

**ORDINANCE NO. 14-37**

**DEVELOPMENT OF REGIONAL IMPACT**

**DRI # 24, HERITAGE HARBOUR**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA REGARDING LAND DEVELOPMENT, RENDERING AN AMENDED AND RESTATED DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, FOR THE HERITAGE HARBOUR DEVELOPMENT OF REGIONAL IMPACT (f/k/a ORDINANCE 11-31); A/K/A TBRPC DRI #240; TO APPROVE THE FOLLOWING CHANGES TO MAP H AND THE ORDINANCE: 1)UPDATE PHASING AND BUILDOUT DATES TO REFLECT PREVIOUSLY AUTHORIZED LEGISLATIVE EXTENSIONS, 2) REMOVE THE 12.0 ACRE MARINA AND DESIGNATE THE PARCEL FOR RESIDENTIAL USE, 3) UPDATE CONDITIONS TO REFLECT COMPLIANCE WITH REQUIREMENTS CONTAINED THEREIN, PROVIDING FOR DEVELOPMENT APPROVAL, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

**WHEREAS**, on October 6, 2011, the BOCC approved Ordinance 11-31, approving amendments to the DO for Heritage Harbour, which amendments were found not to be a substantial deviation to the originally approved DO; and

**WHEREAS**, on October 31, 2012, Lennar Homes, LLC filed a request to amend the Development Order pursuant to Section 380.06(19)(e)2, Florida Statutes, which does not require the filing of a notice of proposed change, but, requires an application to the local government to amend the development order in accordance with the local governments procedures; and

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

**WHEREAS**, the BOCC as the governing body of the local government having jurisdiction pursuant to Section 380.06(19)(e)2, Florida Statutes, has the statutory authority to consider and approve amendments to a Development Order for an approved DRI; and

**WHEREAS**, the public notice requirements of Manatee County have been adhered to and satisfied; and

**WHEREAS**, the Manatee County Planning Commission held a public hearing, has reviewed the application for an amendment to the development order and filed a recommendation as to the consistency with the Manatee County Comprehensive Plan on the application with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners has received and considered the report and recommendation of the Planning Commission; and

**WHEREAS**, the Board of County Commissioners held a duly noticed public hearing on the application and has solicited, received, and considered all testimony reports, comments, evidence, and recommendations from interested citizens, County agencies, the applicant, and the review and report of the Manatee County Building and Development Services Department.

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

**SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #24, f/k/a ORDINANCE 11-31.**

Ordinance 11-31 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the Heritage Harbour Development of Regional Impact. The prior Development Orders shall be superseded by this Ordinance. Provided this amendment shall not be construed to terminate the rights of the Developer, if any, granted under Section 163.3167(8), Florida Statutes, to the extent such rights have been previously granted and are not specifically herein or otherwise modified or amended.

**SECTION 2. FINDINGS OF FACT.**

The Board of County Commissioners, after considering the testimony, evidence, documentation, application for and amendment to development order, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board of County Commissioners at the public hearing herein referenced, hereby makes the following findings of fact:

- A. All recitals proceeding Section 1 of this Ordinance are adopted as findings of fact.
- B. An application has been submitted to Manatee County and is being processed concurrently with this application to amend the development order and to amend Zoning Ordinance PDMU-98-08(Z)(G)(R5) and the General Development Plan for the entire 2,784.7+ acre project.
- C. The Board of County Commissioners has received and considered the recommendation of the Manatee County Planning Commission concerning the request to amend the development order and the application of Zoning Ordinance Amendment as it relates to the real property described in Section 7 of this Ordinance, pursuant to Section 380.06, Florida Statutes. The report was rendered on, following a public hearing.
- D. The BOCC held a public hearing on, regarding the application to amend the development order and the proposed Zoning Ordinance Amendment, in accordance with the requirements of the Manatee County Land Development Code (Ordinance 90-01, as amended) and the Manatee County Comprehensive Plan (Ordinance 89-01, as

- amended) and has further considered the testimony, comments, and information received at the public hearing.
- E. Manatee County has adopted the Manatee County Comprehensive Plan which is in compliance with applicable state laws.
  - F. The Comprehensive Plan requires a Certificate of Level of Service to be issued for water, wastewater, solid waste, parks and recreation, roadways, transit, and drainage in compliance with state requirements.
  - G. This Development Order is issued based on information provided by the Developer in the original ADA (with their sufficiency responses), this application to amend the development order, public hearing testimony; data, information and recommendations provided by the Planning Commission and Building and Development Services Department , and ensures continued compliance with the Manatee County Comprehensive Plan.
  - H. Subject to the Development Order Conditions listed in Section 4, the County has determined that adequate Levels of Service exist until March 22, 2026 , for 5,000 residential units (single and multi-family units); 851,900 square feet of retail commercial; 170,000 square feet of office; 300 hotel rooms; 462 slip marina; 45 hole golf course; 600 bed ACLF accessory residential support and public community uses on 10.3 acres; and 41.2 acres of park for each of the subject categories listed in 1.F., above. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes and previously approved legislative extensions pursuant to HB 7207 and F.S. 252.363.
  - I. The real property which is the subject of this Development Order is legally described in Section 7 of this Ordinance.
  - J. The existing and proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
  - K. The authorized agent for Lennar Homes, LLC. is Darin McMurray, Vice-President, 700 NW 107<sup>th</sup> Ave., Ste 400, Miami, FL 33172.
  - L. The Owner and Master Developer of the property is Lennar Homes, LLC.
  - M. The Owner of Parcels 19 and 20 is LNR Heritage Harbour, LLLP, David Welch, Vice President, LNR Heritage Harbour, LLLP.
  - N. The owners of Parcel 35 are Manatee Land Investors, LLC and Upper Manatee 288, LLC.
  - O. A comprehensive review of the impacts generated by the development has been conducted by the departments of Manatee County, the Planning Commission, Board of County Commissioners, TBRPC, and State Land Planning Agency in conjunction with the original ADA, sufficiency responses, the preceding NOPC's, and this Development Order.
  - P. The property is zoned Planned Development Mixed Use (PDMU) and portions of the site are located in the Coastal High Hazard Overlay (CH).

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

- A. Based upon the previous Findings of Fact and the following conditions of DO Approval, the BOCC concluded that:
  - 1. The Development is consistent with local land development regulations, the State Comprehensive Plan, the Comprehensive Regional Policy Plan, the Manatee County Comprehensive Plan (Ordinance 89-01, as amended), and previous local government approvals.
- B. These proceedings have been duly conducted pursuant to applicable laws and regulations, and based upon the record in these proceedings, the Developer is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
- C. The review by the County reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order and the ADA, as amended by this request to modify the Development Order. To the extent that the ADA and NOPC is inconsistent with the terms and conditions of this Order, the terms and conditions of this Order shall prevail. A summary of the development covered by this Development Order is included as Table 1.

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

- A. "Acceptable Level of Service" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the Highway Capacity Manual (1994), TRB Special Report 209, or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor.
- B. "Application" and "Application for Development Approval" or "ADA" shall mean Heritage Sound's DRI ADA submitted on October 30, 1998 and sufficiency responses submitted on March 25, 1999 and May 19, 1999, the response to the second sufficiency comments dated May 17, 1999 and submitted on May 19, 1999, and the NOPC submitted on March 4, 2002 and amended on October 4, 2002, December 17, 2002, and March 5, 2003, the NOPC submitted on June 29, 2004, and amended on December 21, 2004, September 27, 2005, May 5, 2006, August 8, 2006, and November 27, 2006, and the NOPC submitted on October 19, 2009 and the NOPC submitted on May 20, 2011 and the request to amend the Development Order submitted on October 31, 2012.
- C. "Best Management Practices" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code.
- D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's\* impacts. A reasonable time frame for transportation

facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the law and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.

