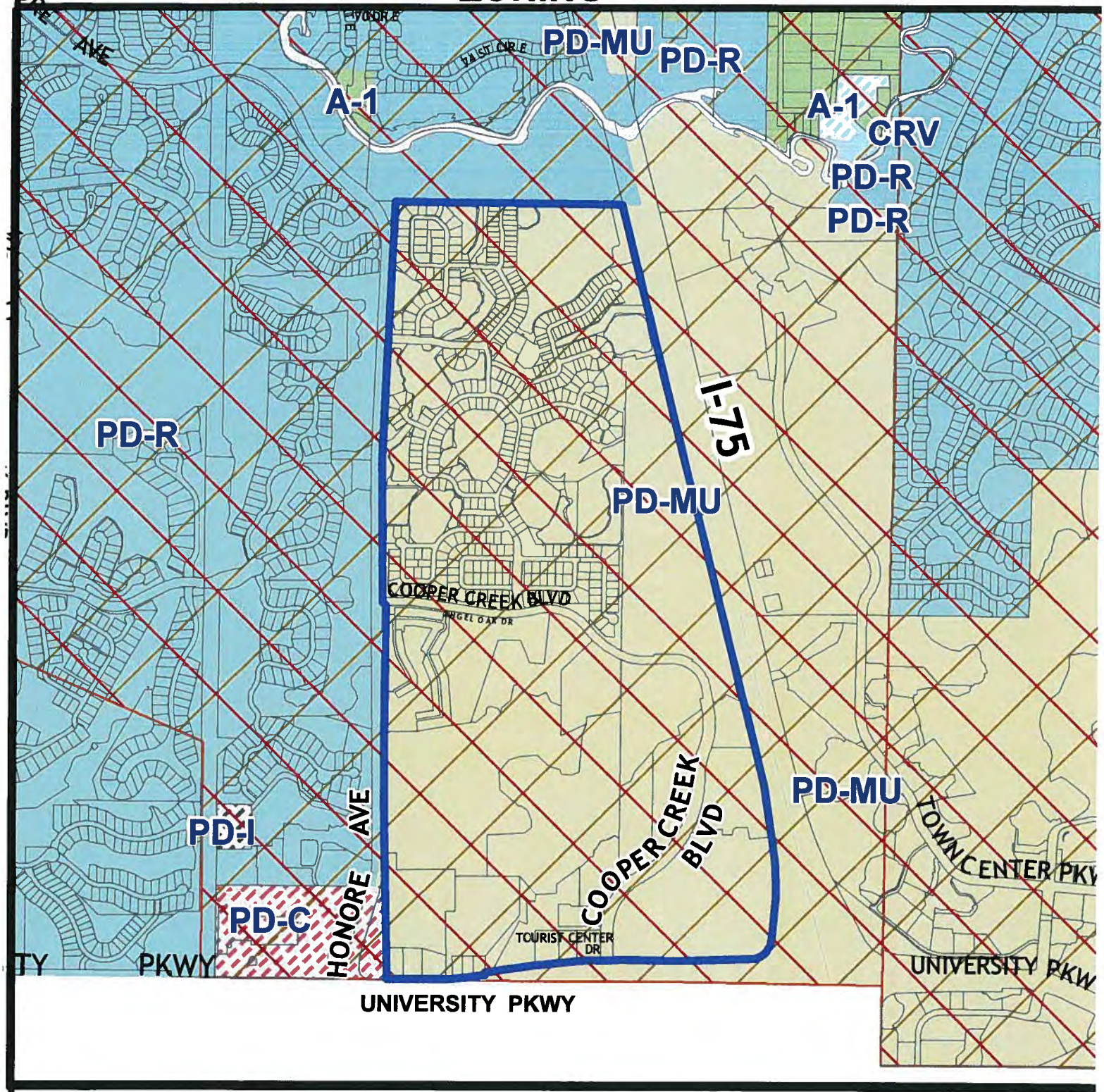
Manatee County
Staff Report Map
Map Prepared 4/19/2011
1 inch = 1,393 feet

Project Name:	Cooper Creek Center
Project #:	PDMU-96-01 (G)(R9)
DTS#:	20110069
Proposed Use:	Mixed Use
S/T/R:	Sec 36,25 Twn 35 Rng 18
Acreage:	604.68
Existing Zoning:	PD-MU
Existing FLU:	RES-6, MU, P/SP-1
Overlays:	ST
Special Areas:	NONE
CHH:	NONE
Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

Overlay

Evers Watershed (WPE)

ZONING



Parcel ID #(s) Multiple

Project Name:	Cooper Creek Center
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Existing FLU:	RES-6, MU, P/SP-1
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Special Areas:	NONE
CHH:	NONE
Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

Manatee County
Staff Report Map

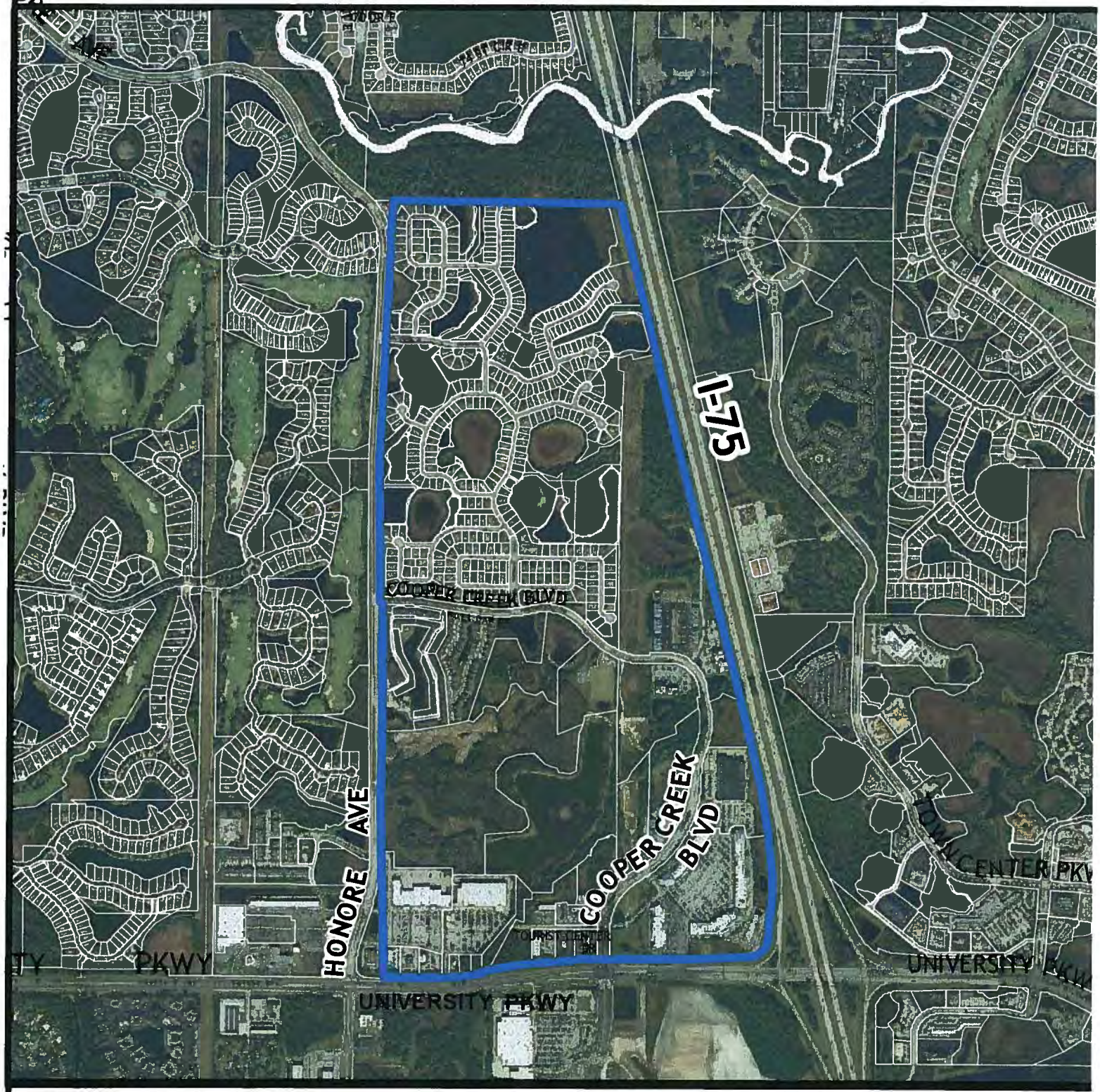
Map Prepared 4/19/2011

1 inch = 1,393 feet

Overlay

- Special Treatment
- Evers Watershed (WPE)

AERIAL



Parcel ID #(s) Multiple

Manatee County
Staff Report Map
Map Prepared 4/19/2011
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Acreage:	604.68
Existing Zoning:	PD-MU
Existing FLU:	RES-6, MU, P/SP-1
Overlays:	ST
Special Areas:	NONE
CHH:	NONE
Watershed:	WPE
Drainage Basin:	MIDDLE BRADEN,COOPER CREEK
Commissioner:	Donna Hayes

P.C. 11/10/2011

PDMU-96-01(G)(R9) – COOPER CREEK CENTER

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING ORDINANCE PDMU-96-01(G)(R-8) TO AMEND THE DEVELOPMENT ORDER TO EXTEND THE BUILD OUT DATE, EXPIRATION DATE, AND CLOS EXPIRATION DATE PURSUANT TO EXTENSIONS GRANTED WITH HOUSE BILL 7207; ALLOW AN ADDITIONAL 20,000 SQ. FT. OF COMMERCIAL USE AND 83,000 SQ. FT. OFFICE USE; ALLOW A TRADEOFF ALLOWANCE FOR AN ADDITIONAL 20,000 SQ. FT. OF SCHOOL USE WITH A CORRESPONDING REDUCTION OF COMMERCIAL AND/OR OFFICE; ADD A TRADEOFF FOR AN ASSISTED LIVING FACILITY (ALF) FOR RESIDENTIAL; PERMIT ADDITIONAL ACCESS POINTS FROM COOPER CREEK BOULEVARD; ADD NEIGHBORHOOD COMMERCIAL AND ALF AS PERMITTED USES IN PARCEL K, AND ALF IN PARCEL G; MODIFY THE DEFINITION OF CONSERVATION AREA TO MEAN AREAS UNDER A CONSERVATION EASEMENT TO MANATEE COUNTY OR AS SHOWN ON EXHIBIT "C"; UPDATE EXHIBIT "C"; DELETE TABLE 3; ELIMINATE REFERENCE TO EXHIBIT "H"; DELETE STIPULATION B(14); AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; AMEND STIPULATIONS TO FACILITATE THESE CHANGES; AMEND STIPULATIONS TO UPDATE CONDITIONS AND DEPARTMENTAL REFERENCES; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. COOPER CREEK IS GENERALLY LOCATED NORTHWEST OF UNIVERSITY PARKWAY AND I-75 INTERSECTION (604.68 ± ACRES).