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

- M. "Owner" shall mean Lennar Homes, LLC., its heirs assigns, designees, agents, and successors in interest except as to Parcels 19 and 20 and Parcel 35
- N. "Phase\*" shall mean the development totals listed in Table 1 below.
- O. Preliminary Site Plan\*" (PSP\*) shall mean a Preliminary Master Development Plan\* or a Preliminary Site Plan\* for a Phase or Sub-Phase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended), for a Phase or Sub-Phase.
- P. "Project" shall mean the land uses by area, square footage, density, and phase described in the ADA\*, and as modified in Table 1, to be constructed on the real property described in Section 7 herein.
- Q. "Transportation Impact Area\*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP\* in combination with prior approvals of this project will be five percent (5%) or more of the Manatee County adopted Level of Service. This area is generally depicted on Figure 21.1 (Exhibit 7) which was submitted with the ADA.
- R. "Vertical Development" shall mean and be deemed to include the construction of or the addition to any existing structure.
- S. "Warranted" shall mean a determination by the County, or FDOT for state roads (unless the improvement is identified as a "local improvement"), based on generally accepted transportation engineering practices that the Acceptable Level of Service\* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All reserved vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination.
- T. "Wetland" shall mean any wetland under the jurisdictional limits defined by Chapter 62-340, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined by Chapter 40D-4, FAC, and implemented by the Southwest Florida Water Management District.

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

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

## **SECTION 5. DEVELOPMENT CONDITIONS.**

### **A. DEVELOPMENT APPROVAL AND LEVEL OF SERVICE CERTIFICATE CONDITIONS**

- A(1). This Development Order approval shall constitute approval of the ADA subject to the conditions set forth herein and shall be limited to the development amounts set forth in Table 1, below.
- A(2). Development totals of the Development\* are specifically approved subject to the conditions found within the Development Order. The Developer has demonstrated the availability of adequate infrastructure and the ability to meet Acceptable Levels of Service for roadways, solid waste service, mass transit, drainage, and parks and recreation. The Certificate of Level of Service for the Project\* shall be valid until March 22, 2026. This includes the three year extension authorized pursuant to Paragraph

380.06(19)(c), Florida Statutes and previously approved legislative extensions pursuant to HB 7207 and F.S. 252.363..

- A(3). Preliminary and Final Site Plan Applications shall be reviewed for compliance with this Development Order and shall be subject to the requirements of the Manatee County Comprehensive Plan and Land Development Code, in effect at the time of such site plan application, which are not specifically addressed in this Development Order or are not inconsistent with this Development Order.
- A(4). The ADA, sufficiency responses, and this application to amend the development order are hereby incorporated by reference.
- A(5). The applicant may apply for a General Development Plan amendment to allow Telecommunication Facility shown on Map H, between the existing lake and I-75, without requiring an amendment to the D.O. Any such General Development Plan application shall be reviewed for consistency with all the existing criteria in the Comprehensive Plan and Land Development Code. The Board and staff have not reviewed any such General Development Plan application and have not determined whether the use is appropriate other than that the state and regional considerations have been met.

**TABLE 1 - Development Totals**

**TYPE OF DEVELOPMENT:** Multi-Use Development.

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

**TOTAL DEVELOPMENT AMOUNTS:**

<b>CATEGORY</b>	<b>ACREAGE<sup>1</sup></b>	<b>PHASE I<sup>2</sup> 2000-2017*</b>	<b>PHASE II<sup>2</sup> 2004-2022*</b>	<b>TOTAL</b>
<b>Commercial</b>	<b>164.3</b>			
Retail <sup>3</sup>		300,000 s.f.	551,900 s.f.	851,900 s.f.
Office <sup>3</sup> Hotel <sup>3</sup>		103,250 s.f. 150 rooms	66,750 s.f. 150 rooms	170,000 s.f. 300 rooms
ACLF		0	600 beds	600 beds
<b>Residential<sup>4</sup></b>	<b>1302.3</b>			
Single family detached		1,290 units	980 units	2,270 units
Single family attached/ semi-attached		500 units	640 units	1,140 units
Multi-family		760 units	830 units	1,590 units
Total Residential Units		2,550 units	2,450 units	5,000 units
<b>Right of Way</b>	<b>67.9</b>			
<b>Open Space</b>	<b>1250.2</b>			
Golf Course	250	36 holes	9 holes	45 holes
Park	41.2			

Wetlands, Lakes, Passive Recreation	959			
<b>TOTAL</b>	<b>2784.7</b>			

- \* November 21st of referenced year for Phase I and Phase II.
- <sup>1</sup> Acreage figures subject to adjustment due to final survey and platting, surveyed jurisdictional determinations, permit survey data, etc.
- <sup>2</sup> The Phase I and II buildout dates include the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes and legislatively authorized extensions pursuant to HB 7207 and F.S. 252.363.
- <sup>3</sup> Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.
- <sup>4</sup> Residential units may be exchanged among the types of approved units per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15.

**B. TRANSPORTATION CONDITIONS**

B(1). The following roadway and intersection improvements shall be required or mitigated as part of Phases I and 2. The Developer\* shall, at the time of each application for Preliminary Site Plan\* approval, furnish to the County\* an accurate, up to date report of the amount of development, defined in terms of net new external p.m. peak hour trips\*, identified in the DRI documentation, which has previously been permitted in the Project\*. For Parcels 19 and 20, new external p.m. peak hour project trips shall be based on the trip rates adjusted for pass-by and internal capture as established by Exhibit 16, “Parcels 19 and 20 P.M. Peak Hour Project Trip Generation Comparison.” The Developer\* shall not be entitled to a Preliminary Site Plan\* approval which would result in the cumulative number of net new external p.m. peak hour trips for the Project\* to exceed the applicable net external p.m. peak hour project trip\* thresholds set forth in Table 2 unless Funding Commitments\* from Responsible Entities\* have been obtained to ensure that the improvements required are in place Concurrent\* with such Preliminary Site Plan. [Required Improvements have been mitigated through the approval of LDA-08-08 as amended and restated by LDA-08 -08(R), hereinafter referred to as the “LDA”.]

**TABLE 2  
Required Improvements**

Intersection	Required Improvement	Impact Fee Creditable	When Required
a. I-75 West-ramps/SR-64	Signalize when warranted (completed)	No	Notes 1&4
b. I-75 East-ramps/SR-64	(1) Signalize when warranted (2) Reconfigure northbound off-ramp and provide a second right-turn lane. (all improvements completed)	No Yes	Notes 1&4
c. SR-64 and Lena Road	(1) Signalize when warranted (2) Eastbound left-turn lane (3) Westbound right-turn lane (4) Southbound exclusive left-turn lane (5) Southbound shared through/right-turn lane (All improvements completed)	No No No No No	Notes 1&4

d. SR-64/Kay Road	(1) Retrofit the existing Southbound approach (N. Leg) of Kay Road (local Improvement). (2) Extend the Eastbound left-turn lane to 520 feet. (3) Westbound right-turn lane (length 300 feet) (Local Improvement) (4) Signalize when warranted (5) Southbound right-turn lane (local improvement) (All improvements completed)	Note 2  Yes  Note 2  No Note 2	Notes 2&4
e. Grand Harbour Pkway/SR-64	(1) Dual Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Exclusive Southbound left-turn lane (completed) (5) Signalize when warranted (completed) (6) Westbound left-turn lane (completed)	No No No No No Yes	Notes 1&4
f. River Heritage Blvd/SR-64	(1) Directional Eastbound left-turn lanes (completed) (2) Westbound right-turn lane (completed) (3) Exclusive Southbound right-turn lane (completed) (4) Signalized when warranted	No No No No	Notes 1&4
g. SR/64/Lakewood Ranch Blvd/Upper Manatee River Rd.	(1) Northbound left-turn lane (completed) (2) Southbound right-turn lane (local improvement) (completed)	Yes	Notes 3&4
h. SR70/I-75 ramps	(1) Signalize when warranted(local improvement) (completed)	No	
i. I-75 & SR 64 interchange	Contribute \$190,000 for construction costs (completed)	No	
<b>Roadway</b>	<b>Requirement Improvement</b>	<b>Impact Fee Creditable</b>	<b>When Required</b>
a. SR-64 from I-75 to Lena Rd	Widen to 4-lanes (completed)	Yes	Notes 1&4
b. SR 64 from Kay Rd	Develop and implement a time based coordinated signal system (local	No	Concurrent with signal

to Lena Road	improvement) (completed)		installation
c. SR 64 from 39 <sup>th</sup> St. E to Kay Road	Widen from 4 to 6 lanes	Yes	See Stipulation B(8)
d. Port Harbour Parkway	Extend from its current terminus to Upper Manatee River Road	Yes	See Stipulations B(5) and B(8)

All improvements on state roads are subject to FDOT approval.