P.C.: 11/10/11 **B.O.C.C.:** 12/01/11

RECOMMENDED MOTION:

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, I move to recommend APPROVAL of Manatee County Zoning Ordinance PDMU-96-01(G)(R9) and DENIAL of the request to delete Stipulation B.14, regarding reservation of right-of-way along I-75; and recommend APPROVAL of the General Development Plan with conditions; GRANTING Special Approval for a project in the MU (Mixed Use) Future Land Use Category, in the WPE (Watershed Protection-Evers) and ST (Special Treatment) Overlay Districts, and within the Entranceway, as recommended by staff.

PROJECT SUMMARY	
CASE#	**PDMU-96-01(G)(R9) - (DTS #20110261)**
PROJECT NAME	**Cooper Creek**
APPLICANT(S):	**Benderson Development Company, LLC**
EXISTING ZONING:	**PDMU/WPE/ST (Planned Development Mixed Use/ Watershed Protection-Evers/Special Treatment Overlay District)**
PROPOSED USE(S):	**Amendment to the Zoning Ordinance and General Development Plan to:** **1. Extend the ZO buildout date and expiration dates pursuant to HB 7207;** **2. Extend the CLOS date to match buildout date;** **3. Allow an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. of office use;** **4. Allow a tradeoff allowance for an additional 20,000 sq. ft. of school use with a corresponding reduction of commercial and/or office;** **5. Add a tradeoff for an ALF (Assisted Living Facility) for residential;** **6. Add Neighborhood Commercial and ALF as permitted uses in Parcel K, and an ALF in Parcel G;** **7. Permit additional access points from Cooper Creek Boulevard;** **8. Modify the definition of conservation area to mean areas under a conservation easement to Manatee County or as shown on Exhibit C;** **9. Update Exhibit C;** **10. Delete Table 3;** **11. Eliminate reference to Exhibit H;** **12. Delete Stipulation B(14);** **13. Amend the General Development Plan to implement these changes;** **14. Amend stipulations to update conditions**

	and departmental reference; and, **15. Amend stipulations to facilitate these changes.**
CASE PLANNER:	**Lisa Barrett, Planning Manager**
STAFF RECOMMENDATION:	**APPROVAL**

DETAILED DISCUSSION

The request is for an amendment to the General Development Plan (GDP) and Zoning Ordinance for the Cooper Creek Development of Regional Impact (DRI). Accompanying the GDP revision is the NOPC (Notice of Proposed Change) request for the DRI (Development of Regional Impact).

History:

Cooper Creek was originally approved in 1986. The Ordinance has been amended nine times since, with the latest occurring on May 11, 2011. This most recent revision included approvals to: extend build out and expiration of the ordinance to 2015 and 2016 (pursuant to Senate Bill 1752); add an additional right-in/right-out access from University Parkway; modify non-residential setbacks along University Parkway to 30 feet; and amend landscape buffer widths along University Parkway and Cooper Creek Boulevard.

The project is currently approved for:

USE	DEVELOPMENT TOTALS
Residential	767 d.u.
Commercial	774,000 sq. ft.
Office	140,000 sq. ft.
Motel	250 rooms
Schools	20,000 sq. ft.

Tradeoffs between land uses are also currently established within the Development Order. The applicant is updating the tradeoffs with this request and including the condition within the Zoning Ordinance as it is only currently referenced within the Development Order.

Current Request:

The applicant requests changes to the Zoning Ordinance mainly pursuant to recent legislative changes impacting DRI entitlements. In addition, various other changes are also being requested. Each request and staff analysis is discussed below:

PROPOSED CHANGE

1. Extend the ZO buildout date and expiration dates pursuant to HB 7207.

Staff Discussion

The developer has requested to take advantage of the 4-year extension granted under recently adopted House Bill (HB) 7207, now codified as Florida Statutes S. 73, Ch. 2011-139 for DRIs with this proposed NOPC and GDP amendment. The buildout date will be extended from Dec. 30, 2015 to December 30, 2019 and the expiration date will be extended from Dec. 30, 2016 to Dec. 30, 2020.

Staff has no objection to the proposed change.

PROPOSED CHANGES

2. Extend the CLOS date to match buildout date.
3. Allow an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. of office use.

Staff Discussion

A traffic study has been submitted and approved, which utilizes a build-out date of 2019. The additional commercial and office square feet are proposed consistent with the recent update to Florida Statute, Chapter 380.06(19) which allows a proposed increase to an approved multi-use DRI, where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is less than 110%, is not considered a substantial deviation. The proposed additions to the approved commercial and office square feet do not exceed these criteria. It is expected that the additional square footage will be constructed in areas located to the north of the existing office park and/or BJ's located in Parcel J, or in previously approved outparcels along University Parkway. The proposed development provides for infill development of an existing mixed use center in the urbanized area of Manatee County.

Staff has no objection to the request.

PROPOSED CHANGES

4. Allow a tradeoff allowance for an additional 20,000 sq. ft. of school use with a corresponding reduction of commercial and/or office.
5. Add a tradeoff for an ALF (Assisted Living Facility) for residential.

Staff Discussion

The current development approval includes 20,000 square feet for school, and an additional 6,000 square feet of school allowed as a tradeoff for commercial and/or office. The applicant has pointed out that the school use, which includes both vo-tech and secondary education facilities, as well as a school of special education (dance studio) is located within existing office buildings. In order to allow potential increases in the school use, the applicant has requested an additional 20,000 SF of school use, as an alternative to commercial and/or office space. With this approval, a maximum of 46,000 square feet of school will be allowed.

There should be no compatibility issues as the areas designated for increased school or office/commercial are already approved for such uses. In addition, there is an FPL easement which clearly provides a separation from the office/commercial/school parcels and the residential component of the development.

The tradeoff for an ALF would allow for a reduction in residential for the addition of an Assisted Living Facility. Parcel G has a current site plan approval for 74 multi-family units (unbuilt), or if this request is approved, would allow an Assisted Living Facility (ALF) to be constructed either in Parcel G or in the northern end of Parcel K (adjacent to the interstate). The residential conditions for development adjacent to the interstate have been updated to include the proposed use of an ALF. For example, Stipulation P.(6) would prohibit residential (including an ALF) 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. The applicant is in agreement with the additional stipulations.

In addition, in order to permit any such tradeoffs between land uses there is a condition within both the Zoning Ordinance and Development Order which requires the applicant address any changes to traffic, water, wastewater, solid waste, parks, transit, etc. The impacts for such tradeoffs must be shown to be less than or meet the approved CLOS requirements for the project.

With the revised stipulations, addition of the tradeoff mechanism, and requirement for reanalysis of all CLOS requirements, staff has no objections.

PROPOSED CHANGE

6. Add Neighborhood Commercial and ALF as permitted uses in Parcel K, and an ALF in Parcel G.

Staff Discussion

The applicant requests to have small (5,000 SF or less) commercial uses located along with the office uses in Parcel K, in order to allow uses such as a small restaurant in the existing office park. The total area of commercial (non-office) use would not exceed 50,000 SF.

The potential for an ALF in parcel G is proposed as an alternative use to the approved multi-family development or alternative use to commercial and/or office in Parcel K.

Staff recommends stipulations be placed within the Zoning Ordinance to limit the amount of commercial square footage permitted on Parcel K and also to prohibit the ALF within the noise contours of I-75 unless mitigated. Otherwise, staff has no objection to the request.

PROPOSED CHANGE

7. Permit additional access points from Cooper Creek Boulevard.

Staff Discussion

Additional access points are conceptually depicted on Map H and the GDP. New driveways will be reviewed at the time of Final Site Plan with any future development proposals.

Staff has no objection.

PROPOSED CHANGES

8. Modify the definition of conservation area to mean areas under a conservation easement to Manatee County or as shown on Exhibit C.
9. Update Exhibit C.
10. Delete Table 3.

Staff Discussion

The definition of Conservation Area in the current Zoning Ordinance is "as defined by TBRPC and shown on Exhibit C last revised on July 28, 1999". Exhibit "C" dated 1999 shows Conservation Areas, which have since been modified or in some cases expanded as a result of development. Because TBRPC does not have a definition of Conservation Area, and because such areas, including wetland and upland preservation areas are regulated by either the State (SWFWMD) or Manatee County, the applicant proposes to change the definition to "mean areas under a Conservation Easement and those areas shown on Exhibit "C" revised

in August 2011". The updated Exhibit "C" includes many of the same areas shown on the 1999 Exhibit, but deletes areas that were permitted as part of a development plan (as anticipated in the Ordinance) and includes areas that have been put into a Conservation Easement (both upland and wetland) as a result of mitigation efforts. The acreage for Conservation Area shown on the 1999 Exhibit "C" was 51.96 Acres and the proposed 2011 Exhibit "C" lists 88.08 Acres in Conservation. The Preservation acreage has not changed, although the area shown in Preservation includes the Creek and a 50 ft. buffer, consistent with the Manatee County Comprehensive Plan.

Staff has no objection.

PROPOSED CHANGE

11. Eliminate reference to Exhibit H.

Staff Discussion

Exhibit H is the Surface Water Quality Monitoring Plan criteria. The change to delete reference to the exhibit is to correct a scrivener's error. The change was made to the Development Order with the last amendment, but the Zoning Ordinance was not correctly updated.

The proposed change is consistent with the existing Development Order. Staff has no objection to the change. The current Monitoring Plan contains the criteria and reference to the exhibit is no longer needed.