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

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

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

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

B(2). When Certificates of Occupancy have been issued for 4,500 residential units, or the equivalent thereof in terms of net new external p.m. peak hour project trips, an biennial monitoring program to provide peak hour counts at the Project\* entrances shall be instituted to verify that the projected number of external trips for the Project\* are not exceeded. Counts shall continue on an biennial basis through buildout. This information shall be supplied in the required Biennial Report. If the Biennial Report indicates the total trips exceed projected counts by more than 15%, Manatee County shall conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. If an Biennial Report is not submitted within thirty (30) days of its due date, Manatee County may conduct a Substantial Deviation Determination pursuant to Subsection 380.06(19), Florida Statutes and may amend the Development Order to change or require additional roadway improvements. The results of the study may also serve as a basis for the Developer\* or reviewing agencies to request Development Order amendments. Such a variance shall be presumed to be a

substantial deviation unless the developer rebuts this presumption by clear and convincing evidence. If the variance is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes shall be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis. [Transportation mitigation has been completed for the approved development for both Phase I and Phase II through build-out. Therefore, monitoring is no longer required.]

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

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

. The TSM program shall seek to implement and will be measured by the TSM objectives and policies set forth in the Florida Transportation Plan and shall include, but shall not be limited to:

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

OBJECTIVES:

--Increase urban peak automobile occupancy rates by 10% by 2015 through expanded ride sharing efforts.

--Increase peak hours occupancy rates for transit and other high-occupancy modes of transportation by 20% by 2015.

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

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

For that portion of Port Harbour Parkway on the north side of the 288 acre addition (Parcel 35), adjacent to where the Waterlefe project previously dedicated 42 feet of right-of-way, the Developer\* shall dedicate the necessary remaining right-of-way to

achieve a total width of 105 feet for the eastern most 500 foot segment and 100 feet for the remaining segment, prior to the first Final Plat approval in Parcel 35. [The provisions of this Section B(5) have been supplanted by the LDA.]

This segment of Port Harbour Parkway shall be completed as a two lane divided roadway (outer lanes) with bike lanes and sidewalks and include the ultimate configuration of Port Harbour Parkway at the intersection of Upper Manatee River Road as set forth in Stipulation in B(8). Temporary striping shall be utilized until the full intersection improvements are made by the county.

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

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

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

which are the result of the County's use of eminent domain, shall be the County's responsibility.

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

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

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

- a. Developer\* will enter into an agreement with the County in which the Developer\* will commit:
  1. to pay to the County its proportionate fair share mitigation "PFSM" for transportation impacts prior to the first Final Site Plan for any residential development in Phase II to assure construction of the PFSM Project. The PFSM has been calculated to be \$2,775,500.00;
  2. to dedicate to the County the right-of-way necessary to complete the construction of Port Harbour Parkway, and for Upper Manatee River Road as depicted on the General Development Plan at the request of the County and to waive impact fee credits for such right-of-way dedication;
  3. to construct Port Harbour Parkway (the PFSM Project), the cost of which has been determined to be in excess of the PFSM, within 5 years of the approval date of this ordinance, utilizing funds from the PFSM payment to the County as well as additional contributions from the Developer; and
  4. to post a bond or letter of credit in the amount of the difference between the PFSM and the costs of the construction of the PFSM Project, as estimated by Developer's engineer and approved by the County, securing such commitment, prior to the approval of the first Final Site Plan for any residential development in Phase II.

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

- b. Upon entering into the agreement, the Developer\* will be issued a Certificate of Level of Service ("CLOS") for Phase II. The CLOS shall allow Developer to proceed with construction of the commercial development of Phase II of the Project\*

immediately and with construction of residential units in Phase II upon payment of the PFSM and posting of the bond or letter of credit, but no earlier than January 1, 2010 (except for model homes which may proceed immediately after entering into the agreement).

- c. Initially, the PFSM Project identified for construction will be Port Harbour Parkway as set forth above. However, the County will retain the option to reprogram the Developer's contributions (PFSM payment and financial equivalent of commitment to complete Port Harbour Parkway) to another major project (possible SR 64 if it can be used to forward-fund state construction dollars).
  - d. In the event the County elects to use the PFSM for a project other than Port Harbour Parkway, Developer shall construct Port Harbour Parkway within one year of the Final Site Plan approval of the 1500<sup>th</sup> unit in Phase II. Prior to approval of the Final Site Plan for the 1500<sup>th</sup> unit in Phase II the Developer shall post security assuring such construction. Impact fees paid by Phase II of the development shall be earmarked by the County for such construction and shall be used for such construction.
  - e. The Developer will receive impact fee credits for 100% of the Developers PFSM payment and cost of construction of the PFSM Project, but will waive impact fee credits for the donation of right-of-way for Port Harbour Parkway.
- B(9). The developer shall provide easement(s) to Manatee County to allow for attenuation and treatment of all stormwater from the planned build-out conditions (4-lane thoroughfare roadway with intersection improvements and sidewalks) for both sides of Port Harbour Parkway. A Drainage, Maintenance, and Access Easement shall also be provided to Manatee County for conveyance of stormwater from Port Harbour Parkway to the stormwater pond. The Drainage-Maintenance Access Easement shall be on clear and level ground and free of obstructions, including any landscaping in addition to the roadway buffer. Manatee County shall be responsible for the construction of the drainage conveyance improvements, the restoration of the roadway buffer and the maintenance of the free flow of the drainage conveyance. The pond within the stormwater easement shall not be a bonded improvement. Prior to Final Plat approval for the first plat abutting Upper Manatee River Road, the easements shall be approved by the Property Management Department and recorded in the Public Records and the developer shall submit to the Public Works Department the SWFWMD approval letter demonstrating that the approved stormwater pond has been designed with the capacity to accommodate the drainage for the build-out of Port Harbour Parkway as described above. Completion of the above improvements by Manatee County shall not require any further authorization from the developer or Home Owners Association. [The provisions of this Section B(9) have been supplanted by the LDA.]
- B(10) Parcel 19 is approved for 80,000 square feet of Commercial/ Multifamily/Office and Parcel 20 is approved for 564,900 square feet and 300 rooms of Commercial/ Multifamily/Office, and Hotel uses. Allowable commercial square footage can transfer between these two parcels 19 & 20. Development minimum and maximums for Parcels 19 and 20 shall be per the Land Use Equivalency Matrix (LUEM) included as Exhibit 15 of this Development Order.
- B(11) Land Use Equivalency Matrices (LUEM) for Parcels 19 and 20 and Residential uses are included as Exhibit 15 of this Development Order. The Tampa Bay Regional Planning Council and the Florida Department of Economic Opportunity will have a minimum 14-day maximum 21-day review period of any/all proposed conversions of the LUEM prior to approval by Manatee County. The applicant shall provide written notice to the Tampa

Bay Regional Planning Council and the Florida Department of Economic Opportunity of all proposed conversions under the LUEM and submit proof of such notice to Manatee County prior to approval by Manatee County of such conversions in accordance with this section. In addition, all future conversions shall be duly noted within the subsequent Biennial Report submitted for the project.

## C. ENVIRONMENT

### C(1). Vegetation, Wildlife, and Wetlands

- a. In the event that any additional state or federally-listed species are discovered on-site during project development, the developer shall immediately notify the Florida Fish and Wildlife Conservation Commission and Manatee County EMD and implement the appropriate measures for species conservation as recommended by the Florida Fish and Wildlife Conservation Commission.
- b. A management plan for the project, consistent with Policy 3.3.2.2 of the Comprehensive Plan, for removal of nuisance and exotic species, shall be developed by the applicant and approved by Manatee County prior to the first Final Site Plan approval for the project. (Completed)
- c. Prior to approval of any Final Subdivision Plat (or Plan if Platting is not required), the Developer\* shall record Land Development covenants or deed restrictions designed to prevent homeowner's activities from degrading habitat.
- d. Wetland buffers along the Manatee River, [the river as shown on Map F (Exhibit 1)], tidal creeks and islands shall be a minimum width of 50' except that wetland buffers for development within Parcel 12/13 shall be consistent with the Land Development Code and Comprehensive Plan. All other buffers shall be a minimum width of 30 feet, unless otherwise approved by the EMD, consistent with the Comprehensive Plan and Land Development Code.
- e. Upland buffers between on-site wetlands, marshes, streams or rivers and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation or be replanted with native, transitional zone or upland vegetation. All wetland buffers shall have signage posted depicting the purpose and intent of the buffer. Signage text and location shall be approved by the Director of the Environmental Management Department. The use of pesticides, herbicides, or fertilizers, unless part of an approved nuisance and exotic management plan, shall be prohibited in these buffers and the wetlands they protect.
- f. The Developer\* shall submit a wetland management and mitigation plan to the County\* for approval prior to, or concurrent with Preliminary Site Plan applications. This plan shall address, but not be limited to, identification of wetlands on-site, wetlands to be preserved, proposed wetland alterations, a detailed mitigation plan, control of on- and off-site water quality, methods for hydro period maintenance with a detailed narrative, and preliminary plans for mitigated or significantly enhanced wetlands.
- g. Post-development wetlands, conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes. These areas shall be placed under conservation easements

conveyed to Manatee County consistent with the restrictions on development provided for in Section 719 of the Land Development Code.

- h. The maximum amount of wetland impacts shall not exceed the total listed in Table 13.4, revised October 2006, attached as Exhibit 2. However, at time of Preliminary Site Plan approval, all proposed wetland impacts shall demonstrate compliance with minimization, avoidance, and mitigation, pursuant to the Comprehensive Plan, prior to authorization of any wetland impacts.
- i. The native upland plant community quantities committed to be preserved in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3) shall include 75 percent of the pine flatwoods and pine-mesic oak community located adjacent to the Manatee River and its tributaries, mangrove swamps, and saltwater marshes.
- j. As shown in Table 12-2 of the NOPC application dated May, 2004 (Exhibit 3), 36 acres of upland forested communities shall be preserved to provide habitat for the Sherman's fox squirrel.
- k. Concurrent with the construction of the internal roadways adjacent to Mitigation Area 6 and the associated wetlands shown on Exhibit 12, the Developer shall construct a fence which will be a minimum of four feet in height and of chain link or a similar material that will prevent passage of young sandhill crane chicks. The general location and extent of the fence is shown on Exhibit 12. (Completed)

#### C(2). Air Quality

- a. Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.
- b. Best Management Practices shall be employed during site preparation and construction to minimize air quality impacts.
- c. Any open burning conducted on site as part of land clearing activities shall be permitted by EMD.
- d. A Fugitive Dust Abatement Plan shall be submitted by the Applicant and approved prior to approval of the next Preliminary Site Plan.

#### C(3). Water Quality and Stormwater Management

- a. An Integrated Pest Management Plan (IPMP) shall be developed and approved by Manatee County prior to the first Final Site Plan Completed. The IPMP shall address the following items:
  - (1) Fertilizer/pesticide/herbicide/application;
  - (2) Golf course pest management methods and procedures; and
  - (3) Related quality control and assurance procedures.A training manual shall be developed as part of the IPMP for maintenance personnel and made available on site at all times.
- b. The Developer shall implement the surface and ground water monitoring plan in accordance with the Heritage Sound Water Quality Monitoring Plan included as Appendix 14 S.1 in the Heritage Sound DRI Application for Development Approval Sufficiency Response dated March 1999 (Exhibit 10), and as amended

for the Moore's Dairy site in accordance with the Water Quality Monitoring Plan approved by the Manatee County Environmental Management Department (MCEMD) on October 11, 2005 and included as Section IV in the Heritage Harbour DRI Notice of Proposed Change 2nd Sufficiency Response dated September 2005, unless otherwise modified with the approval of the Environmental Management Department.

- c. There shall be no individual groundwater wells associated with single or multi-family residences allowed within the development. This requirement shall be noted in all homeowner documents and disclosure statements. The location and well size of existing wells shall be indicated on each Preliminary Site Plan submitted for the project. A Well Management Plan, for the proper rehabilitation/abandonment of existing wells in accordance with SWFWMD Rule Chapter 40D-2, shall be submitted to the EMD for review and approval prior to authorization of construction.
- d. The developer shall conduct annual inspections of the surface water management system on the project site to ensure that the system is being properly maintained in keeping with its design, and is capable of accomplishing the level of stormwater storage or treatment for which it was designed and intended.
- e. The stormwater management systems shall be designed, constructed, and maintained to meet Chapter 40D-4 of the Florida Administrative Code. At a minimum, planted littoral zones equivalent to 35 percent of the total minimum lake area shall be required and shall be concentrated at the outfall.
- f. Best Management Practices\* (BMP) for reducing water quality impacts, as recommended by the County\* and SWFWMD in accordance with adopted regulations of these agencies, shall be implemented.
- g. All on-site existing underground tanks shall be abandoned pursuant to applicable State and County\* rules. All existing underground storage tanks within the project\* shall be identified prior to the first PSP approval Completed.
- h. An Environmental Assessment of the site shall be conducted by an Environmental Consultant to determine potential hazardous material locations (e.g., historical cattle dipping vats, underground/above ground storage tanks, or buried drums). Should evidence of hazardous material be discovered, further investigations will be required to determine the level of contamination and appropriate remediation/mitigative measures. The Environmental Assessment for the entire site shall be conducted and submitted for County review prior to the first Preliminary Site Plan approval. Development restrictions may be imposed if any contamination is discovered Completed.

#### C(4). Floodplains

- a. All habitable structures and access roadways shall be constructed above the 100-year flood elevation.
- b. Compensation for the loss of 100-year flood storage capacity shall be provided through cut and fill balance calculation and further confirmed by the no-rise certification procedure.

- c. All homeowner documents, real estate disclosure forms, deeds of sale or lease agreements for land or structures in the post development 100-year flood plain on the project site of Heritage Harbour, shall be accompanied by a hazard disclosure statement generally describing the property's relative probability of damage from coastal and fresh water flooding. This disclosure shall also list potential mitigation strategies including elevation, construction of safe rooms, window protection (shutters/security film), where the builder has exceeded coastal construction codes and other potential measures to increase safety.
- d. The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations.
- e. Adequate maintenance easements shall be provided on Cypress Strand (major drain). Prior to dedication, the creek embankment, excluding areas remaining in their natural states, shall be stabilized through seeding, sodding, and rip rap. The Engineer shall provide as-built typical sections for the purpose of maintenance. Any alteration to the creek shall not cause a rise in the FEMA 100-year flood elevation.