PROPOSED CHANGE

12. Eliminate Stipulation B.(14) requiring reservation of 250 half right of way for I-75.

Staff Discussion

The applicant requests to delete Stipulation B.(14) of the Zoning Ordinance which requires the developer to reserve land for FDOT to have a 500 foot right-of-way (250 foot half right-of-way) along I-75. The stipulation reads as follows:

> B.(14) With each Final Site Plan approved after approval of PDMU-96-01(G) (R-5) the applicant shall reserve as much right-of-way as practical to accommodate a 250 foot half right-of-way for the future expansion of I-75. No site improvements shall be located within this reserved right-of-way area. With respect to the approved FSP [PDMU-96-01(R-2)/FSP-01-130(R)] for the two (2) 35,000 square foot office buildings, the applicant shall submit a revised Final Site Plan to show that no buildings shall be located within the right-of-way reservation area.

The requirement would leave FDOT with the existing 350 foot+/- right-of-way for future needs. Per conversation with FDOT, FDOT may need land outside the existing ROW for ponds and

drainage conveyance in this area. What is shown in the PD&E Study is a conceptual design and not tied down horizontally or vertically, which will occur when the projects (mainline and interchange) have completed design. Only at that time will FDOT know what the true right-of-way need is in this area. It is staff's understanding from conversations with FDOT that FDOT requests Manatee County to keep the stipulation in place, showing proactive planning of future needs since final design has not occurred.

Therefore, staff recommends denial of the request to delete the stipulation.

PROPOSED CHANGES

13. Amend the General Development Plan to implement these changes.
14. Amend stipulations to update conditions and departmental references.
15. Amend stipulations to facilitate these changes.

Staff Discussion

Various stipulations are being amended to update conditions to current standards, delete conditions that are no longer applicable or relevant, and to update departmental references.

In conclusion, staff recommends approval of the requests as shown in strike-thru/underline format of the attached Zoning Ordinance.

SITE CHARACTERISTICS AND SURROUNDING AREA	
GENERAL LOCATION:	**Generally north of University Parkway, west of I-75, and east of Honore Avenue**
SIZE:	**604.68 ± acres**
EXISTING USE(S):	**Mixed Use – residential, commercial, office**
FUTURE LAND USE CATEGORY:	**MU (Mixed Use)**
SPECIAL APPROVAL(S):	**Project within the WPE and ST Overlays and the Entranceway**
OVERLAY DISTRICT(S):	**WPE and ST**
SPECIFIC APPROVAL(S):	**None with this request**

SURROUNDING USES & ZONING	
NORTH	Vacant land zoned PDR/WP-E/ST approved for single-family residences in Riva Trace
SOUTH	Across University Parkway, is a shopping center in an approved mixed use DRI in Sarasota County
EAST	I-75
WEST	University Park Country Club DRI and a shopping center zoned PDR/PDC/WP-E/ST

SITE DESIGN DETAILS	
OPEN SPACE:	124.98 acres
RECREATIONAL AMENITIES:	Not changing from previous approvals
RECREATIONAL ACREAGE:	Not changing from previous approvals
BUFFERS:	Roadway — Buffer Width University Parkway east of Cooper Creek Blvd to I-75: — Average 20 feet University Parkway west of Cooper Creek Blvd: — 50 feet I-75: — 50 feet Honore Avenue: — 30 feet Cooper Creek Blvd.: — 20 feet variable to 10 feet
ACCESS:	University Parkway, Honore Avenue, Cooper Creek Blvd.
FLOOD ZONE(S)	Zones X and AE with Base Flood Elevations between 16' and 21.6' above MSL and the regulatory floodway of Cooper Creek per FIRM Panel 120153 0365C, revised 7/15/92

CONCURRENCY

The Manatee County Building and Development Services, Transportation Planning Division, has reviewed the traffic study from Kimley - Horn and Associates, Inc, dated August 29, 2011, including subsequent supplemental analysis, for the above - referenced project. Based upon the review and acceptance of the analysis, the Manatee County Transportation Planning Division is granting approval for the issuance of Transportation Concurrency for this project which is equivalent to an additional 20,000 square feet of retail uses and 83,000 square feet

of office uses. The Applicant has addressed the Comprehensive Plan requirements and provided appropriate traffic analysis to substantiate the findings. According to the information provided in the above - referenced analysis, there are no off-site Transportation Concurrency requirements for this project. However, several operational/safety improvements were identified in this analysis which were considered site–related improvements.

The traffic study for this development identified several site-related transportation improvements which will need to be shown on the applicable Construction Plans that will be submitted as part of the future permit applications/packages associated with the site-related improvements (the improvements must be labeled with dimensions). In addition, these improvements shall be installed, certified, inspected and accepted, and consistent with the applicable Construction Plans prior to the first Certificate of Occupancy (CO) associated with the additional 103,000 square feet (20,000 square feet of retail uses and 83,000 square feet of office uses) within the DRI.

The site-related transportation improvements identified in the traffic study involve traffic operations and safety-related improvements by the Applicant that are expected to improve traffic flow into and out of the project site. These improvements are provided below.

1. At Cooper Creek Boulevard and Tourist Center Drive Intersection, expand the eastbound approach from a shared right-turn/left-turn lane to one exclusive right-turn lane and one exclusive left-turn lane, including associated median modifications along Cooper Creek Boulevard.
2. At Cooper Creek Boulevard and Isles of Avalon Shoppes Intersection, construct a southbound approach (two outbound lanes) to form a four-legged intersection and construct one eastbound left-turn lane. Install a traffic signal when warranted.

The Applicant shall be responsible for ensuring that all development proceeds with the terms and conditions of Transportation Concurrency requirements for the site, including being subject to requirements in the LDC and the Comprehensive Plan.

Any off-site improvements required must be satisfied by either installation or mitigation alternatives acceptable by Manatee County Building and Development Services Department, Transportation Planning Division, such as an agreement requiring Board of County Commissioners (BOCC) approval.

ATTACHMENTS

1. Applicable Comprehensive Plan Policies
2. Copy of Newspaper Advertising
3. Ordinance PDMU-96-01(G)(R9)

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.**

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

Copy of Newspaper Advertising

Bradenton Herald

NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY

NOTICE IS HEREBY GIVEN, that the **Planning Commission of Manatee County** will conduct a Public Hearing on **Thursday, November 10, 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 11-38/COOPER CREEK (DRI #14)
Request: An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

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

1.Update the build out date to December 30, 2019 and expiration date to December 30, 2020 pursuant to extensions granted with House Bill 7207.
2.Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3.Modify Project Summary Table 1 to provide for an additional 20,000 sq. ft. of commercial use and 83,000 sq. ft. office use.
4.Revise Project Summary Table 1 to allow an additional 20,000 sq. ft. of school use permitted with a corresponding reduction of commercial and/or office sq. ft. at a one to one ratio.
5.Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility(ALF) use.
6.Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7.Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8.Update Exhibit "C" to include post development areas under a Conservation Easement.
9.Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10.Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11.Any other revisions deemed necessary or appropriate during the public hearing process.
12.Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI #14, as amended; and provides for severability and an effective date.

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

PDMU-96-01(G)(R9) – COOPER CREEK CENTER
An Ordinance of the Board Of County Commissioners of Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R8) to amend the Development Order to extend the build out date, expiration date, and CLOS expiration date pursuant to extensions granted with house bill 7207; allow an additional 20,000 sq. ft. Of commercial use and 83,000 sq. ft. office use; allow a tradeoff allowance for an additional 20,000 sq. Ft. of school use with a corresponding reduction of commercial and/or office; add a tradeoff for an assisted living facility (ALF) for residential; permit additional access points from Cooper Creek Boulevard; add Neighborhood Commercial and ALF as permitted uses in Parcel K, and ALF in Parcel G; modify the definition of Conservation Area to mean areas under a conservation easement to Manatee County or as shown on Exhibit "C"; update Exhibit "C"; delete Table 3; eliminate reference to Exhibit "H"; delete Stipulation B(14); amend the General Development Plan to implement these changes; amend stipulations to facilitate these changes; amend stipulations to update conditions and departmental references; setting forth findings; providing for severability; and providing an effective date. Cooper Creek is generally located northwest of University Parkway and I-75 intersection (604.68 ± acres).

Z-11-07 – TCW INVESTMENTS, LLC
DTS #20110254
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 the rezoning of approximately 0.78 acres on the northeast corner of US 41 North and 49th Street East (Experimental Farm Road) at 4908 US 41 N., Palmetto from the NC-S (Neighborhood Commercial-Small) to the LM (Light Manufacturing) 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
10/19/2011

Copy of Newspaper Advertising

Sarasota Herald Tribune

MANATEE PUBLIC NOTICES

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

Date of pub: October 19, 2011

MANATEE COUNTY ORDINANCE NO. PDMU-96-01(G) (R-~~8~~9)
COOPER CREEK CENTER

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING ORDINANCE PDMU-96-01(G)(R-8) TO AMEND THE DEVELOPMENT ORDER TO EXTEND THE BUILD OUT DATE, EXPIRATION DATE, AND CLOS EXPIRATION DATE PURSUANT TO EXTENSIONS GRANTED WITH HOUSE BILL 7207; ALLOW AN ADDITIONAL 20,000 SQ. FT. OF COMMERCIAL USE AND 83,000 SQ. FT. OFFICE USE; ALLOW A TRADEOFF ALLOWANCE FOR AN ADDITIONAL 20,000 SQ. FT. OF SCHOOL USE WITH A CORRESPONDING REDUCTION OF COMMERCIAL AND/OR OFFICE; ADD A TRADEOFF FOR AN ASSISTED LIVING FACILITY (ALF) FOR RESIDENTIAL; PERMIT ADDITIONAL ACCESS POINTS FROM COOPER CREEK BOULEVARD; ADD NEIGHBORHOOD COMMERCIAL AND ALF AS PERMITTED USES IN PARCEL K, AND ALF IN PARCEL G; MODIFY THE DEFINITION OF CONSERVATION AREA TO MEAN AREAS UNDER A CONSERVATION EASEMENT TO MANATEE COUNTY OR AS SHOWN ON EXHIBIT "C"; UPDATE EXHIBIT "C"; DELETE TABLE 3; ELIMINATE REFERENCE TO EXHIBIT "H"; DELETE STIPULATION B(14); AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; AMEND STIPULATIONS TO FACILITATE THESE CHANGES; AMEND STIPULATIONS TO UPDATE CONDITIONS AND DEPARTMENTAL REFERENCES; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. COOPER CREEK IS GENERALLY LOCATED NORTHWEST OF UNIVERSITY PARKWAY AND I-75 INTERSECTION (604.68 ± ACRES).