C(5). Soils

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

C(6). Manatee Protection

- a. Prior to any marina construction, the developer shall prepare a Manatee Protection Plan. The Plan shall be approved by the Florida Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, and Manatee County Environmental Management Department. The following elements shall be included:
  - 1. The Developer shall comply with all standard FWCC manatee construction conditions for all in-water construction.
  - 2. A manatee education program shall be developed and implemented for all slip lessees.
  - 3. A navigation channel shall be designated and marked with U.S. Coast Guard approved markers from the marina downstream to the I-75 Bridge prior to occupying any wet slips. The Developer shall be responsible for posting and maintaining the markers for the established channel in perpetuity, unless the Developer\* obtains a commitment for posting or maintenance by an appropriate governmental agency. The Developer shall be responsible for posting and maintaining the markers from its marina to the designated main river channel in perpetuity, unless otherwise posted and/or maintained by an appropriate governmental agency.
  - 4. A sign will be installed and maintained at the facility for boaters traveling to the Manatee River. The sign shall notify boaters of the controlling depth of the river, and request that boaters stay in the marked channel.

5. The use of the boat ramp shall be limited to lessees/owners of slips at the docking facility.
  6. The maximum draft, including propeller(s) for vessels associated with this project shall be 2.5 feet or as otherwise approved through the permitting process. This requirement shall be posted at the marina and included in all homeowner's documents, real estate disclosure forms, deeds of sale, or lease agreements for land or structures.
  7. Before commencement of the dry storage and boat lift, a speed zone from the I-75 Bridge to the vicinity of the east line of Section 16, Township 34 South, Range 19 East, shall be established by local ordinance and posted. The main marked channel shall be regulated at a speed, or speeds, as determined from public hearings and passing of an ordinance by the Manatee County Commission, with all other waters regulated as slow speed, minimum wake as applicable per Manatee County regulations. The Developer shall be responsible for posting and maintaining the established speed zone markers/buoys in the designated areas the Developer obtains a commitment for posting and maintenance by an appropriate governmental agency.
  8. The Developer shall assist in the enforcement of the speed zone, once, established. It shall be a term of the lease of any slip that violations of the speed zone ordinance may result in the revocation of the lease. An employee will be responsible for issuing warnings to lessees who are violating the speed zone. This person will also be responsible for a revocation process of the leased slip for individuals who are cited for violating the speed zone ordinance and pay a fine or are found guilty of violating the ordinance by a court of competent jurisdiction.(Completed)
- b. Except for docks whose sole purpose is to provide access to nature parks and/or picnic areas, and excluding specifically docks for individual or multiple single family use, the only docks on the site shall be at the marina if the marina is permitted.
  - c. The total number of boat slips allowed for this development in perpetuity shall not exceed 462. The first phase shall consist of up to a maximum of 162 wet slips and boat ramp. The second phase shall consist of up to a maximum of 300 dry slips. The second phase shall not be initiated until two years after the first phase has been completed.

#### **D. ARCHAEOLOGICAL AND HISTORICAL RESOURCES.**

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

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

by the Florida Department of State, Division of Historical Resources) must be completed before resource-disturbing activities are allowed to continue.

**E. WASTEWATER MANAGEMENT**

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

**F. WATER SUPPLY**

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

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

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

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

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

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

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

F(7). Reserved

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

**G. SOLID/HAZARDOUS WASTE/MEDICAL WASTE**

- G(1). The County has determined that there exists adequate solid waste capacity to accommodate the impacts of the Project\*. The Certificate of Level of Service shall be valid until November 21, 2024. This includes the three year extension authorized pursuant to Paragraph 380.06(19)(c), Florida Statutes and previously approved legislative extensions pursuant to HB 7207 and F.S. 252.363..
- G(2). In the event that hazardous materials or medical waste are located on the site, they shall be handled in a manner consistent with applicable Federal, State, and Local regulations.

**H. ENERGY**

- H(1). The energy conservation measures referenced of page 29.3 of the ADA shall be utilized as applicable (Exhibit 5).
- H(2). The developer shall use xeriscape landscaping wherever possible to reduce both water and energy consumption.

**I. RECREATION AND OPEN SPACE**

- I(1). The Project\* shall contain, at a minimum, 893.9 acres of open space. The property designated for recreation purposes shall include a 37.0 acre community park open to the general public, a 4.2 acre private neighborhood park, and 250.0 acres of golf.
- I(2). The Developer shall be responsible for the maintenance of all recreation and open space areas within the project site not dedicated to the County.
- I(3). A system of bicycle and pedestrian trails shall be developed to link the residential, commercial and recreational areas. If bicycle trails are combined with the required sidewalk system, then it shall be designed and constructed with a minimum width of 8 feet. If it is not combined with the sidewalk, then a 4 foot wide lane shall be provided on each side of the roadway. Prior to the first residential subphase south of Port Harbour Parkway and the first residential subphase north of Port Harbour Parkway a comprehensive pedestrian/bicycle plan for each side of Port Harbour Parkway shall be submitted and approved by Manatee County.

**J. PUBLIC SAFETY**

- J(1). The Developer\* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, equipping, and staffing of emergency service facilities for police and fire services or any combination thereof. The Developer\* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as allowed by the Land Development Code, if applicable. An agreement as to pro-rata share for each Phase\*, mutually acceptable to the County and the Developer shall be

reached prior to the issuance of the first Final Site Plan or Final Plat for Vertical Development for each Phase\*. The pro-rata share shall not exceed the total sum of impact fees anticipated from the Project and any pro-rata lump sum payment shall be creditable against the payment of impact fees, in accordance with applicable law. (Completed)

## **K. HURRICANE PREPAREDNESS**

- K(1). The applicant/developer shall promote awareness of hurricane/flooding hazard, preparedness and hazard mitigation through public information, neighborhood association newsletters, model homes, commercial/office buildings, etc.
- K(2). The applicant shall meet or exceed all appropriate federal, state, and local construction codes, setback requirements, and flood plain management regulations recognizing the vulnerability of this site to fresh water flooding and tropical storms and hurricanes.
- K(3). Prior to the first Final Site Plan for a site located either completely or partially within the Coastal Planning Area, as identified in the Comprehensive Plan, the applicant shall develop a master plan for evacuation and recovery to ensure the safe and orderly evacuation of vulnerable residents, hotel guests, and employees after an official evacuation order is issued. This plan shall include such provisions as, but not be limited to: (1) ordering all buildings in the evacuated areas closed for the duration of a hurricane evacuation order; (2) informing all residents, guests and employees of evacuation routes out of the flood prone area and measures to be followed in the event of same; and (3) making all efforts to coordinate with and inform appropriate public authorities of building closings, security and safety measures, and evacuation and re-entry/recovery plans. This plan shall be submitted to the State Land Planning Agency and the County for review and approval before approval of a Final Site Plan for habitable construction within the Coastal Planning Area. DCA shall have 45 days to comment on this plan. (Completed and attached as Exhibit 13).
- K(4). Prior to the first Final Site Plan approval for any site located either completely or partially within the Coastal Planning Area for habitable construction, the applicant shall develop a master plan for mitigating the project's impacts on emergency public shelters consistent with the requirements of Rule 9J-2.0256, FAC. These measures may include, but not be limited to: construction of shelter space in accordance with ARC 4496 shelter standards; payment in lieu of construction; or participation in the upgrading of existing shelter space. The plan shall be submitted to the State Land Planning Agency and the County for review and approval before approval of a Final Site Plan for habitable construction. DCA shall have 45 days to comment on this plan. (Completed and attached as Exhibit 13).
- K(5). Notwithstanding the ability to exchange among residential unit types, per the Land Use Equivalency Matrix, no increase in multi-family or single-family semi-detached units shall be permitted in the CHHA (Coastal High Hazard Area).

## **L. EDUCATION**

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

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

## **N. AFFORDABLE HOUSING**

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

- a. 245 units shall qualify upon the first sale to an end user as workforce housing as defined by Manatee County Land Development Code. The sales price for such units shall be determined to qualify as workforce housing after excluding upgrades and options from the price. The maximum sales price for the workforce housing units shall be based upon current workforce sales price as established by the methodology in the Manatee County Land Development Code and may be modified each year as determined by Manatee County.
- b. The Developer\* shall receive a 1:1 credit for all such qualifying units built within Phase I or II from January 1, 2004 to December 31, 2012 (project build out).
- c. Should the Developer\* not provide the required number of affordable units, mitigation in the form of \$2,000 per affordable unit not built shall be paid into the Affordable Housing Trust Fund prior to Final Site Plan approval for the 1,500th residential unit in Phase II or last residential subphase, whichever comes first.

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

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

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

## **O. GENERAL CONDITIONS**

- O(1). Should the Project\* significantly depart from the parameters set forth in this Development Order and the ADA\*, the Project\* will be subject to a Substantial Deviation Review, pursuant to Section 380.06. Florida Statutes. Any change to the Project\* which

meets the criteria set forth in Subsection 380.06(19), Florida Statutes shall require a hearing to determine if the change constitutes a Substantial Deviation.

- O(2). The Developer's\* commitments set forth in the ADA\*, and, as summarized in Section 6herein, shall be honored, except as they may be superseded by specific terms of the Development Order.
- O(3). Should the Developer\* divest itself of all interest in the Project\* prior to the expiration of the Development Order, the Developer\* shall designate the successor entity to be responsible for preparation of the Annual Report, subject to approval by the County\*.
- O(4). Buildout shall be completed by November 21, 2022. This Development Order shall expire November 21, 2024, to allow for post-development monitoring. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.
- O(5). The Manatee County Building and Development Services Department Director or the Director's authorized designee shall be responsible for monitoring the Development and ensuring its compliance with this Development Order. The data necessary for monitoring the Development shall be generated by building permits, certificates of occupancy, approval of plats and offering statements, the 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(6). The Developer\*, its successors, assigns or transferees, shall submit Biennial DRI Reports in accordance with Section 380.06(18), Florida Statutes\* to the County\*, TBRPC, the State Land Planning Agency, and other agencies, as may be appropriate, on March 21<sup>st</sup> of each year until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of the Manatee County 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 Building and Development Services Department Director decide further orders and conditions are necessary. The Developer\* shall be notified of any Board of County Commissioners' hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, modification, or change of any conditions, or any terms or conditions of this Development Order. The Biennial Report shall contain the following:
  - a. Any change in the plan of development, or in the representation contained in the ADA, or in the phasing or land uses for the reporting year and for the next year;
  - b. A summary comparison of development activity proposed and actually conducted for the year;
  - c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or Developer\*;
  - d. Identification and intended use of lands purchased, leased, or optioned by the Developer\* adjacent to the land encompassed by the Development Order for the Project;
  - e. An assessment of the Developer's\* and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the

- Application for Development Approval\* and which have been identified by the County\*, TBRPC, or State Land Planning Agency, as being significant;
- f. Any known incremental DRI Applications for Development Approval\* or requests for a Substantial Deviation Determination that were filed in the reporting year and to be filed during the next year;
  - g. An indication of a change, if any, in local government jurisdiction for any portion of the Development\* since the Development Order was issued
  - h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
  - i. A copy of any recorded notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer\* pursuant to Subsection 380.06(14)(d), Florida Statutes;
  - j. A statement that all persons have been sent copies of the Biennial Report in conformance with Subsection 380.06(15) and (18), Florida Statutes;
  - k. Progress regarding compliance with Stipulation N(1), the number of workforce housing units provided.
  - l. Reports and/or information pursuant to conditions B(2), B(3), C(1)h and i, C(3)d, K(3), K(4).
  - m. An updated map showing the locations and acreage of upland and wetland preservation.

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

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

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

### VEGETATION, WILDLIFE AND WETLANDS

1. Potential (sandhill crane) nesting habitat will be preserved (SR, pg. 2.2)
2. Former potential (sandhill crane) nesting habitat will be enhanced and restored. (SR, pg. 2.2)
3. Potential (sandhill crane) foraging habitat will also be maintained. (SR, pg. 2.3)
4. The surface water management system for the project will be designed to protect potential (sandhill crane) nesting marshes from unnatural peaks in water levels that might flood nests and cause failure. (SR, pg. 2.3)
5. Potential (sandhill crane) nesting marshes... will be buffered from proximate sources of active disturbance. (SR, pg. 2.3)

6. Management of upland and wetland areas will include control or treatment of nuisance and exotic species, such as cattails, Brazilian pepper, and primrose willow. Mechanical means will be used control the height of saw palmettos in undeveloped pine flatwoods areas. Restrictive deeds and covenants to prevent unauthorized impacts from clearing, the removal of desirable vegetation, will be incorporated into the homeowner's documents or deed restrictions, which will be enforced by the applicant and successor entity. (SR, pg. 2.6)
7. Those wetlands conserved will be assured long-term conservation and protection post-development by conservation mechanisms consistent with the Manatee County Comprehensive Plan and Land Development Regulation requirements at the time of the development order. (SR, pg.2.22)

#### FLOODPLAINS

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

#### WATER SUPPLY

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

#### SOLID WASTE/HAZARDOUS WASTE/MEDICAL WASTE

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

#### POLICE AND FIRE PROTECTION

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

#### RECREATION AND OPEN SPACE

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

#### EDUCATION

1. The developer will work with the Manatee County School Board to determine the most appropriate method to mitigate potential school facility impacts. (ADA 27.1)
2. The developer will work with the School Board to identify an appropriate site within Heritage Harbour if the School Board determines that this location will meet their long term needs. (SR 6.3)

#### PORTS AND MARINAS

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

2. A sewage pump-out facility will be provided for use of the residents and other boaters. (ADA, pg. 37.5)
3. Paint scraping, sanding or sandblasting, hull painting, or major engine repairs will be prohibited. Limited boat maintenance activities and minor engine repairs and servicing will be allowed, and specifically listed in the marina slip agreements (SR, pg. 7.3)
4. Fuel handling will follow the recommended elements of the Florida Clean Marina Program by providing signage and pamphlets that stress the impact from spills and fueling activities, including awareness of the fiscal responsibility a boater has if they create a spill and subsequent clean up is required. All fuel nozzles will have automatic/back-pressure/shut-off nozzles. Fueling of small cans will take place on impervious fireproof containment trays. A Fuel Response Package will contain containment booms, pads, and absorbents readily available in well-marked, easily accessible container(s). A fuel spill response plan will be prepared, and marina staff will be trained in the implementation of the plan. The provisions of the Pollution Discharge Act outlined in Section 376, Florida Statutes, and Chapter 62N, Florida Administrative Code, will be strictly adhered to. (SR, pg. 7.2)
5. A slow speed zone from the marina to the main river channel will be posted and select interior braided channels adjacent and within the project area will be marked for slow speed only (throughout the year). The main natural river channel from the marina downstream to where the river becomes a broad system will be marked with regulation markers. (SR, pg. 7.4)

## **SECTION 7. LEGAL DESCRIPTION.**

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

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

SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE WEST ALONG THE NORTH LINE OF SECTION 13 TO THE POINT OF BEGINNING; UNSURVEYED PORTION OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS: BEGIN AT THE NE CORNER OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE SOUTH TO THE WATERS OF MANATEE RIVER, THENCE MEANDER THE WATERS OF MANATEE RIVER IN A WESTERLY AND NORTHWESTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 14, RUN THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 14 TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 87.7 ACRES (COMPUTED BY DIGITIZING FROM AERIAL PHOTOGRAPHS THE AREA ABOVE THE APPROXIMATE MEAN HIGH WATER LINE) ALL LYING AND BEING LOCATED IN MANATEE COUNTY, FLORIDA. THE AREA OF THE ABOVE DESCRIBED LAND IS APPROXIMATELY 2,495.8 ACRES.

TOGETHER WITH (HERITAGE HARBOUR STONEYBROOK EAST):

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

HARBOUR DEVELOPMENT TO THE WEST (SHOWN ON SAID PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 1 AND PLAT OF STONEYBROOK AT HERITAGE HARBOUR, SUBPHASE D, UNIT 2).