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

Section 1. AMENDMENT AND RESTATEMENT OF ORDINANCE NO. PDMU-96-01(R8)~~G(R6) and PDMU-96-01(R7).~~ Ordinances PDMU-96-01(G) (R9) is~~(R 6 and R7) are~~ is hereby amended and restated in its entirety below. All prior zoning ordinances (and any site plans approved pursuant thereto) shall be superseded by this ordinance.

Section 2. DEFINITIONS. All capitalized terms used herein shall have the meanings set forth in Ordinance 05-54, as amended, Section 380.06F.S., the Manatee County Comprehensive Plan or the Manatee County Land Development Code, in that order of precedence.

Section 3. FINDINGS OF FACT. The Board of County Commissioners of said County, after considering the testimony, evidence, documentation, application to amend the General Development Plan, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission, concerning the application to amend the General Development Plan which is approved for 767 dwelling units, 774,000

sq. ft. of commercial space-, a 250 room motel 140,000 sq, ft. of office space, up to 26,000 of school (which includes up to 6,000 sq. ft. for schools of special education), and a communications tower on 1 acre.

A.B. The Planning Commission held a public hearing on November 10, 2011 and found that the amendment to the Zoning Ordinance and revised General Development Plan were consistent with the Manatee County Comprehensive Plan and recommended approval of the applications subject to the conditions specific therein.

B.C. The Board of County Commissioners held a public hearing on December 1, May 24, 2011 regarding the proposed General Development Plan Amendment described herein, in accordance with the requirements of Manatee County Ordinance No. 90-01 (the Manatee County Land Development Code), as amended, and has further considered the information received at the public hearing.

C.D. The proposed amended and restated General Development Plan and Zoning Ordinance regarding the property described in Section 3 herein is found to be consistent with the requirements of Manatee County Ordinance No. 97-01 (the 2020 Manatee County Comprehensive Plan), as amended.

Section 4. GENERAL DEVELOPMENT PLAN

A. The General Development Plan, dated April September 2011 entitled Cooper Creek Center, is hereby APPROVED to allow 767 dwelling units, 794774,000 sq. ft. of commercial space;, 223,000 sq. ft. of office space; 20,000 sq. ft. of school space (which may revert to office and/or commercial space); up to an additional 26,000 square feet of school in lieu of office and/or commercial space;-250 motel units, 140,000 sq. ft. of office space 26 ,000 sq. ft. for schools (which may include 6,000 square feet of special education), and one communications tower, with the following conditions and modifications included herein in Section 4.

B. The previous Zoning Ordinances [PDMU-96-01(G)(R6) and PDMU-96-01(G)(R87)] for Cooper Creek, which were was adopted May 24, 2011 April 21, 2009 and February 23, 2010, respectively, and all subsequent amendments is hereby replaced in their entirety, provided this amendment shall not be construed to terminate the rights of the developer, if any, granted under Section 163.3167(8) Florida Statutes, to the extent such rights have previously been granted and not specifically herein or otherwise modified or amended.

C.

The Board of County Commissioners hereby grants Specific Approval from compliance with Sections 737.5.1.1, 715.3.2.c.1.a, and 710.1.3.3.1 of the Land Development Code.

D. **CONDITIONS**

A.(1) Approved Development Totals and development authorized for construction pursuant to this Zoning Ordinance are as set forth in Table 1. All Final Plats (or Building Permits if platting is not required) for residential development and all building permits for non-residential development shall be approved or issued prior to December 30, ~~2015~~ 2019.

A.(2) Existing agricultural uses on the property, in whole or in part, as an approved secondary use are hereby granted until development commences on the applicable section or portion of the site.

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

TABLE 1
COOPER CREEK CENTER
PROJECT SUMMARY

TYPE OF DEVELOPMENT:	Multi-use	
LOCATION:	Northwest quadrant of I-75 and University Parkway, in southeastern Manatee County	
TOTAL DEVELOPMENT AREA:		**604.68 Acres**
Residential		317.2 Acres
Commercial/Motel/Communications Tower/School* ~~of Special Education~~		132.5 Acres
Office/School* ~~of Special Education~~		30 Acres
Open Space (Roads, Right-of-Way, Conservation, Preservation, Floodway.)		124.98 Acres
Residential Units	767 d.u.~~.~~	
Commercial	794,000~~774,000~~ sq. ft[(1),(2),(3)]	
Office	223,000~~140,000~~ sq. ft. [(1), (3)]	
Motel	250 Rooms	
School *	20,000 sq. ft.~~.~~[(3)]	
P.M. Peak Trips (net external)	~~2,832~~ 3,085 Trips	
BUILD-OUT DATE	December 30,201~~5~~9	

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

(2) Includes one existing communication antenna tower.

(3) May include up to an ~~additional~~ 26,000~~6,0000~~ sq. ft. of S~~s~~chool* upon corresponding decrease of office and/or commercial uses~~.~~ at a 1:1 ratio. All School* space may revert to office space, and/or commercial space.

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

A.(5) Tradeoffs between the land uses set forth in Table 1 may be granted by the the ~~Planning~~Building and Development Services Director with an amendment to the General Development Plan approved by staff along with a traffic study addressing any changes in trip generation, distribution, average queue length at intersections, and any mitigation necessary as a result of the tradeoff (Note: If the trip generation estimates as a result of the tradeoff are less than or equal to what was previously approved, a traffic study shall still be required to address the change in entering and exiting percentages, and consequently other measures of effectiveness). The staff have not reviewed any such "tradeoff" and have not determined whether any "tradeoff" is appropriate. Any proposal for a "tradeoff" shall be reviewed for compliance with the provisions of this Development Order, the Manatee County Land Development Code, and the Manatee County Comprehensive Plan. The developer shall also be required to demonstrate that 1) the quantities of solid waste generated, potable water consumed, and wastewater, and 2) the impacts to the County Parks, Transit Services, EMS, and Sheriff, in the event of any tradeoffs, are less or meet County standards in effect at the time of tradeoff. The Developer* shall give the State Land Planning Agency and the Tampa Bay Regional Planning Council notice of its intent to trade off land uses at least 15 days prior to the County's approval of any such trade off. The Notice shall identify the resulting impacts of the trade off in terms of land use, traffic generation, potable water, wastewater, solid waste, and affordable housing. In addition, the DRI biennial report shall include information indicating cumulative amounts of development which have been approved by the County as of the biennial report date and the resulting impacts on traffic generation, potable water, wastewater, solid waste, and affordable housing. Following the County's approval of any such trade off, the County shall provide to the State Land Planning Agency and TBRPC a copy of said approval. An amendment to applicable provisions of this ordinance shall not be necessary or required to approve a "trade off" pursuant to this condition.

The following limitations shall apply to any tradeoff:

1. Residential uses shall not be increased nor decreased by more than 200 dwelling units. 680 to 1,080 Dwelling Units. An ALF may be permitted in lieu of dwelling units.

2. The mix of approved uses shall not be increased nor decreased by more than 50,000 square feet of General Commercial or Office. 744-,000 to 844,000 square feet for General Commercial and 173,000 to 273,000 Square Feet for Office.

3. Hotel uses shall not be increased or decreased by more than 75 motel rooms. 175 to 325 Rooms.

TRANSPORTATION CONDITIONS

B.(1) Reserved.

B.(2) Maintenance of Acceptable Level of Service* on intersections or in the Study Area to be determined consistent with methodologies in accordance with Section 380.06, Florida Statutes shall be verified by the developer to the satisfaction of the County Transportation Authority* as part of each annual report as required by Subsection 380.06(18), Florida Statutes.

B.(3) There shall be no approvals granted as to development beyond that specified in Table 1 unless a tradeoff is approved, consistent with the limitations of condition A(5) and the transportation improvements required have been completed or such improvements are determined as not warranted under the ~~Traffic studies~~* transportation analysis.

B.(4) The southern access to Honore Avenue in Parcel G shall be as far south as possible and approved by the County at time of Final Site Plan approval.

B.(5) The Developer* shall provide for a bus bay area acceptable to Manatee County at one location within each commercial land use area and at one location on University Parkway near the project entrance at time of Development. (This condition provides the Transportation Management System required by TBRPC) (Completed).

B.(6) The Developer* shall implement, at their expense, the following specified safety transportation improvements:

a. Signalize the intersection of University Parkway and Cooper Creek Boulevard. The signal shall be of the mast arm type. Completed.

b. Provide a westbound right-turn deceleration lane on University Parkway, at the intersection with Cooper Creek Boulevard. The turning lane length shall be 500 feet. Completed.

c. Provide an additional southbound left-turn lane on Cooper Creek Boulevard at the intersection with University Parkway. The resulting dual left-turn lanes shall have a queue length component of 225 feet each. The southbound right-turn lane queue length should be 150 feet. The dual left-turn lanes shall be supplemented by guiding pavement markings to provide turning lane separation (2-ft long dashed lines with 4-ft gaps to channelize turning traffic). Completed.

a. Add one, northbound to eastbound right-turn lane from Honore Avenue to Cooper Creek Boulevard, approximately 400 feet in length, prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.

b. Add one eastbound to northbound left turn lane from University Parkway to Cooper Creek Boulevard adjacent to the existing left turn lane, prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.

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

B.(8) Cross-access shall be provided for vehicular traffic and pedestrians between Parcel F and the property to the west, between Honore Avenue and Parcel F. If, when the parcel to the west is approved, cross access from that site to Parcel F is not required, then the cross access for this site shall no longer be required. Completed.

B.(9) Parcel D shall include right-of-way and the construction of a street to the northern property line to facilitate a future inter-neighborhood tie. The appropriate location shall be determined at time of Preliminary Site Plan approval and coordinated with the parcel to the north. (Completed)

B.(10) Passive traffic calming devices (e.g., landscaped traffic islands, pavement textures changes, etc.) shall be utilized on local residential streets at interneighborhood ties, intersections, and on lengthy straight sections of local roadways, subject to approval by Manatee County. (Completed)

B.(11) The eastern right turn-in, right turn-out along University Parkway from Parcel H as identified on the GDP, shall be subject to approval and the conditions of the amended interlocal agreement with Sarasota County for University Parkway. Completed

B.(12) The proposed right-in/right -out access point onto University Parkway, as identified on Exhibit B, GDP located approximately 450 ft west of the intersection of Cooper Creek Blvd with University Parkway (on Parcel I), shall be subject to approval of the Ninth Amendment to the Interlocal Agreement for University Parkway between Manatee County and Sarasota County.