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

Physical development of the Project\* has commenced. If any five year period shall expire without significant additional physical development activity on the site, the BOCC may conduct a public hearing in accordance with the Land Development Code after appropriate notice to the Developer\* and may, at its option, based on testimony presented at that hearing, rescind or suspend or take other appropriate action on any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer. For purposes of this provision, "physical development" shall be the actual construction of buildings or infrastructure by the Developer\* that is approved on a Final Site Plan or Plat for the Project\*.

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

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

1. substantial changes in the conditions underlying the approval of the Development Order have occurred; or
2. the Development Order was based upon substantially inaccurate information provided by the Developer; or
3. the change is clearly established by the County to be essential for the public health, safety, or welfare, or
4. the development is not proceeding in a timely manner, pursuant to Section 8.

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

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

#### **SECTION 10. BINDING ORDER UPON DEVELOPER AND COUNTY.**

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

**SECTION 11. COMPLIANCE WITH CODES AND ORDINANCES.**

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

**SECTION 12. RENDITION.**

The Building and Development Services Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the BOCC approval to the Developer, STATE LAND PLANNING AGENCY, and TBRPC.

**SECTION 13. NOTICE OF RECORDING.**

The Developer shall record a notice of adoption of this Development Order as required pursuant to Chapter 380, Florida Statutes, and shall furnish the 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 provision or portion shall be deemed null and void, but all remaining provisions and portions of this Development Order shall remain in full force and effect.

**SECTION 15. EFFECTIVE DATE.**

This Ordinance shall become effective upon filing of a certified copy with the Department of State; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said of appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 00-19, as amended by Ordinance 03-25, Ordinance 08-33, Ordinance 10-37 and Ordinance 11-31, during the pendency of any appeal.

PASSED AND DULY ADOPTED WITH A QUORUM PRESENT AND VOTING BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THIS 4<sup>th</sup> DAY of SEPTEMBER, 2014.

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



By: *Larry Bustle*  
Larry Bustle, Chairman

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

By: *R. B. Shore*  
Deputy Clerk

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

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

EXHIBIT 13

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

EXHIBITS 2, 3, 5, and 14

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

EXHIBIT 16

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

EXHIBITS 6 and 15

ARE ATTACHED AND TITLED AS FOLLOWS:

- Ex. 6: Map H – Master Development Plan
- Ex. 15: Land Use Equivalency Matrix

**EXHIBIT #15**

**Land Use Equivalency Matrix**

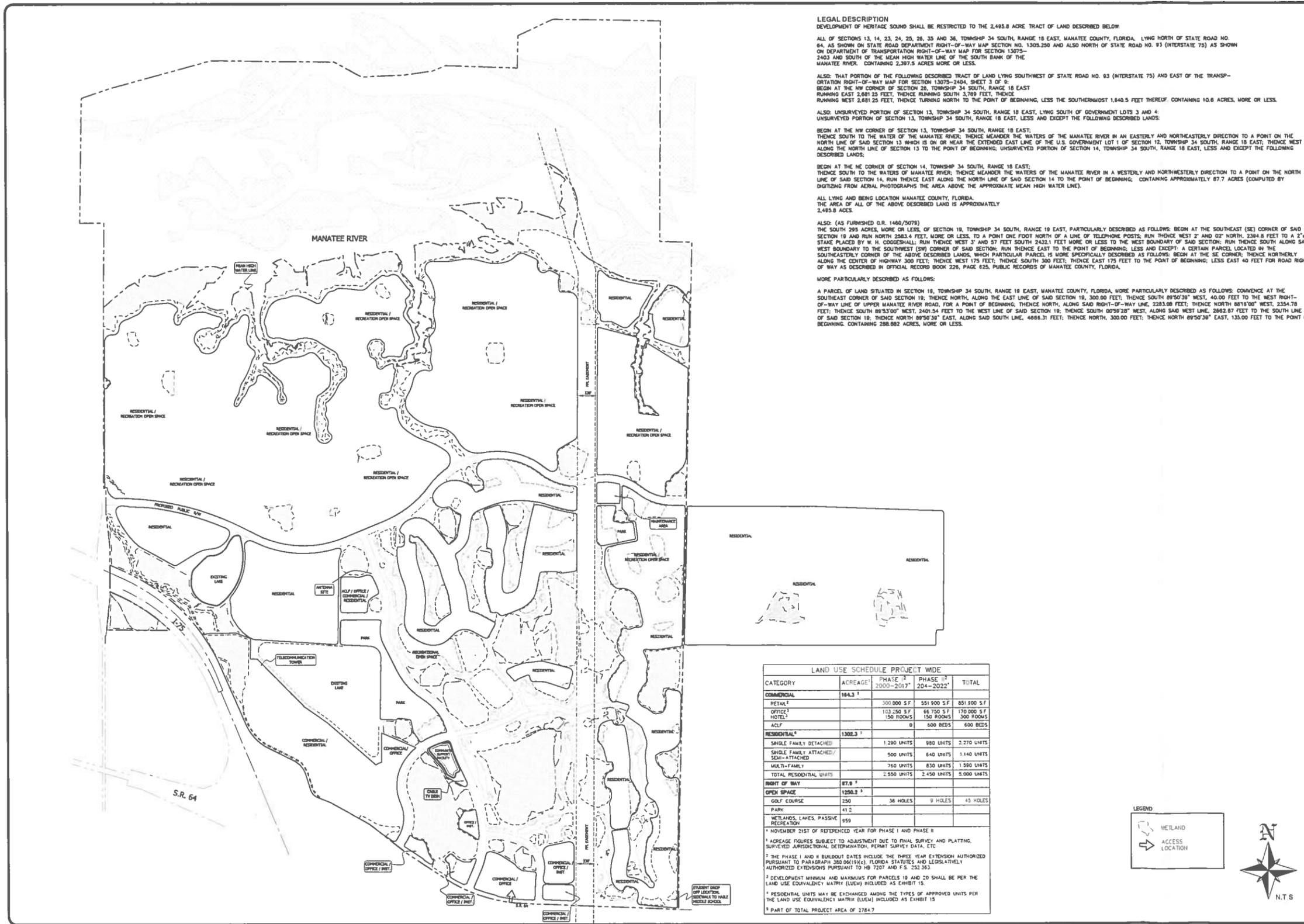
<b>Land Use Equivalency Rates and Minimum/Maximum Development Thresholds For Parcels 19 and 20</b>					
<b>Change To→</b>	Hotel ( 1Room)	Commercial/Retail (1,000 SF)	Office (1,000 SF)	Minimum	Maximum
<b>Change From↓</b>					
Hotel (1 Room)	---	171.5 SF	396 SF	80 rooms	300 rooms
Commercial/Retail (1,000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