B.(13) The cross-access between Parcels H and I shall be subject to approval by Planning Department, SWFWMD, and other reviewing agencies. Completed

B.(14) With each Final Site Plan approved after approval of PDMU-96-01(G) (R-5) the applicant shall reserve as much right-of-way as practical to accommodate a 250

foot half right-of-way for the future expansion of I-75. No site improvements shall be located within this reserved right-of-way area. With respect to the approved FSP [PDMU-96-01(R-2)/FSP-01-130(R)] for the two (2) 35,000 square foot office buildings, the applicant shall submit a revised Final Site Plan to show that no buildings shall be located within the right-of-way reservation area.

ENVIRONMENT AND NATURAL RESOURCES

Air Quality

C.(1) Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.

Water Quality, Wetlands* and Drainage

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

D.(2) The Developer* shall continue to conduct the approved comprehensive surface water quality and quantity monitoring program approved by the County ~~in accordance with Exhibit H to Class I water quality standards~~. The program shall continue through one year beyond project buildout. The County may require that the program may be extended beyond buildout if conditions are observed that would require additional monitoring. All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved comprehensive quality assurance plan on file with the FDEP. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

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

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

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

Development Services Department. ~~PLANNING DEPARTMENT and attached as Exhibit H~~. The program shall continue through one year beyond project buildout. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

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

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

D.(4) The Developer* shall be responsible for Operation and Maintenance for all portions of the Surface Water Management System, except for those portions which are dedicated to and accepted by the County.

D.(5) The entire development shall be subject to the requirements of Chapter 40D-4, F.A.C. All Wetlands* in the entire 604.75± acre development shall be subject to the requirements of Section 719 of the Manatee County Land Development Code or as otherwise approved by Manatee County.

D.(6) Impacts to Wetlands*, Preservation Areas*, and Conservation Areas* shall be mitigated in accordance with SWFWMD requirements, or the Manatee County Comprehensive Plan if mitigation is not required by the State. ~~with Table 3~~. Mitigation shall be required prior to the completion of the parcel in which the impact occurs.

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

The Conservation Areas* on site encompass approximately ~~51.96~~ 788 acres as indicated on the attached Revised Preservation/Conservation Map dated September, 2011 ~~July 28, 1999~~, Exhibit C. All Conservation Areas* shall remain undisturbed or mitigated.

There shall be no impact to those Wetlands* encompassing approximately 16.41 acres, indicated as Preservation Areas* on the attached Revised Preservation/Conservation Map dated September, 2011 ~~July 28, 1999~~, Exhibit C. Impacts authorized pursuant to state and federal permits approved prior to the effective date of this development order and impacts for necessary infrastructure (such as roads, utility lines, recreational trails, and paths, as provided by TBRPC policy) may be allowed.

b. **Wetland Areas***

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

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

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

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

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

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

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

	~~**MITIGATION RATIOS**~~	
~~**AREAS**~~	~~**HERBACEOUS**~~	~~**a. ORESTED**~~
~~TBRPC Preservation & Conservation Area*~~	~~2:1~~	~~3:1~~

~~Wetlands*~~	~~2:1♦~~	~~4:1♦~~

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

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

~~•Ratio is Mitigated Wetland*: Disturbed Wetlands*. Transplantation may be used for mitigation, if approved by Manatee County and SWFWMD. Mitigation ratios shall be as approved by those agencies. For the purposes of this section, transplantation shall be considered creation, not enhancement.~~

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

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

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

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

FLOODPLAINS

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

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

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

ECONOMICS

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

WILDLIFE HABITAT AND VEGETATION

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

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

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

WASTEWATER

I.(1) Sanitary sewer facilities including lift stations (pump stations) shall be designed, installed/constructed and equipped in accordance with the version of Manatee County Public Works Utility Standards that is in affect at the time of final site plan submittal.

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

~~a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box.~~

~~b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability.~~

~~c. Wet wells to contain sewage line surcharges/overflows.~~

~~d. Emergency by-pass pumpouts for tank trucks.~~

~~e. 100 percent redundancy in lift station pumping equipment.~~

I.(2) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (98-28).

I.(3) The Developer* shall not utilize on site wastewater treatment.

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

WATER

J.(1) The Developer* shall require the installation of water conservation fixtures. Water saving devices shall be installed in accordance with the Florida Water Conservation Act and Xeriscape (Section 553.14, Florida Statutes), and native vegetation or xeriscape techniques, shall be used in landscaping to the greatest extent possible.

J.(2) The Developer* shall use only non-potable water to meet non-potable demands. For purposes of this rezone ordinance, "non-potable" water is defined as water emanating from any source other than a public water utility. The use of reclaimed water in the portions of the site which do not drain to the Braden River shall be investigated. No reclaimed water shall be used within the Evers Reservoir watershed provided that if spray effluent is permitted by Manatee County and other agencies having jurisdiction, no amendment to the Development Order shall be required to allow the Developer* to use spray effluent.

J(3) The Developer* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources.

J(4) The Developer* shall enter into a participation agreement with Manatee County to provide the appropriate utilities within the Honore Avenue right-of-way.

SOLID WASTE

K.(1) The Developer* shall provide to all Cooper Creek Center businesses information that:

a. Indicates the types of wastes and materials that are considered to be hazardous and are to be stored or disposed of only in the specially-designated containers or areas;

b. Concerns the availability of existing companies that will accept wastes for recycle, reuse, exchange, and treatment; and

c. Advises of applicable statutes and regulations regarding hazardous wastes and materials.

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

ENERGY

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

a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;

b. Obtain energy audits provided by energy companies or other qualified agencies;

c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower, except for food service establishments;

d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Cooper Creek Center construction;

e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;

f. Reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;

g. Institute and utilize recycling programs; and

h. Utilize energy efficient packaging or recyclable materials.

RECREATION AND OPEN SPACE

M.(1) All recreation and open space areas not dedicated to the County or other state agencies shall be maintained by the Developer*.

M.(2) A decrease in open space acreage shall require a substantial deviation determination conducted pursuant to Subsection 380.06(19), Florida Statutes.

M.(3) Prior to the first final plat approval for the residential sub-phase, unless specifically waived or deferred by Manatee County, a local park site (minimum 10 acres) shall be dedicated to Manatee County at a location acceptable to the County. Impact fee credits may be granted pursuant to the Land Development

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

M.(4) Community focal points shall be provided in all phases of the residential development and be located within walking distance of the residents they are intended to serve.

M.(5) The single-family residential phases of the project (north of Cooper Creek Boulevard) shall contain at least 7 acres of usable park area, as generally depicted on Exhibit J. Pedestrian walkways associated with this open space area shall be located in an upland area of at least 15 feet in width, exclusive of lots or other required buffers or greenbelts. Open space vistas of lakes and wetlands from streets shall be substantially consistent with the design of Exhibit J. Completed

M.(6) The multi-family component shall contain a recreational area of at least 1 acre and include a commercial grade tot lot. Completed

PUBLIC SAFETY

N.(1) Sheriff and emergency medical services will be provided by Manatee County. The Developer* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for police and emergency medical services or any combination thereof. The Developer* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as allowed by the Land Development Code, if applicable. An agreement shall be approved prior to the next Final Site Plan approval. Provided, however, no approval shall be delayed if the applicant submits an agreement, and it is withheld because of the County's inability or failure to determine needs or pro-rata share determination for a period exceeding 2 months after its submittal. In no event, shall the developer's payment or pro-rata share exceed impact fee amount.

N.(2) The Cooper Creek Center development shall be designed and constructed to meet or exceed specifications of the State Fire Code - Rule 4A-3.012, FAC or in compliance with the Manatee County Land Development Code requirements.

DEVELOPER COMMITMENTS

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

GENERAL CONDITIONS

P.(1) With each Preliminary and Final Site Plan submittal, a Development Land Use Summary Table shall be provided to include the number of units and square footages that have Preliminary or Final Site Plan approval.

P.(2) If, prior to the time permanent fire protection facilities in this area of the county are needed by the Fire District, and a station is needed, the developer shall enter into an agreement to contribute a pro-rata share of the cost of a site for, and of constructing and equipping a fire protection facility if required by the Fire Department with the appropriate Final Site Plan approval. Completed per agreement dated October 24, 2005.

P.(3) Unless specifically modified with this approval, or subsequent approvals, development in the project shall comply with all requirements of the Land Development Code. Modifications, as provided for in the Land Development Code, may be approved administratively by the Director may be considered on a case by case basis.

Residential Development

P.(4) Single-family development within Cooper Creek Center shall comply with the standards of the Land Development Code, except as follows:

a. The minimum lot width for all single-family residences shall be 52 feet. These lots widths shall not consist of more than 25 percent of the total units in the development. The minimum lot width for all other single-family residential units shall be 60 feet.

b. The minimum front yard building setback for residences with side loaded garages shall be 20 feet. The minimum front yard building setbacks for all other residences shall be 25 feet.

c. The minimum building setback for all other side yards in the development shall be 7.5 feet, provided lots that are less than 60 feet wide may be developed with side yard setbacks of 6 feet. These shall not comprise of more than 50 percent of the single-family residential component of the project and shall be identified as a phase(s) of development with the Preliminary and Final Site Plans.

d. The minimum pavement width for all one-way street segments around cul-de-sacs which serve less than seven lots shall be 20 feet.

P.(5) Multi-family or ALF development shall comply with the following minimum setback requirement:

Front:	25'
Side:	10'
Rear:	25'

Between Buildings: 20'
Waterfront: 30'

P.(6) No residential development (including an ALF) shall be allowed between the L10 70 dB(A) noise level contour and I-75, unless such residences are protected by some performance equivalent measure to achieve the L10 70 dB(A) exterior noise level. Buildings shall be positioned to maximize the distance between the residential units and the noise source. The use of existing vegetation, earthen berms, decorative walls, and significant landscape buffering should be provided between the residential units and the noise source, or the ALF shall be constructed to mitigate noise.

P.(7) All residential development in Parcels A, A-1, B, and G adjacent to Cooper Creek Boulevard shall be designed as reverse frontage in accordance with the requirements of Section 907.7.4 of the Land Development Code. Multi-family buildings within 75 feet of Cooper Creek Boulevard, Honore Avenue, and single-family parcels shall not exceed 2 stories in height.

P.(8) Prior to Final Plat approval (or Final Site Plan if a plat is not required) for the 101st residential unit in any residential parcel or combined parcels, a second means of access, pursuant to Section 712.2.8, Diagram A, number 1 or 2 of the Land Development Code, shall be provided.

P.(9) Prior to Final Plat approval (or Final Site Plan, if a plat is not required) for the 101st residential unit, Cooper Creek Boulevard shall be extended westward to Honore Avenue.

P.(10) On or before December 30, 2002, construction of all segments of Honore Avenue shall have commenced, with completion of each segment to occur not later than 12 months following commencement of that segment. Commencement and completion of construction of portions of Honore Avenue shall be accelerated as follows:

a. Prior to Final Plat approval (or Final Site Plan, if a plat is not required), for the 101st residential unit, commencement of construction of that portion of Honore Avenue from University Parkway to Cooper Creek Blvd, to county standards, as defined herein, shall commence, with completion to occur prior to receipt of a Certificate of Occupancy for such 101st residential unit or other units constructed thereafter.

b. Prior to Final Plat approval (or Final Site Plan, if a plat is not required), for any portion of Parcels B, D, or E, as shown on the General Development Plan, commencement of construction of that portion of Honore Avenue from Cooper Creek Boulevard to the southern boundary line of the Nelson Tract, to county standards, as defined herein, shall commence, with completion to occur on or before receipt of a Certificate of Occupancy for any residential unit within Parcel B, D, or E.

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

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

i. The value of land used for drainage, stormwater detention, and discharge for Honore Avenue improvements, not to exceed $100,000; and

ii the entire cost of design and construction of roadway, drainage, bicycle, sidewalk, and other related or required amenities, for that portion of Honore Avenue constructed north of the northern access into Parcel H (The commercial tract at the northeast corner of U. Pkwy and Honore), to the then-unconstructed portion of Honore Avenue (the University Park extension adjacent to Tracts N-1 West and N-1 East of University park Country Club).

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

a. The entire cost for the scope of work described herein, provided that Developer obtains, at its sole cost and expense, the area for drainage, stormwater retention, and discharge as is necessary to construct that portion of Honore Avenue from the southern boundary line of the Nelson Tract, northwesterly to the eastern edge of the then-unconstructed portion of Honore Avenue (the University Park Extension adjacent to Tracts N-1 West and N-1 East of University Park Country Club), or

b. The difference in cost for such scope of work between a 2-lane residential roadway and the roadway ultimately constructed by Developer between University parkway and the northern access into Parcel H.

Developer shall provide notice of whether the County will be required to provide for land to accommodate drainage, stormwater retention, and discharge for the segment of Honore Avenue north of the Developer's property holdings on or before one year following the effective date of this ordinance.

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

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

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

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

Non-Residential Development

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

P.(13<u>2</u>) The following conditions shall apply to development in Parcels H, I, J, and K:

a. The sides of all non-residential and multi-family buildings shall have minimal blank walls no longer than 40 feet in length or 20' in height. In order to insure that the buildings do not project a massive blank wall, design elements including prominently visible architectural details [e.g. bumpouts, reveals and projecting ribs, cornice, offset building planes, windows, shutters, areas of contrasting or different finish building materials, etc.] or other methods, as approved by the Planning Director. Design elements shall be reviewed for compliance by staff with future plan submittals.

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

otherwise restricted by buffer widths as stated in Condition P.(13).g. below.

c. All building facades shall exhibit an aesthetically attractive appearance. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed concrete block, or corrugated metal shall not be permitted facing any roadway or adjacent property. The applicant shall verify compliance with this provision prior to Final Site Plan approval and Certificate of Occupancy. Architectural metals in conjunction with other permitted building materials shall be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.

d. All truck loading, service areas, outside storage, and parking of heavy equipment, semi trucks or trailers, or other vehicles over 1-1/2 tons shall not be located adjacent to I-75, Cooper Creek Blvd., University Parkway, or Honore Avenue unless they are not visible from a height of five feet at the edge of pavement, to be determined at time of Certificate of Occupancy.

e. Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade and maintain all building setbacks along I-75, Cooper Creek Blvd., University Parkway, and Honore Avenue.

f. Rooftop mechanical equipment shall not be visible from 1-75. All rooftop mechanical equipment shall be screened from view from I-75, Cooper Creek Blvd, University Parkway, Honore Avenue, and adjacent properties. Screening shall be provided by materials consistent with the standards of the Entranceway.

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

Roadway	**Buffer Width**
University Parkway east of Cooper Creek Blvd to I-75:	Average 20 feet*
University Parkway west of Cooper Creek Blvd	50 feet
I-75:	50 feet
Honore Avenue:	30 feet
Cooper Creek Blvd.:	20 feet variable to 10 feet*

*This buffer area may be increased in areas for purposes of preserving significant trees or tree clusters on site, or to accomplish redevelopment in exchange for reducing a corresponding area of the required buffer along

the same roadway where no significant trees or tree clusters will be impacted. Minimum width shall be in accordance with that shown on attached East Buffer Exhibit (Exhibit "L"). The reduction to 10 feet along Cooper Creek Blvd. is intended to be the exception rather than the rule. Existing native trees, shrubs, and ground covers within the buffers shall be preserved to the maximum extent possible.

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

h. To further enhance the preservation of existing trees and buffer areas, a trade-off mechanism may be approved by the Planning Director to reduce the number of landscape islands in the parking areas of the development in exchange for the preservation of existing trees or wooded areas that may otherwise be cleared.

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

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

Signs along Cooper Creek Boulevard (North of Tourist Center Drive)
- D-1: Freestanding Directional – 10 feet 6 inches
- G-1: Freestanding Ground Sign – 12 feet 0 inches

Signs along University Parkway
- W-2: Gateway Entrance Sign (University Consumer Square)
- W-3: Gateway Entrance Sign (The Shoppes at University Center)
- P-1: Freestanding Pylon Sign – 25 feet 0 inches
- P-2: Freestanding Pedestal Sign – 25 feet 0 inches
- P-1B: Freestanding Pylon Sign – 35 feet 0 inches

Signs along Honore Avenue

W-2: Gateway Entrance Sign (University Consumer Square)
D-1: Freestanding Directional Sign – 10 feet 6 inches
G-1: Freestanding Ground Sign – 12 feet 0 inches
P-1: Freestanding Pylon Sign – 25 feet 0 inches

Signs along University Parkway (South of Tourist Center Drive)

P-1B: Freestanding Pylon Sign – 35 feet 0 inches
W-3: Gateway Entrance Sign (The Shoppes at University Center)
P-1: Freestanding Directional Sign – 25 feet 0 inches

Signs along I-75

P-2: Freestanding Pedestal Sign – 25 feet 0 inches
P-3: Freestanding High Rise Sign – 100 feet 0 inches
P-1A: Freestanding Pylon Sign – 20 feet 0 inches

In addition to the above, the following shall be met:

1. Any additional sign proposed other than that shown on the approved Master Sign Plan attached as Exhibit K shall require an amendment to the Cooper Creek General Development Plan and Zoning Ordinance at an advertised public hearing, unless otherwise permitted in the LDC.
2. No signs shall be permitted within public rights-of-way.
3. Proposed signs shall not conflict with existing and proposed landscaping to the maximum extent possible:
   i. Environmental Planning shall review individual sign permits to assist in determining optimal location for signs:
      ———a.i. Within roadway buffers to allow maximize visibility of signs, while minimizing removal of existing trees.
      ———b.i. Internal, wall, and perimeter signs to ensure placement of signs and to give consideration to existing landscaping to prevent unnecessary pruning or trimming of vegetation to maintain sign visibility.
      ———c.i. And sign footers to ensure minimal impacts to root zones.
4. Signs shall be set back a minimum of 5' from all property lines with the exception of the Message Center Sign (LED sign), which shall be set back a minimum of 12'.
5. All proposed signage along I-75 and University Parkway shall be no closer than two hundred feet apart.
6. All existing free-standing signage shall be improved or modified to match proposed signage materials.
7. No signs shall be permitted in the floodways, conservation areas, or wetlands, other than those signs permitted elsewhere in the LDC (i.e., conservation signs).

8. Signage shall be placed so it does not conflict with vehicular clear zones. FDOT Indices and clear zone requirements shall be met.

k. Appropriate bicycle parking facilities with the inverted "U" style rack shall be provided for each individual non-residential project. These facilities shall be available at all structures in the development and be conveniently located to the entrances of the primary structures and in clear view of the main entries.

l. Safe and efficient cross access for automobiles, bicycles, and pedestrians shall be provided to and through all parcels. A minimum of 5 foot wide sidewalks, pedestrian ways, or pedestrian/bikeway corridors shall be provided to facilitate internal pedestrian circulation within the development, including outparcels.

m. Chain link fences are prohibited in non-residential parcels within 300 feet of Cooper Creek Blvd, University Parkway, I-75, and Honore Ave. Outdoor storage areas shall be enclosed in an area attached to the main structure. Areas shall be enclosed utilizing design elements and materials reflective of the main structure or decorative metal fences and grilles.

n. Drive-through windows for the outparcels shall incorporate coverings for service windows that are structurally and architecturally integrated into the design of the buildings.

P.(143) Commercial development located within Parcel H shall be limited to retail sales establishments, eating establishments (including drive-thru), banks (including drive-thru), business service establishments, health services, motels, offices, car washes, dry cleaners, personal service establishments, repair service establishments, neighborhood and community serving motor vehicle repair, and building materials establishments.

P. (154) Commercial (non-office) development located within Parcel K shall be limited to retail sales establishments, eating establishments, banks, business service establishments, health services, dry cleaners, personal service establishments and repair service establishments. Each individual establishment shall be limited to 5,000 SF and the total amount of non-office commercial space in Parcel K shall be limited to 50,000 SF.

DEFINITIONS Note: An asterisk (*) denotes that the word is defined.

A. "Acceptable Level of Service*" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the most recent Highway Capacity Manual, TRB Special Report 209 or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall

be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor. Acceptable Level of Service for links and intersections in Sarasota County, Florida, shall mean Level of Service "C" on an average daily basis ("D" on a peak hour basis), which shall be measured as provided in this paragraph. Where a link or intersection in Sarasota County is operating at Level of Service "D" on an average daily basis ("E" on a peak hour basis) on the effective date of this Ordinance, then the Acceptable Level of Service in Sarasota County for that link or intersection shall mean Level of Service "D" on an average daily basis ("E" on a peak hour basis).

B. "Application*" and "Application for Development Approval*" or "ADA" shall mean Cooper Creek Center's Development of Regional Impact Application for Development Approval* and the NOPC submitted on July 26, 1996, and amended on April, 1997 and August 20, 1997, the NOPC submitted on January 27, 1999, the NOPC submitted on January 9, 2002, the NOPC submitted on May 17, 2005, the NOPC submitted on March 27, 2009, the NOPC submitted on 2010 ~~and~~ the NOPC submitted on March 16, 2011, ~~and the NOPC submitted on August 24, 2011 included as Exhibit "G" in the Development Order.~~ And the NOPC submitted on August 24, 2011.

C. "Best Management Practices*" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code (BMP list of approved practices by Board Resolution for Special Overlay Districts-Evers Reservoir and Lake Manatee Watershed Areas).

D. "Conceptual Master Plan*" shall mean a graphic depiction of the development shown on "Map H", last revised on " April 2011 for the Cooper Creek Center DRI.

E. "Conservation Area*" shall mean areas under a Conservation Easement to Manatee County ~~as defined by TBRPC~~ and those areas shown on revised "Exhibit C", ~~last~~ revised ~~on July 28, 1999.~~September, 2011.

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

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

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

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

J. "Fee Agreement*" shall mean the Transportation Component Impact Fee agreement by and between the County and the developer's predecessor's in interest, which was adopted on February 10, 1987.

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

1. Binding commitments for the actual construction with a posting of a cash bond or irrevocable letter of credit in a form satisfactory to the County; or

2. Actual construction; or

3. The placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required as long as said improvement is within the first two years of the Manatee County Capital Improvement Plan or the first two years of the FDOT Work Plan at the time of Preliminary Site Plan approval of a subphase or phase; or

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

L. "General Development Plan*" shall be defined as the site plan for PDMU-96-01, last revised on September, 2011 ~~April 2011~~, incorporated as part of "Exhibit B" and made a part hereof. Development on the General Development Plan shall be limited to the total number of dwelling units and non-residential development on Table 1.

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

N. "Owner*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York

corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest as to the Cooper Creek Center DRI and all its stipulations.

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

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

Q. "Preservation Areas*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", ~~last~~ revised on September, 2011~~July 28, 1999.~~

R. "School" shall not include a public or private K-12 school.

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

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

~~T~~U. "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP* in combination with prior approvals of this project will be five percent (5%) or more of the Acceptable Level of Service*. This area will be determined with the traffic study required for development approval after December 30, 2002. This area is generally depicted on Map J which was submitted with the ADA. This area will be revised as appropriate, based on a new Traffic Study*.

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

~~W~~W. "Warranted*" shall mean a determination by the County based on generally accepted transportation engineering practices that the Acceptable Level of Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order.

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

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

Section ~~5~~6. LEGAL DESCRIPTION.

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

DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE THE FOLLOWING EIGHT COURSES: VIZ: N 89°25'07" W, A DISTANCE OF 440.34 FEET; AND N 89°24'06" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5865.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 828.89 FEET, TO THE P.T. OF SAID CURVE; AND S 82°30'06" W, A DISTANCE OF 549.31 FEET; AND S 00°35'54" W, A DISTANCE OF 33.33 FEET; AND S 82°30'06" W, A DISTANCE OF 12.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5626.58 FEET, AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 795.11 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'05" W, A DISTANCE OF 220.21 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

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

CONTAINING 604.68 ACRES, MORE OR LESS.

Section 67. 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 1st Day of December 2011. ~~24th st day of May, 2011~~.

BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA

BY: _____

Carol Whitmore, Chairman

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

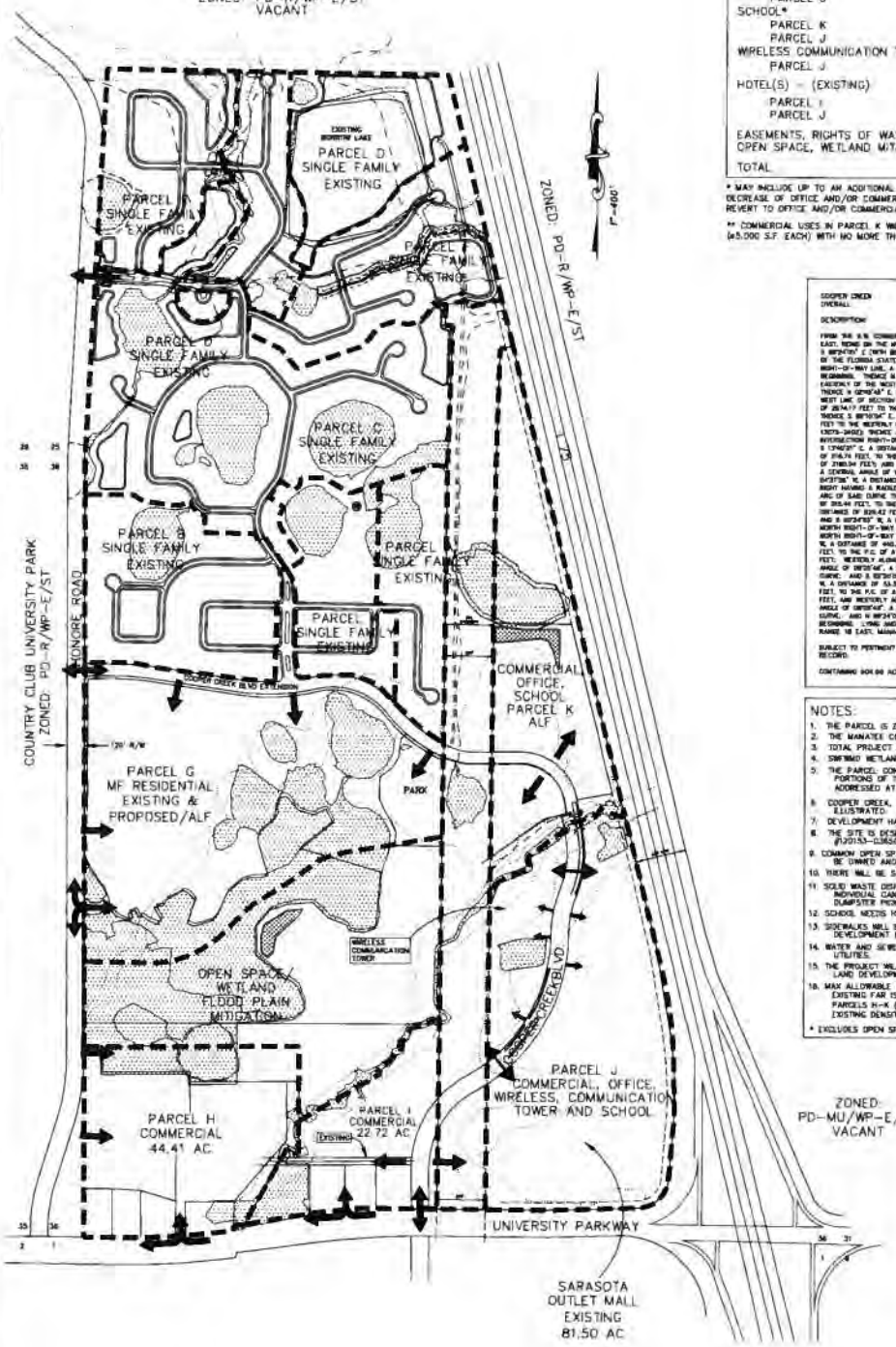
BY: _____
Deputy Clerk

Exhibit "B" (GDP) and Exhibit "C" (Preservation/Conservation Map) are ~~is~~ attached

Exhibits ~~C,~~ F, ~~G,~~ ~~H~~, I, ~~&~~ J, K, are not attached, but are on File with the Clerk of the Court.

Exhibits K (Master Sign Plan) and L (East Buffer Exhibit) per Ordinance No. PDMU-96-01(G)(R-7)
Is not attached; but is on file with the Clerk of the Court.

EXHIBIT "B"



LAND USE SUMMARY

LAND USE	UNITS/SF	ACRES
RESIDENTIAL (PARCELS A–G)	767 UNITS	240.2±
COMMERCIAL, OFFICE	794,000 SF	202.5±
PARCEL H		
PARCEL I		
PARCEL J		
PARCEL K		
OFFICE*	223,000 SF	30
PARCEL K		
PARCEL J		
SCHOOL*	20,000 SF	
PARCEL K		
PARCEL J		
WIRELESS COMMUNICATION TOWER		1.0±
PARCEL J		
HOTEL(S) – (EXISTING)	250 ROOMS	6.0±
PARCEL I		
PARCEL J		
EASEMENTS, RIGHTS OF WAY, WETLANDS, OPEN SPACE, WETLAND MITIGATION		124.98±
TOTAL		604.68

* MAY INCLUDE UP TO AN ADDITIONAL 25,000 SQ. FT. OF SCHOOL UPON CORRESPONDING DECREASE OF OFFICE AND/OR COMMERCIAL USE AT A 1:1 RATIO. ALL SCHOOL SPACE MAY REVERT TO OFFICE AND/OR COMMERCIAL SPACE.

** COMMERCIAL USES IN PARCEL K WILL BE LIMITED TO NEIGHBORHOOD COMMERCIAL USES (≤5,000 S.F. EACH) WITH NO MORE THAN 50,000 S.F. TOTAL.

COOPER CREEK
OVERALL

DESCRIPTION:

FROM THE S.W. CORNER OF THE SECTION 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, RUNS ON THE NORTH RIGHT-OF-WAY LINE OF COUNTY LINE ROAD, RUN S 89°24'04" E (WITH BEARINGS REFERRED TO 2000 NORTH OF THE WEST ZONE OF THE FLORIDA STATE PLANE COORDINATE SYSTEM), ALONG THE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 303.69 FEET TO THE POINT OF BEGINNING; THENCE N 00°35'36" W, PARALLEL WITH AND 303.69 FEET EASTERLY OF THE WEST LINE OF SECTION 36, A DISTANCE OF 1343.35 FEET; THENCE N 00°06'44" E, PARALLEL WITH AND 303.69 FEET EASTERLY OF THE WEST LINE OF SECTION 25, TOWNSHIP 35 SOUTH, RANGE 18 EAST, A DISTANCE OF 2674.77 FEET TO THE NORTH LINE OF THE S.W. 1/4 OF SAID SECTION 25; THENCE S 89°50'04" E, ALONG SAID NORTH LINE, A DISTANCE OF 2336.17 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 93 (I-75, SECTION 13075-2402); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE (AND INTERSECTION RIGHT-OF-WAY) THE FOLLOWING EIGHT COURSES, VIZ: S 17°40'27" E, A DISTANCE OF 849.63 FEET; AND S00°34'56" E, A DISTANCE OF 814.74 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2160.34 FEET; AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°31'16", A DISTANCE OF 434.46 FEET; AND S 34°37'36" W, A DISTANCE OF 460.00 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2716.70 FEET; AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 03°46'23", A DISTANCE OF 358.44 FEET, TO THE P.T. OF SAID CURVE; AND S 38°23'59" W, A DISTANCE OF 829.42 FEET; AND N 89°35'57" W, A DISTANCE OF 2566.34 FEET; AND S 00°24'03" W, A DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT-OF-WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING EIGHT COURSES, VIZ: N 89°35'57" W, A DISTANCE OF 440.24 FEET; AND N 89°24'04" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 2804.79 FEET; NEXTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°08'04", A DISTANCE OF 826.96 FEET, TO THE P.T. OF SAID CURVE; AND S 82°28'08" W, A DISTANCE OF 548.81 FEET; AND S 89°50'04" W, A DISTANCE OF 53.54 FEET; AND S 82°28'08" W, A DISTANCE OF 53.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2625.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°08'04", A DISTANCE OF 746.81 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'08" W, A DISTANCE OF 1329.20 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

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

CONTAINING 604.68 ACRES, MORE OR LESS.

NOTES:

1. THE PARCEL IS ZONED PD-MU/WP-E/ST.
2. THE MANATEE COUNTY LAND USE CLASSIFICATIONS ARE: MU, PSP-1, RES-6.
3. TOTAL PROJECT ACREAGE IS 604.68.
4. SWFWMD WETLAND BOUNDARIES ARE ILLUSTRATED.
5. THE PARCEL CONTAINS TREES THROUGHOUT VARIOUS UNDEVELOPED PORTIONS OF THE SITE. TREE REMOVAL AND REPLACEMENT WILL BE ADDRESSED AT FINAL SITE PLAN.
6. COOPER CREEK, A PERENNIAL STREAM, TRAVERSES THE SITE AS ILLUSTRATED.
7. DEVELOPMENT HAS COMMENCED. BUILDOUT IS DEC. 31, 2020.
8. THE SITE IS DESIGNATED AS FLOOD ZONE "X" & "AE" ON F.I.R.M. PANEL #12081C-0385C, DATED JULY 15, 1992.
9. COMMON OPEN SPACE WITHIN THE RESIDENTIAL AREA OF THE SITE WILL BE OWNED AND MAINTAINED BY A HOMEOWNERS ASSOCIATION.
10. THERE WILL BE SIGNAGE AND MARKETING SIGNS WITHIN THE DEVELOPMENT.
11. SOLID WASTE DISPOSAL WILL BE PROVIDED BY MANATEE COUNTY BY INDIVIDUAL CAN PICK-UP WITHIN THE RESIDENTIAL AREA AND BY DUMPSTER PICK-UP IN THE COMMERCIAL AREA.
12. SCHOOL NEEDS HAVE BEEN ADDRESSED.
13. SIDEWALKS WILL BE PROVIDED IN COMPLIANCE WITH THE LAND DEVELOPMENT CODE.
14. WATER AND SEWER SERVICE TO BE PROVIDED BY MANATEE COUNTY UTILITIES.
15. THE PROJECT WILL COMPLY WITH THE STANDARDS OF THE MANATEE COUNTY LAND DEVELOPMENT CODE, EXCEPT AS SPECIFICALLY MODIFIED.
16. MAX ALLOWABLE FAR = 1.0
EXISTING FAR IS LESS THAN 1.0 WHEN INCLUDING ONLY ACREAGE FOR PARCELS H-K. (234.8±)=1,037,000/10,452,820±.0993
EXISTING DENSITY=3.19 DU/AC

* EXCLUDES OPEN SPACE.

LEGEND

- WETLANDS
- UPLAND PRESERVATION
- FLOOD PLAIN LINE
- PARCEL LINE
- EXISTING ALIGNED ACCESS DRIVES
- EXISTING ACCESS DRIVES
- EXISTING INTERSECTION ACCESS
- EXISTING RIGHT IN/OUT ACCESS
- PROPOSED ACCESS
- PROPOSED INTERSECTION ACCESS

DESIGN: RBD/BDC
DRAWN: MPR
DATE: 09.01.11
JOB NO.: 2400
SCALE: 1"=400'
SHEET 1

GENERAL DEVELOPMENT PLAN
FOR
COOPER CREEK
LOCATED IN
SECTION 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST
MANATEE COUNTY, FLORIDA

THE SOLE PURPOSE OF THIS DRAWING IS TO ILLUSTRATE THE APPROXIMATE DIMENSIONS AND LAYOUT OF THE DEPICTED PROPERTIES. NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, IS MADE WITH RESPECT TO THE ILLUSTRATION.

REVISIONS
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BENDERSON DEVELOPMENT COMPANY, LLC
8441 COOPER CREEK BLVD, UNIVERSITY PARK, FL 34201
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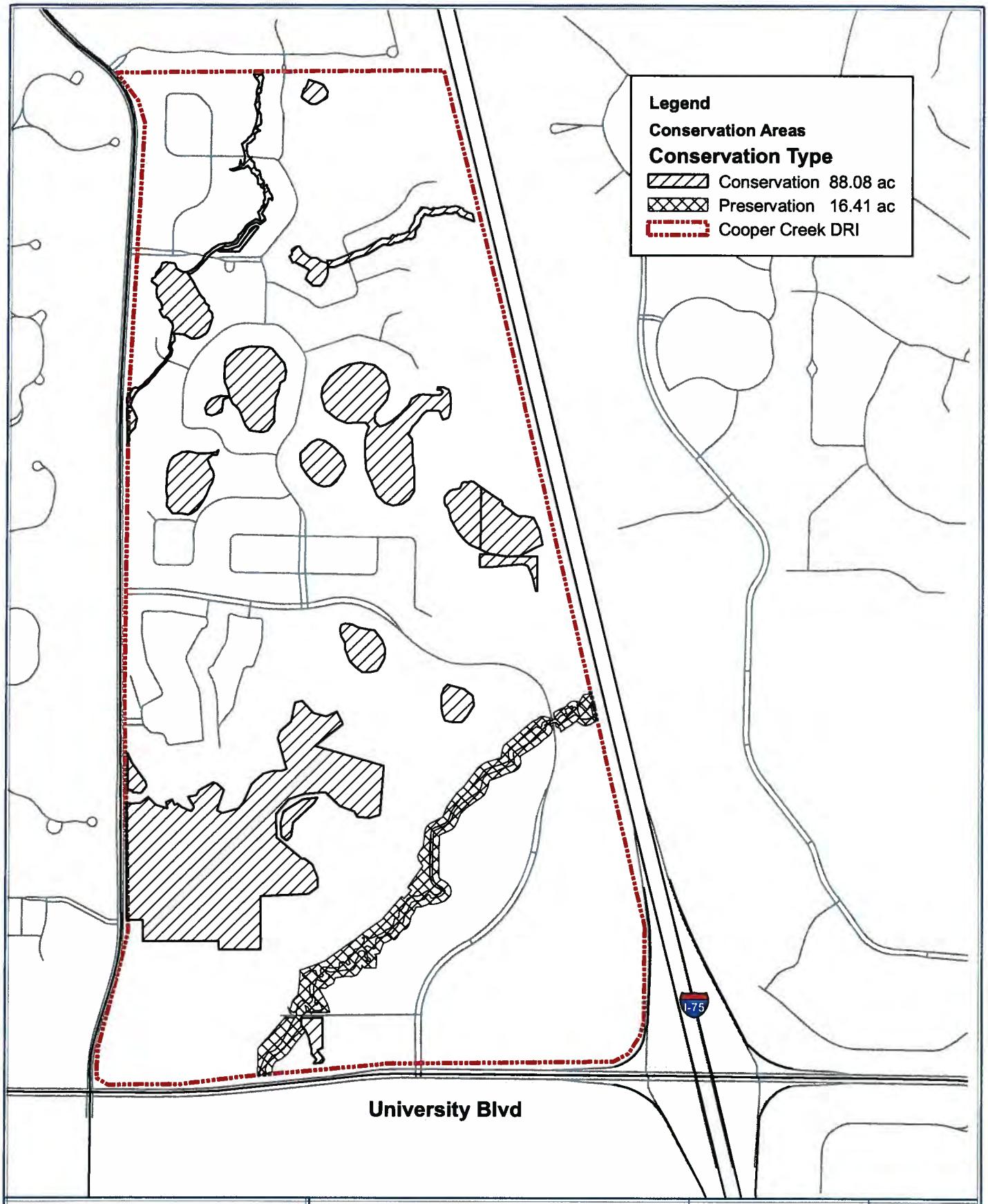

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PROJECT: Cooper Creek DRI, Manatee County, FL

Exhibit "C" Cooper Creek DRI
Preservation and Conservation Areas
Manatee County, Florida

ORIGINAL DATE: 07/12/2011
REVISION DATE: 09/26/2011
JOB NUMBER: 2400
FILE NAME:Cooper Creek Conser....mxd
GIS OPERATOR: LEF

N W E S
1 Inch = 1,000 feet