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

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

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

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



**LEGAL DESCRIPTION**  
 DEVELOPMENT OF HERITAGE HARBOUR SHALL BE RESTRICTED TO THE 2,448.8 ACRE TRACT OF LAND DESCRIBED BELOW:  
 ALL OF SECTIONS 13, 14, 23, 24, 25, 26, 35 AND 36, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, LYING NORTH OF STATE ROAD NO. 64, AS SHOWN ON STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION NO. 1305.250 AND ALSO NORTH OF STATE ROAD NO. 93 (INTERSTATE 75) AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2403 AND SOUTH OF THE MEAN HIGH WATER LINE OF THE SOUTH BANK OF THE MANATEE RIVER, CONTAINING 2,397.5 ACRES MORE OR LESS.  
 ALSO: THAT PORTION OF THE FOLLOWING DESCRIBED TRACT OF LAND LYING SOUTHWEST OF STATE ROAD NO. 93 (INTERSTATE 75) AND EAST OF THE TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 13075-2404, SHEET 3 OF 8:  
 BEGIN AT THE NW CORNER OF SECTION 26, TOWNSHIP 34 SOUTH, RANGE 18 EAST, RUNNING EAST 2,681.25 FEET, THENCE RUNNING SOUTH 3,789 FEET, THENCE RUNNING WEST 2,681.25 FEET, THENCE TURNING NORTH TO THE POINT OF BEGINNING, LESS THE SOUTHERNMOST 1,640.5 FEET THEREOF, CONTAINING 10.8 ACRES, MORE OR LESS.  
 ALSO: UNSURVEYED PORTION OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LYING SOUTH OF GOVERNMENT LOTS 3 AND 4:  
 UNSURVEYED PORTION OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS:  
 BEGIN AT THE NW CORNER OF SECTION 13, TOWNSHIP 34 SOUTH, RANGE 18 EAST;  
 THENCE SOUTH TO THE WATER OF THE MANATEE RIVER; THENCE MEANDER THE WATERS OF THE MANATEE RIVER IN AN EASTERLY AND NORTHEASTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 13 WHICH IS ON OR NEAR THE EXTENDED EAST LINE OF THE U.S. GOVERNMENT LOT 1 OF SECTION 12, TOWNSHIP 34 SOUTH, RANGE 18 EAST; THENCE WEST ALONG THE NORTH LINE OF SECTION 13 TO THE POINT OF BEGINNING, UNSURVEYED PORTION OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST, LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS:  
 BEGIN AT THE NE CORNER OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 18 EAST;  
 THENCE SOUTH TO THE WATERS OF THE MANATEE RIVER; THENCE MEANDER THE WATERS OF THE MANATEE RIVER IN A WESTERLY AND NORTHWESTERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID SECTION 14, RUN THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 14 TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 87.7 ACRES (COMPUTED BY DIGITIZING FROM AERIAL PHOTOGRAPHS THE AREA ABOVE THE APPROXIMATE MEAN HIGH WATER LINE).  
 ALL LYING AND BEING LOCATION MANATEE COUNTY, FLORIDA.  
 THE AREA OF ALL OF THE ABOVE DESCRIBED LAND IS APPROXIMATELY 2,448.8 ACRES.  
 ALSO: (AS FURNISHED O.R. 1466/5078)  
 THE SOUTH 299 ACRES, MORE OR LESS, OF SECTION 19, TOWNSHIP 34 SOUTH, RANGE 18 EAST, PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST (SE) CORNER OF SAID SECTION 19 AND RUN NORTH 2583.4 FEET, MORE OR LESS, TO A POINT ONE FOOT NORTH OF A LINE OF TELEPHONE POSTS; RUN THENCE WEST 2' AND 02" NORTH, 2384.8 FEET TO A 2"x2" STAKE PLACED BY W. H. COOPERHALL; RUN THENCE WEST 3' AND 57" SOUTH 2432.1 FEET MORE OR LESS TO THE WEST BOUNDARY OF SAID SECTION; RUN THENCE SOUTH ALONG SAID WEST BOUNDARY TO THE SOUTHWEST (SW) CORNER OF SAID SECTION; RUN THENCE EAST TO THE POINT OF BEGINNING, LESS AND EXCEPT: A CERTAIN PARCEL LOCATED IN THE SOUTHEASTLY CORNER OF THE ABOVE DESCRIBED LANDS, WHICH PARTICULAR PARCEL IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGIN AT THE SE CORNER; THENCE NORTHERLY ALONG THE CENTER OF HIGHWAY 300 FEET; THENCE WEST 175 FEET; THENCE SOUTH 300 FEET; THENCE EAST 175 FEET TO THE POINT OF BEGINNING; LESS EAST 40 FEET FOR ROAD RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORD BOOK 226, PAGE 625, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.  
 MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 A PARCEL OF LAND SITUATED IN SECTION 19, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE NORTH, ALONG THE EAST LINE OF SAID SECTION 19, 300.00 FEET; THENCE SOUTH 89°50'39" WEST, 40.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF UPPER MANATEE RIVER ROAD, FOR A POINT OF BEGINNING; THENCE NORTH, ALONG SAID RIGHT-OF-WAY LINE, 2383.08 FEET; THENCE NORTH 88°18'00" WEST, 2354.78 FEET; THENCE SOUTH 89°33'00" WEST, 2401.54 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE SOUTH 00°59'28" WEST, ALONG SAID WEST LINE, 2682.87 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE NORTH 89°50'39" EAST, ALONG SAID SOUTH LINE, 4688.31 FEET; THENCE NORTH, 300.00 FEET; THENCE NORTH 89°50'39" EAST, 135.00 FEET TO THE POINT OF BEGINNING, CONTAINING 288.882 ACRES, MORE OR LESS.

CATEGORY	ACREAGE <sup>1</sup>	PHASE I <sup>2</sup> 2000-2017 <sup>3</sup>	PHASE II <sup>2</sup> 204-2022 <sup>3</sup>	TOTAL
<b>COMMERCIAL</b>	<b>184.3</b>			
RETAIL <sup>4</sup>		300,000 S.F.	551,900 S.F.	851,900 S.F.
OFFICE <sup>4</sup>		103,250 S.F.	66,750 S.F.	170,000 S.F.
HOTEL <sup>4</sup>		150 ROOMS	150 ROOMS	300 ROOMS
ACLF <sup>4</sup>		0	600 BEDS	600 BEDS
<b>RESIDENTIAL<sup>5</sup></b>	<b>1302.3</b>			
SINGLE FAMILY DETACHED <sup>6</sup>		1,290 UNITS	980 UNITS	2,270 UNITS
SINGLE FAMILY ATTACHED/ SEMI-ATTACHED <sup>6</sup>		500 UNITS	640 UNITS	1,140 UNITS
MULTI-FAMILY <sup>6</sup>		760 UNITS	830 UNITS	1,590 UNITS
<b>TOTAL RESIDENTIAL UNITS</b>		<b>2,550 UNITS</b>	<b>2,450 UNITS</b>	<b>5,000 UNITS</b>
RIGHT OF WAY	87.8			
OPEN SPACE	1256.8			
GOLF COURSE	250	38 HOLES	9 HOLES	45 HOLES
PARK	41.2			
WETLANDS, LAKES, PASSIVE RECREATION	959			

<sup>1</sup> NOVEMBER 21ST OF REFERENCED YEAR FOR PHASE I AND PHASE II  
<sup>2</sup> ACREAGE FIGURES SUBJECT TO ADJUSTMENT DUE TO FINAL SURVEY AND PLATING, SURVEYED JURISDICTIONAL DETERMINATION, PERMIT SURVEY DATA, ETC.  
<sup>3</sup> THE PHASE I AND II BUILDOUT DATES INCLUDE THE THREE YEAR EXTENSION AUTHORIZED PURSUANT TO PARAGRAPH 380.06(1)(c), FLORIDA STATUTES AND LEGISLATIVELY AUTHORIZED EXTENSIONS PURSUANT TO HB 7207 AND F.S. 252.363  
<sup>4</sup> DEVELOPMENT MINIMUM AND MAXIMUMS FOR PARCELS 18 AND 20 SHALL BE PER THE LAND USE EQUIVALENCY MATRIX (LUEM) INCLUDED AS EXHIBIT 15.  
<sup>5</sup> RESIDENTIAL UNITS MAY BE EXCHANGED AMONG THE TYPES OF APPROVED UNITS PER THE LAND USE EQUIVALENCY MATRIX (LUEM) INCLUDED AS EXHIBIT 15.  
<sup>6</sup> PART OF TOTAL PROJECT AREA OF 1784.7

**Banka Engineering**  
 Professional Engineers, Planners, & Land Surveyors  
 SARASOTA • PORT CHARLOTTE • FORT MYERS • NAPLES  
 144 TALLCOST ROAD, SUITE 105  
 SARASOTA, FLORIDA 34233  
 PHONE: 941.554.1111 FAX: 941.554.1115  
 LICENSE: ENGINEERING LICENSE 18-000040  
 SURVEY LICENSE LP-000680

**MASTER DEVELOPMENT PLAN  
 HERITAGE HARBOUR**  
 A DEVELOPMENT OF REGIONAL IMPACT

October 2012  
**MAP H**



FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

September 8, 2014

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

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. 14-37, which was filed in this office on September 8, 2014.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR