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ORDINANCE  
NUMBER 2018-014

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT  
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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING PART III, LAND DEVELOPMENT AND GROWTH MANAGEMENT, CHAPTER 3-5, PLANNING AND DEVELOPMENT, OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BY DELETING ARTICLE XX, TRANSFER OF DENSITY UNITS, AND AMENDING ARTICLE V, ENVIRONMENTAL REQUIREMENTS AND OTHER REQUIREMENTS OF CHAPTER 3-9, ZONING, BY CREATING NEW SECTION 3-9-150, TRANSFER OF DENSITY UNITS (TDU); PROVIDING FOR INTENT; PROVIDING FOR REVISED DEFINITIONS; PROVIDING FOR REVISED APPLICABILITY; PROVIDING FOR REVISED SENDING ZONES (SZ); PROVIDING FOR REVISED RECEIVING ZONES (RZ); PROVIDING FOR COVENANT REQUIREMENT; PROVIDING FOR REVISED PROCEDURE; PROVIDING FOR EFFECTIVE DATE OF THE CERTIFICATION OR TDU; PROVIDING FOR LIMITED RELIEF; PROVIDING FOR WAIVER, PROVIDING FOR LAND ACQUISITION TRUST FUND (LATF); PROVIDING FOR NEW FORMATTING; PETITION Z-17-01-03B; APPLICANT: BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

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WHEREAS, during the implementation of Charlotte County's Comprehensive Plan ("County's Comprehensive Plan"), adopted in 2010, it was found that some of the policies related to the County's Transfer of Density Units (TDU) program found in the Future Land Use Element of the County's Comprehensive Plan were not consistent with the overall vision of the County's Comprehensive Plan and its intent; and

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WHEREAS, on July 25, 2017, the Board of County Commissioners of Charlotte County, Florida ("Board") adopted Ordinance 2017-039 which amended

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39 the Future Land Use Element of the County's Comprehensive Plan by amending  
40 some of the TDU-related policies to better reflect the vision and intent of the  
41 Comprehensive Plan; and

42 WHEREAS, on January 23, 2018, the Board adopted Ordinance 2018-  
43 004, amending the County's Comprehensive Plan by amending Future Land Use  
44 (FLU) Policy 1.2.9: TDU Sending Zones and FLU Policy 1.2.12: Prohibited  
45 Receiving Zones, pursuant to the Settlement Agreement in DOAH Case No. 17-  
46 004480GM; and

47 WHEREAS, at this time, County Staff is proposing revisions to the  
48 County's Land Development Regulations and TDU Code to reflect and be  
49 consistent with the County's Comprehensive Plan and its TDU-related policies;  
50 and

51 WHEREAS, County Staff is recommending amending Part III, Land  
52 Development and Growth Management, Chapter 3-5, Planning and  
53 Development, of the Code of Laws and Ordinances of Charlotte County, Florida  
54 ("Code"), by deleting Article XX, Transfer of Density Units, and amending Article  
55 V, Environmental Requirements and Other Requirements of Chapter 3-9, Zoning,  
56 by creating new Section 3-9-150, Transfer of Density Units (TDU); providing for  
57 intent; providing for revised definitions; providing for revised applicability;  
58 providing for revised Sending Zones (SZ); providing for revised Receiving Zones  
59 (RZ); providing for covenant requirement; providing for revised procedure;  
60 providing for effective date of the Certification or TDU; providing for limited relief;  
61 providing for waiver; providing for Land Acquisition Trust Fund (LATF); and

62 providing for new formatting; all as set forth in Exhibit "A" which is attached  
63 hereto and by this reference provided herein; and

64 WHEREAS, Petition Z-17-01-03B, which is submitted by the Board, as  
65 applicant, and which requests the recommended amendments proposed by  
66 County Staff as outlined above, has previously been heard by the Charlotte  
67 County Planning and Zoning Board ("P&Z Board") and, based on the findings  
68 and analysis provided by County Staff and the evidence presented to the P&Z  
69 Board, was recommended for approval on March 12, 2018; and

70 WHEREAS, in a public hearing held on Tuesday, March 27, 2018, the  
71 Board reviewed Petition Z-17-01-03B and, based on the findings and analysis  
72 provided by County Staff and the evidence presented to the Board, found that  
73 approval of Petition Z-17-01-03B is consistent with the County's Comprehensive  
74 Plan and is in the best interests of the County and its citizens.

75 NOW, THEREFORE, BE IT ORDAINED by the Board of County  
76 Commissioners of Charlotte County, Florida:

77 Section 1. Adoption. Part III, Land Development and Growth  
78 Management, Chapter 3-5, Planning and Development, of the Code of Laws and  
79 Ordinances of Charlotte County, Florida ("Code"), by deleting Article XX, Transfer  
80 of Density Units, and amending Article V, Environmental Requirements and  
81 Other Requirements of Chapter 3-9, Zoning, by creating new Section 3-9-150,  
82 Transfer of Density Units (TDU); providing for intent; providing for revised  
83 definitions; providing for revised applicability; providing for revised Sending  
84 Zones (SZ); providing for revised Receiving Zones (RZ); providing for covenant

85 requirement; providing for revised procedure; providing for effective date of the  
86 Certification or TDU; providing for limited relief; providing for waiver; providing for  
87 Land Acquisition Trust Fund (LATF); and providing for new formatting; all as  
88 provided in Exhibit "A" which is attached hereto and by this reference provided  
89 herein, is hereby adopted.

90 Section 2. Conflict with Other Ordinances. The provisions of this  
91 Ordinance shall supersede any provision of existing ordinances in conflict  
92 herewith to the extent of said conflict.

93 Section 3. Severability. If any subsection, sentence, clause,  
94 phrase, or portion of this Ordinance is for any reason held invalid or  
95 unconstitutional by any court of competent jurisdiction, such portion shall be  
96 deemed a separate, distinct, and independent provision and such holding shall  
97 not affect the validity of the remainder of this Ordinance.

98 Section 4. Effective Date. This Ordinance shall take effect upon  
99 filing in the Office of the Secretary of State, State of Florida.

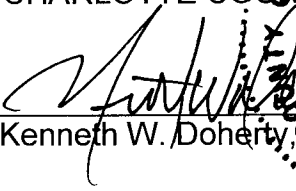
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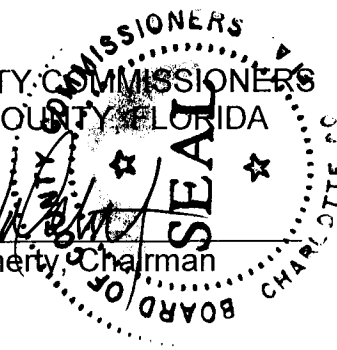
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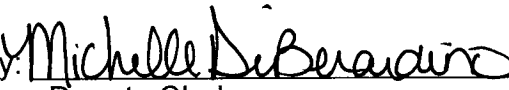
PASSED AND DULY ADOPTED this 27th day of March, 2018.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

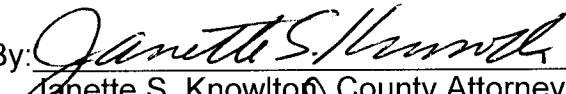
By:   
Kenneth W. Doherty, Chairman



ATTEST:  
Roger D. Eaton, Clerk of the Circuit Court  
and Ex-Officio Clerk to the  
Board of County Commissioners

By:   
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By:   
Janette S. Knowlton, County Attorney  
LR2017-0520

~~ARTICLE XX. TRANSFER OF DENSITY UNITS<sup>(17)</sup>~~

~~Sec. 3-5-425. Short title.~~

~~This article shall be known and may be cited as the Charlotte County "Transfer of Density Units Code."~~

~~Sec. 3-5-426. Declaration of intent and purpose.~~

- ~~(a) It is the intent of this article to provide a mechanism, consistent with protection of the health, safety and welfare of the public, by which the following may be accomplished:~~
- ~~(1) Residential development rights associated with real property with environmentally sensitive resources, historic or archeological resources, or which contains a bona fide agricultural use, or real property otherwise deemed less suitable for development, may be properly transferred to property better suited for higher density residential development upon satisfaction of the requirements of this article;~~
  - ~~(2) Future growth will be directed in a logical, economical, and efficient manner away from those areas of the county less suited for such growth, and toward those areas of the county best suited to provide the public services and facilities necessary for such growth;~~
  - ~~(3) The county can provide a record of transfers of density units and impose appropriate restrictions on the properties involved in such transfers.~~
- ~~(b) The adoption of this article shall not affect the existing FLUM or zoning designation of any property. It shall provide a mechanism for increasing or creating density on a property. This article does not allow a petitioner to increase density beyond that allowed by the Charlotte County Code of Laws and Ordinances and/or the comprehensive plan.~~

~~Sec. 3-5-427. Definitions.~~

~~Unless specifically defined below, all words, terms or phrases used in this article shall be ascribed the meaning which they have in common usage and which give this article the most reasonable application. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Agreement to purchase density credits:* An agreement between a purchaser and seller that binds the purchaser to buy and the seller to sell a specified number of density units from the seller contingent on the adoption by the board of county commissioners of the purchaser's use amendment.~~

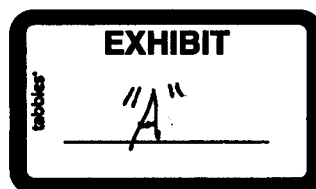
~~*Agriculture:* The business of cultivating the soil, producing crops and raising horses, production of horticultural, aqua cultural, and silvicultural products; and raising livestock to provide food or fiber for society.~~

~~*Barrier island:* A broadened barrier beach entirely surrounded by water, habitable in places, and providing a measure of protection for the mainland, as during hurricanes and tidal waves.~~

~~*Base density:* Density calculated utilizing the zoning district of the parcel and the method of calculation described according to article 1, section 3-9-2, rules of construction; definitions, Charlotte County Code. If there is an inconsistency between the future land use map designation and the zoning district, the least intensive zoning districts that implements the future land use map designation shall be utilized.~~

~~*Board:* The Board of County Commissioners of Charlotte County, the elected governing body of unincorporated Charlotte County, Florida.~~

~~*Bona fide agricultural use:* Use of a property for agriculture, which property has been classified as agricultural by the Charlotte County Property Appraiser pursuant to F.S. section 193.461.~~



~~*Certificate of transferable density credits (certificate):* The certificate issued by the county which indicates the amount of density available to be used or sold by the certificate holder, as well as any specifications for use of the density.~~

~~*Certification of transferable density units (certification):* The process whereby density is severed from real property and a certificate is issued by the county signifying that the certificate holder has ownership of the indicated number of density units.~~

~~*Coastal high hazard area:* The coastal high hazard area includes all areas located within a landfalling tropical storm or Category 1 hurricane storm surge zone as illustrated on Map 3.26 of the Natural Resources and Coastal Planning Element of the Comprehensive Plan.~~

~~*Community development director:* The chief administrative officer of the community development department or any successor entity performing similar functions or duties.~~

~~*Comprehensive plan:* The document, and its amendments, adopted by the board, which meets the requirements of F.S. section 163.3177 and section 163.3178.~~

~~*County Code :* The Code of Laws and Ordinances, Charlotte County, Florida, as the same may be amended.~~

~~*Covenant:* A perpetual conservation easement and/or other perpetual restrictive covenant that encumbers the property that constitutes an SZ, granted by the owner(s) thereof to the county or to some other entity acceptable to the community development director.~~

~~*Density:* The number of density units permissible within a given property.~~

~~*Density credit:* A density unit that has been severed from a property through the processes identified in this article and recognized by a certificate of transferable density credits.~~

~~*Density unit:* A development right which equals one (1) increment of housing designed and intended for residential use by one (1) family, whether a single family residence, mobile home, or as part of a duplex, apartment, or condominium project.~~

~~*Development:* The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance including, but not limited to, clearing, cutting, burning, excavating, filling, or grading of land or any other activity that alters land topography or vegetation. This definition shall not include the removal of invasive, nonindigenous plant species listed as prohibited trees in subsection 3-2-186(r) of the County Code, as may be amended, or any activities undertaken pursuant to a land management plan approved by the USDA Natural Resources Conservation Service or similar agencies, or activities associated with bona fide agricultural uses.~~

~~*Development right:* A right that entitles an owner of real property to develop said property as may be recognized by the common law, statutory law, the United States or Florida Constitution, the County Code, the comprehensive plan or other applicable federal or state regulations.~~

~~*Encumbrances:* Restrictions, liens, easements, equitable servitudes, special exceptions, existing development, land development regulations, or other matters which affect the SZ.~~

~~*Environmentally sensitive resource:* An environmentally sensitive resource can be any wetland, any natural community ranked G1, G2, S1, S2, or S3 in the most recent edition of the Guide to Natural Communities of Florida, or any land area wherein a wildlife or plant species listed by the State of Florida or the United States as endangered or threatened is living; this also includes that area of the county considered a groundwater recharge area as identified in Map 4.17 of the Infrastructure Element of the 1997-2010 Comprehensive Plan.~~

~~*FLUCCS:* The Florida Land Use Cover and Forms Classification System.~~

~~*FLUM:* The future land use map contained in the comprehensive plan, as the same may be amended.~~

~~*Historic or archeological resource:* Any prehistoric, historic, or archeological district, site, building, structure, or object included in the National Register of Public Places, Florida Master Site File or Local Register or which may be deemed to be a prehistoric, historic, or archeological district, site, building,~~

~~structure, or object by an archeologist registered with the Society of Professional Archaeologists; such term includes mounds, artifacts, records, and remains which are related to such a district, site, building, structure, object, or culture.~~

~~*Land Acquisition Trust Fund or LATF:* The fund established by the board pursuant to section 3-5-435 below.~~

~~*Plan amendment:* Any change to the comprehensive plan including any change to any map of the future land use map series of the comprehensive plan.~~

~~*Preliminary plat:* A preliminary map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable sections of Chapter 3-7, Subdivision Regulations, and of any other local ordinances, and may include the terms "replat, or revised plat," as defined in Florida Statutes section 177.031(14), as amended.~~

~~*Receiving zone or RZ:* The area of property into which density credits may be transferred.~~

~~*Rezoning:* An amendment to the zoning atlas pursuant to the procedures and requirements of the County Code for such amendments.~~

~~*Sending zone or SZ:* The area of property from which density credits may be severed and transferred.~~

~~*Substandard lot or parcel:* Property which does not meet the minimum dimension or area requirements established pursuant to the zoning atlas, county zoning regulations, county land development regulations, county subdivision regulations, or the comprehensive plan.~~

~~*TDU:* A transfer of density units to an RZ, as governed by this article.~~

~~*Title document:* An ownership and encumbrance report (O&E) or other document of title issued by an attorney or a title insurance company acceptable to the county attorney.~~

~~*Unacceptable encumbrances:* Encumbrances that, in the judgment of the county attorney, would impair or otherwise adversely affect the recorded covenant, whether in whole or in part, in the event of their enforcement or foreclosure.~~

~~*Use amendment:* Plan amendments, except those initiated by Charlotte County, rezonings, changes to the County Code, developments of regional impact approvals or amendments, plat vacations, street vacations, variances, special exceptions or any other official action by the county having the effect of permitting the development of land, which results in an increase or transfer of density units.~~

~~*Urban service area overlay district or USA:* Locations within a jurisdiction that are planned to receive publicly funded infrastructure and services within a planning timeframe, as depicted on map #2 of the future land use map series of the comprehensive plan, as may be amended.~~

~~*Zoning district:* An area assigned a specific classification of uses and structures pursuant to section 3-9 of the County Code.~~

~~*Zoning atlas:* An atlas containing half-section maps depicting the boundaries of the various zoning districts, as the same may be amended.~~

~~Sec. 3-5-428. Application of article.~~

~~(a) This article shall apply within the unincorporated areas of Charlotte County.~~

~~(b) This article shall not apply within the City of Punta Gorda boundaries as it existed as of July 15, 2004. This article shall apply to areas annexed within the City of Punta Gorda or any new municipal area created after July 15, 2004 within Charlotte County.~~

~~(c) Any owner of property governed by subsections 3-5-428(a) and (b) above may petition the board for a certification in accordance with the provisions of this article.~~



~~(d) — Any owner of property governed by subsections 3-5-428(a) and (b) above who proposes a use amendment which acts to increase the base density on a parcel(s) of land shall petition the board for a TDU in accordance with the provisions of this article, except as provided in subsection 3-5-429(a)(4).~~

~~Sec. 3-5-429. — Process and procedures.~~

~~(a) — Transfer of density.~~

~~(1) — A TDU petition, if approved, will serve to transfer the number of density units that will be increased by a use amendment to that parcel of land upon which the increase occurs. The TDU process is the board's acknowledgement that the density has been shifted from an SZ to an RZ.~~

~~(2) — Use amendment not involving a planned development rezoning.~~

~~(i) — A petitioner who submits a use amendment which does not involve a planned development rezoning shall simultaneously submit either:~~

~~A. — A TDU petition utilizing certificates of transferable density credit; or~~

~~B. — A TDU petition requesting the land acquisition trust fund option; or~~

~~C. — A certification petition to sever density from an SZ and a TDU petition requesting transfer of that density to the proposed RZ; or~~

~~D. — An agreement to purchase density credits and TDU petition requesting transfer of the credits to the proposed RZ. The transfer of ownership related to the density referred to in the agreement must occur within ten (10) working days of the approval of the use amendment.~~

~~(ii) — The TDU petition, and certification petition as applicable, shall be held in abeyance until the approval of the use amendment and will be submitted to the board of county commissioners for approval at the next convenient board hearing after adoption of the use amendment.~~

~~(iii) — Any owner of property petitioning the board for a street or plat vacation which acts to increase the property's base density may, instead of submitting a TDU petition, choose to submit a restrictive covenant with the street or plat vacation that limits the density of the property to that existing at the time of application.~~

~~(3) — Use amendment involving a planned development rezoning. A petitioner who submits a use amendment which involves a planned development rezoning may submit the TDU petition subsequent to the adoption of the planned development rezoning. The TDU must be approved by the board, and the density transferred to the RZ, prior to submittal by the applicant for preliminary plat approval, or, if platting will not be requested, prior to submittal for any permits to develop. A project which proposes to phase development in over time may submit individual TDU petitions to transfer density equivalent to that necessary for development of that phase.~~

~~(b) — Certification of a sending zone.~~

~~(1) — Any owner of real property to which this article applies may request a determination of the community development director, or his/her designee, on whether their property meets the criteria of an SZ. If such determination is positive, the owner may petition the board to have their property approved as an SZ. The process of approval shall be known as a certification of transferable density units (certification). The property owner shall petition the board for a certification in accordance with the provisions of this article. If such determination is negative, the property owner may petition the board in accordance with section 3-5-433, variances.~~

~~(i) — Pre-Petition meeting.~~

~~A. — A petitioner for a certification shall meet with the community development director, or his/her designee, prior to submitting a petition.~~

~~B. The purpose of the pre-petition meeting shall be to discuss the requirements of the TDU ordinance and determine whether a proposed SZ is acceptable.~~

- ~~(2) Determination of density for an SZ.
  - ~~(i) Within the urban service area, the density will be the base density.~~
  - ~~(ii) Outside the urban service area, the density for platted lands that existed as of February 1, 1992 which are divided into individual lots of size less than that allowed by existing zoning shall be one (1) density unit per each lot or parcel. In all other instances, the density shall be base density.~~
  - ~~(iii) Density units shall only be certified and transferred in whole units. A fractional unit shall not entitle the petitioner to an additional density unit.~~
  - ~~(iv) A certification of transferable density units may not be derived from density which has been already sold, transferred, or limited by easements, deed restrictions, equitable servitudes, restrictive covenants, special exceptions, existing development, land development regulations, or similar measures.~~~~
- ~~(3) No subsequent transfer to an RZ shall take place without approval of a TDU pursuant to the requirements of this article.~~
- ~~(4) Once a certification is approved and effective, density units shall not be restored to an SZ unless the area in which the SZ is located becomes designated as an infill area of the urban service area, as defined in the comprehensive plan. In such situations, the property may become an RZ if it meets all other requirements for an RZ under this article and the property has not been used for mitigation purposes for other developments.~~
- ~~(5) Contents of petition. A petition for certification of transferable density units shall include the following items:
  - ~~(i) Notarized affidavits from all owners of the proposed SZ authorizing the petition. The affidavit from the owners of the proposed SZ shall also provide consent to the modification of the FLUM and/or zoning district of the proposed SZ to conform with the revised and reduced density applicable to the proposed SZ upon the approval of the certification, at the county's discretion; consent to a future plat vacation may also be necessary.~~
  - ~~(ii) A copy of the most current deed or title to the SZ property.~~
  - ~~(iii) Legal descriptions (with acreages) of the proposed SZ.~~
  - ~~(iv) Signed and sealed surveys of the proposed SZ that illustrate boundaries and all existing easements. The survey of the proposed SZ is not required if the proposed SZ consists of platted lots and the lots are included in their entirety. In such a case, a copy of the most recent plat with the proposed SZ outlined will suffice; the petitioner must also indicate whether any easements or land encumbrances exist on the property. If a plat exists, the property owner(s) may be required to submit a plat vacation along with the certification petition. The need for the plat vacation submittal will be determined at the pre-application meeting. If it is determined that it isn't appropriate to pursue a plat vacation along with the certification, the petitioner remains obligated to supply a boundary survey and utility easements if it becomes appropriate to pursue the vacation at a future time.~~
  - ~~(v) Maps illustrating the location of the proposed SZ.~~
  - ~~(vi) Title document: This document shall be dated no later than two (2) months prior to the petition submittal date and shall show that the signatories who will execute the covenant constitute the owners of all interests in the proposed SZ. The document shall further indicate that there are no unacceptable encumbrances against the proposed SZ. If unacceptable encumbrances exist, they shall be fulfilled, removed, satisfied, released, subordinated or limited to the satisfaction of the county attorney such that the enforcement of the encumbrances will not impair or otherwise adversely affect the covenant, whether in whole or in part, or that the covenant will be prior in dignity to the encumbrances.~~~~

- ~~(vii) A draft covenant pursuant section 3-5-432, including a management plan, as required, in subsection 3-5-432(c).~~
- ~~(viii) A narrative indicating the base density of the SZ and describing how the calculation was derived, including an indication of how any encumbrances as identified per subsection 3-5-429(b)(3)(iv) affect this base density; a statement of the number density units requested to be transferred from the property and the number of density units requested to be retained.~~
- ~~(ix) If the property is located in the coastal high hazard area, a boundary map of the property with the storm surge zones illustrated upon the map along with an indication of the acreage of each associated storm surge. If there are VE and AE flood zones, these shall also be illustrated on the map. Any encumbrances must be subtracted from the whole. The community development director, or his/her designee, may agree to delineate these areas for the petitioner; this must be agreed upon at the pre-petition meeting.~~
- ~~(x) Maps and surveys of the proposed SZ illustrating the existing land cover according to level 3 of the FLUCCS, locations of heritage trees, and listed flora and fauna species. This requirement may be eliminated by the community development director, or his/her designee, at the pre-petition meeting under the following circumstances: property on which no density shall be retained; property that clearly does not contain any environmentally sensitive, historic or archeological resources; property which contains a bona fide agricultural use; property of which the county already has detailed knowledge as relates to environmentally sensitive, historic and archeological resources; and other circumstances that will be determined on a case by case basis.~~
- ~~(xi) An application fee, to be established by resolution of the board.~~
- ~~(c) Use amendments. In addition to the application requirements of use amendments, a petitioner for a use amendment for any proposed RZ which is located in the coastal high hazard area shall provide a map related to storm surge and flood zones for the RZ; the petitioner is required to detail the amount of density which will be increased in each associated storm surge, and also the flood zones if VE and AE are both present.~~
  - ~~(1) Notification. A use amendment shall have notice of the transfer of density included in the advertisements and agenda notices for the use amendment. Discussion and decision by the board regarding the TDU requirements shall be conducted concurrently with the discussion and decision regarding the use amendment.~~
- ~~(d) A petition for a TDU that proposes to transfer density that has not yet been certified shall include the information required for a certification. Further, the application shall include information related to the RZ, such as property owner information and the use amendment number that established or is establishing the requirement for the TDU.~~
- ~~(e) A petition for a TDU that utilizes a certificate or the land acquisition trust fund (LATF) option shall include information related to the RZ, such as property owner information and the use amendment number that established or is establishing the requirement for the TDU.~~
  - ~~(1) If utilizing a certificate, the original certificate shall be submitted with the application for appropriate modification or extinguishment and held in escrow by the county attorney.~~
  - ~~(2) If the LATF option is being utilized, a certificate shall be issued that reflects the density units actually paid for by the petitioner to the county in accordance with the process described in section 3-5-435 and Resolutions 2004-248 and 2004-249.~~
- ~~(f) Hearing requirements. A petition for certification or TDU will be placed on consent agenda for approval by the board of county commissioners. The use amendment will follow the hearing requirement for that amendment process.~~
- ~~(g) Standards for approval.~~
  - ~~(1) The board may not grant a certification unless it finds that:~~

- (i) ~~The certification meets the intent, purpose and provisions of this article, and that the property meets the criteria of an SZ set within subsection 3-5-430(a).~~
- (ii) ~~The petitioner has signed and notarized the covenant.~~
- (iii) ~~The petitioner has submitted a plat vacation, if necessary.~~
- (2) ~~The board may not grant a use amendment that is governed by this article unless it finds:~~
  - (i) ~~That the proposed increase in density complies with the intent, purpose, and provisions of this article.~~
- (h) ~~Effective date of the certification or TDU.~~
  - (1) ~~A certification shall not become effective until the covenant and management plan, as applicable, has been recorded by the petitioner in the Public Records of Charlotte County with the Clerk of the Circuit Court of Charlotte County.~~
    - (i) ~~Upon the effective date of a certification approved pursuant to this article, the community development director, or his/her designee, shall issue a certificate to the property owner(s) of the SZ. The issuance of the certificate shall establish the quantity of density units for the property at the time the certificate is issued and shall be considered a final determination. Once a certificate has been issued for the SZ, the property owner shall maintain the property in accordance with the requirements of the covenant.~~
      - A. ~~Density credits approved by the board pursuant to this article may be transferred to an eligible RZ.~~
      - B. ~~Density credits transferred to an eligible RZ pursuant to this article, which are not used for the intended RZ development, may be retransferred to another eligible RZ. The RZ owner shall simultaneously petition to revise the zoning district and/or FLUM, whichever is applicable, of the original RZ from which these credits were transferred to reflect the decrease in density.~~
      - C. ~~Upon the sale of density credits to another owner, the seller of the density credits shall surrender the certificate to the county for appropriate modification or extinguishment.~~
      - D. ~~In the event an SZ property owner has not found a willing RZ to which it can transfer its density credits, density credits from the SZ may be transferred to the county.~~
  - (2) ~~A TDU shall not become effective and no permits to develop shall be issued for the RZ, until:~~
    - (i) ~~The TDU has been approved by the board.~~
    - (ii) ~~The land acquisition trust fund fee required by section 3-5-435, if applicable, has been paid to the county, or~~
    - (iii) ~~The certification of the SZ has been approved and all documents necessary have been recorded in the clerk of the circuit courts, and~~
    - (iv) ~~The certificate, if applicable, has been surrendered to the county for appropriate modification or extinguishment.~~

~~Sec. 3-5-430. Requirements.~~

~~(a) Sending zone.~~

- (1) ~~In order for property to qualify as an SZ, the proposed SZ must contain at least one (1) density unit and it must comply with one (1) of the following criteria:~~
  - (i) ~~The proposed SZ contains an environmentally sensitive resource; or~~
  - (ii) ~~The proposed SZ contains a historic or archeological resource; or~~
  - (iii) ~~The proposed SZ is located within the coastal high hazard area; or~~

- ~~(iv) The proposed SZ is a substandard lot or parcel; or~~
- ~~(v) The proposed SZ is located outside the USA and contains a bona fide agricultural use. It must be the intention of the property owner/petitioner to continue agricultural use of the subject property, which shall be written into the covenant per subsection 3-5-432(b)(2). This may be accomplished in conjunction with farmland conservation efforts of agencies such as, but not limited to, the Natural Resource Conservation Service, the water management districts, or the American Farmlands Trust; or~~
- ~~(vi) The proposed SZ is located within the suburban area of the USA and the property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum, and the property is not currently served by water or sewer or within any utility's five-year capital improvements program for extension of water and sewer. Or, if the property owner is choosing to sever all density, a building permit is not required. This density may only be transferred to an RZ in the infill area of the USA; or~~
- ~~(vii) The proposed SZ is located in the infill area of the USA and the property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum. This density may only be transferred to an RZ in the infill area of the urban service area.~~
- ~~(2) Density on those portions of a proposed SZ that contain an environmentally sensitive resource or which contain an historic or archeological resource must be totally removed. Density can be retained on other areas of the SZ if such retention is deemed consistent with the provisions of this article and the covenant.~~
- ~~(3) An SZ may be used for mitigation or for relocation of protected plant or animal species, as such use or relocation may be allowed by federal and state regulations, provided the terms of the covenant are satisfied.~~

~~(b) Receiving Zone.~~

- ~~(1) In order for property to qualify as an RZ, the proposed RZ must comply with all of the following criteria:
  - ~~(i) It must be located within the USA or, if outside the urban service area, be developed as a new community or rural community (as those terms are defined and described in the comprehensive plan and F.S. Ch. 163.~~
  - ~~(ii) It must be either currently designated on the FLUM or proposed to be designated as low density residential, medium density residential, high density residential, mixed use, rural estate residential, neighborhood business residential, commercial tourist, new community, or rural community; in the event that a petitioner submits a plan amendment to extend the urban service area but does not request an accompanying amendment to change the FLUM designation of the lands to be placed inside the USA, the existing FLUM designation will be accepted as an RZ.~~
  - ~~(iii) It must not contain historic or archeological resources unless such areas can be designated as a preserve through a conservation easement.~~
  - ~~(iv) It must not be located within the coastal high hazard area.
    - ~~A. Property that is located within the coastal high hazard area may be eligible to become an RZ. In order to make use of this exception, the petitioner must transfer coastal high hazard area density credits to the property. Density credits from Category 1 hurricane storm surge zone cannot be transferred into a tropical storm surge zone of an RZ nor can density credits from an AE flood zone be transferred into a VE flood zone of an RZ or be used for density in a building which touches a VE flood zone. Notwithstanding this exception, no transfers of density from a less to a more restrictive flood zone may take place in the West County Planning District or on property west of~~~~~~

Burnt Store Road. Also notwithstanding this exception, in no case shall an increase of density be allowed on property located on a barrier island.

~~B. As a further exception, any property located within the Charlotte Harbor Community Redevelopment Area (CHCRA), other than land zoned CR-3.5, shall qualify as an RZ. Such properties are permitted to receive density from any property located within the CHCRA or from any property located in any coastal high hazard area throughout the county with no limitations based on storm surge or flood zone transfers. Nothing in this article shall prevent the CHCRA from codifying a specific process for properties within the CHCRA.~~

~~(c) Density on property within the West County Planning District, which constitutes all property west of the Myakka River, may only be increased by a transfer of density from other property located within the West County Planning District. There shall be no transfer of density credits into the West County Planning District from other areas of the county. This transfer of density credits between properties within the West County Planning District shall comply with the provisions of this article. In order to ensure that density is not inadvertently increased in West County, a petitioner cannot purchase density from the county's land acquisition trust fund.~~

~~Sec. 3-5-431. County ownership of SZ.~~

~~(a) A petitioner may request that the county purchase or assume ownership, through donation, of a proposed SZ. The request must be expressed during the pre-application meeting. The request will be reviewed, as deemed applicable, by the real estate services department, the parks, recreation and cultural services department, the community development department, and other committees or departments which are necessary to the review. The review will consider the costs and benefits associated with the acquisition.~~

~~(b) If the county agrees to assume ownership the petitioner is not required to supply a covenant or surveys.~~

~~Sec. 3-5-432. Covenant.~~

~~(a) The covenant shall be prepared by the petitioner and executed in accordance with the requirements of this article. Once the draft is approved, the covenant shall be signed by the petitioner and held in escrow pending the approval of the certification.~~

~~(b) The form of each covenant shall be reviewed by the county attorney. The covenant shall contain such provisions that are reasonably required by the county attorney proscribing the use of the proposed SZ following the approval of the certification, including the following:~~

~~(1) If the property contains environmentally sensitive resources or historic or archeological resources, the covenant shall limit or preclude uses of the proposed SZ such that the resources, whichever may be applicable, will be maintained in perpetuity following the completion of the certification.~~

~~(2) If the property is submitted as a bona fide agricultural use, the covenant shall restrict the uses of the property to bona fide agricultural uses and the use of any retained density to family members of the property owner or employees, and their families, engaged in the agricultural operation.~~

~~(3) Limit or preclude activities which are determined through the processes of this article to be detrimental to the appropriate maintenance of the proposed SZ.~~

~~(4) Indicate the property or portions thereof that is restricted from future development and/or subject to limitations on future development. If the SZ consists of only a portion of the property, the covenant shall not contain provisions over the use of the remainder of the property unless such provisions are deemed necessary to ensure the viability of the SZ. The covenant may provide for spreading the remaining density onto the portion of the property used as an SZ. Environmentally sensitive resources or historic or archeological resources shall be protected.~~

- (5) ~~Bind all owners of the proposed SZ and their respective heirs, successors and assigns.~~
- (c) ~~The covenant shall be accompanied by a management plan if required herein.~~
  - (1) ~~A management plan shall be required if the applicant proposes to qualify the property as an SZ because it contains an environmentally sensitive resource, or historic or archeological resource, or a bona fide agricultural use. The management plan shall describe how the proposed SZ will be maintained in perpetuity, how the resource shall be protected, and shall contain any other information reasonably requested or required by the community development director regarding the use, maintenance and the protection of the resources of the proposed SZ following the approval of the certification.~~
  - (2) ~~Substandard lots and property located within the coastal high hazard area shall not require a management plan.~~

~~Sec. 3-5-433. Variances.~~

- (a) ~~Upon determination that the petition does not meet the substantive requirements of this article, the petitioner may appeal to the board to seek limited relief from those requirements. The relief would be from the strict application of the requirements which have either prohibited the certification or transfer of density and created an unnecessary hardship, as distinguished from a mere inconvenience, for the owner of the affected real property. Additionally, the petitioner must establish the following prerequisites to the satisfaction of the board, if applicable:~~
  - (1) ~~The conditions giving rise to the prohibition or hardship were not created by any person presently having an interest in the affected properties; and~~
  - (2) ~~The variance requested is the minimum modification of the regulation at issue to effectuate the relief necessary; and~~
  - (3) ~~The granting of the variance would not be injurious to or incompatible with the surrounding neighborhood or otherwise detrimental to the public welfare; and~~
  - (4) ~~Owing to the specific circumstances which gave rise to the prohibition or hardship, the spirit and intent of this article would be preserved by granting the variance; and~~
  - (5) ~~The requested variance is consistent with the Charlotte County Comprehensive Plan.~~
- (b) ~~The request for variance shall be in writing and shall contain, at a minimum, the following information:~~
  - (1) ~~The section(s) from which relief is sought;~~
  - (2) ~~The nature of the relief; and~~
  - (3) ~~A response to subsection 3-5-433(a)(1) through (5).~~
- (c) ~~The board may add such conditions and restrictions as deemed necessary in connection with the granting of any variance under this section to allow for a positive finding to be made on any of the foregoing factors or minimize any detrimental effects as a result of the granting of said variance.~~
- (d) ~~All variance requests under this section will require a quasi-judicial public hearing before the board.~~
- (e) ~~The board shall not grant any certifications or use amendments governed by this article which would require the granting of a variance, pursuant to this section, at the same hearing upon which the granting of the variance is made.~~
- (f) ~~A denial of any variance request under this section which, given strict adherence to the provisions of this article, would not permit the petitioner to proceed with a certification, transfer of density, or a use amendment under this article shall constitute a final decision.~~

~~Sec. 3-5-434. Waiver prohibition.~~

~~There shall be no waiver from the requirement of complying with this article except through the adoption of a comprehensive plan text amendment and accompanying map amendment.~~

~~Sec. 3-5-435. – Land acquisition trust fund.~~

~~The board has established the LATF and any procedures governing the LATF by resolution. The purpose of the LATF is to create a mechanism by which a petitioner for a proposed RZ may purchase density from the county. Funds contributed to the LATF shall be used to acquire and manage properties that qualify as SZs.~~

- ~~(a) If a petitioner does not choose to include a proposed SZ or an approved certificate with a proposed TDU, the petitioner shall pay a contribution fee to be deposited in the county's land acquisition trust fund.~~
- ~~(b) Once a petitioner submits a TDU application indicating their desire to use the LATF option, the community development department in conjunction with the real estate services department will provide the petitioner with the current unit price equivalent for a unit of density within seven (7) days. The unit price will be current to market conditions, directly related to the county's current acquisition costs of acquiring lands under the LATF, and reflective of land values within the general area of the proposed RZ.~~
- ~~(c) The unit price shall be formally established by the resolution at the time of approval of the TDU petition. In the event that the petitioner chooses to not contribute to the LATF at the time of adoption of the TDU, or chooses to submit the development in phases, a process for payment shall be established in the resolution with the understanding that the amount of the fee required upon payment shall be the unit price equivalent for a density unit at the time of payment, which may not be the same price as would have been paid by the petitioner at the time of approval of the TDU by the board.~~
- ~~(d) The payment of the contribution fee is required prior to preliminary plat approval, or, in the event a preliminary plat will not be requested by the applicant, prior to request for any permits to develop. The petitioner shall not be issued any permits for development on the RZ, or the applicable phase of the RZ, until such time as the payment of the fee has been received by the county.~~
- ~~(e) The amount of the fee shall be equal to the number of density units approved for the RZ multiplied by the unit price for a density unit, included as part of the resolution adopting the TDU.~~
- ~~(f) A petitioner who is proposing to transfer density onto property located in a tropical storm surge or Category 1 hurricane storm surge zone can not utilize the land acquisition trust fund option.~~
- ~~(g) A petitioner who is proposing to increase density on property within the West County Planning District, which constitutes all property west of the Myakka River, can not utilize the land acquisition trust fund option.~~



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**Sec. 3-9-150. Transfer of Density Units (TDU)**

(a) Intent. The intent of this section is to provide a mechanism, consistent with protection of the health, safety and welfare of the public, by which the following may be accomplished:

(1) Residential development rights associated with property containing environmentally sensitive resources, historic or archeological resources, or which contains a bona fide agricultural use, or property otherwise deemed less suitable for development, may be properly transferred to property better suited for higher density residential development upon satisfaction of the requirements of this section.

(2) Future growth will be directed in a logical, economical, and efficient manner away from those areas of the County less suited for such growth, and toward those areas of the County best suited to provide the public services and facilities necessary for such growth.

(3) The County can provide a record of transfers of density units and impose appropriate restrictions on the properties involved in such transfers.

The adoption of this section shall not affect the existing Future Land Use Map (FLUM) or zoning designation of any property. It shall provide a mechanism for increasing density on a property. This section does not allow an applicant to increase density beyond that allowed by the County Code and/or the Comprehensive Plan.

(b) Definitions:

Unless specifically defined below, all words, terms or phrases used in this article shall be ascribed the meaning which they have in common usage and which give this article the most reasonable application. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agreement to purchase density credits: An agreement between a purchaser and seller that binds the purchaser to buy and the seller to sell a specified number of density units from the seller contingent on the adoption by the Board of County Commissioners of the purchaser's Plan Amendment, Rezoning, Plat Vacation or Street Vacation.

Agriculture: The business of cultivating the soil, producing crops and raising livestock, production of horticultural, aquacultural, and silvicultural products.

Available utility: Available utility is defined by the Comprehensive Plan.

Barrier island: Barrier island is defined by the Comprehensive Plan.

Base Density: Base density is defined by the Comprehensive Plan. For calculation purposes, immediately adjacent parcels may be aggregated.

Board: The Board of County Commissioners of Charlotte County, the elected governing body of unincorporated Charlotte County, Florida.

Bona fide agricultural use: Use of a property for agriculture, which property has been classified as agricultural by the Charlotte County Property Appraiser pursuant to F.S. section 193.461.

Certificate of transferable density credits (certificate): The certificate issued by the County which indicates the amount of density available to be used or sold by the certificate holder, as well as any specifications for use of the density.

Certification of transferable density units (certification): The process whereby density is severed from property and a certificate is issued by the County signifying that the certificate holder has ownership of the indicated number of density units.

Coastal High Hazard Area: The Coastal High Hazard Area is defined by the Comprehensive Plan and depicted on FLUM Series Map #14: Coastal High Hazard Areas and Evacuation Routes.

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Comprehensive Plan: The document, and its amendments, adopted by the Board, which meets the requirements of F.S. section 163.3177 and section 163.3178.

County Code: The Code of Laws and Ordinances, Charlotte County, Florida, as the same may be amended.

Covenant: A perpetual conservation easement or other perpetual restrictive covenant that encumbers the property that constitutes an SZ, granted by the owner(s) thereof to the County or to some other entity acceptable to the County.

Density: Density is defined by the Comprehensive Plan.

Density credit: A density unit that has been severed from a property through the processes identified in this article and recognized by a certificate of transferable density credits.

Density unit: Density unit is defined by the Comprehensive Plan.

Development: Development is defined by the Comprehensive Plan.

Development right: A right that entitles an owner of property to develop said property as may be recognized by the common law, statutory law, the United States or Florida Constitution, the County Code, the Comprehensive Plan or other applicable federal or state regulations.

Encumbrances: Restrictions, liens, easements, equitable servitudes, special exceptions, existing development, land development regulations, or other matters which affect the SZ, only known or levied charges such as taxes, Municipal Services Benefit Unit (MSBU) charges, or Municipal Services Taxing Unit (MSTU) charges, shall be considered encumbrances.

Environmentally sensitive resource: Environmentally sensitive resource is defined by the Comprehensive Plan.

FLUCCS: The Florida Land Use Cover and Forms Classification System.

Future Land Use Map (FLUM) Series: That series of maps identified as Future Land Use Maps adopted within the Comprehensive Plan, as may be amended.

Historic or archeological resource: Historic or archeological resource is defined by the Comprehensive Plan.

Incentive Density: Incentive Density is described in FLU Policy 1.2.16: Incentive Density.

Land Acquisition Trust Fund or LATF: The fund established by the Board pursuant to subsection (k) below.

Plan Amendment: Plan Amendment is defined by the Comprehensive Plan.

Preliminary plat: A preliminary map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of the County Code, and may include the terms "replat" or "revised plat", as defined in Florida Statutes section 177.031(14), as amended.

Receiving zone or RZ: The area of property into which density credits may be transferred.

Rezoning: Rezoning is defined by the Comprehensive Plan.

Rural Service Area: Rural Service Area is defined by the Comprehensive Plan and depicted on FLUM Series Map #3: 2030 Service Area Delineation.

Sending zone or SZ: The area of property from which density credits may be severed and transferred.

Substandard lot or parcel: Property which does not meet the minimum dimension or area requirements established by the County Code or the Comprehensive Plan.

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Transfer of Density Units or TDU: Transfer of density units is defined by the Comprehensive Plan.

Title document: An ownership and encumbrance report (O&E) or other document of title issued by an attorney or a title insurance company acceptable to the County Attorney.

Unacceptable encumbrances: Encumbrances that, in the judgment of the County Attorney, would impair or otherwise adversely affect the recorded covenant, whether in whole or in part, in the event of their enforcement or foreclosure.

Urban Service Area: Urban Service Area is defined by the Comprehensive Plan and depicted on FLUM Series Map #3: 2030 Service Area Delineation.

Zoning district: An area assigned a specific classification of uses and structures pursuant to the County Code.

(c) Applicability:

(1) This section shall apply within the unincorporated areas of Charlotte County.

(2) This section shall not apply within the City of Punta Gorda boundaries as it existed as of July 15, 2004. This section shall apply to areas annexed within the City of Punta Gorda or any new municipal area created after July 15, 2004 within Charlotte County.

(3) Any owner of property governed by subsections (c)(1) and (2) above may apply for a certification in accordance with the provisions of this section.

(4) Any owner of property governed by subsections (c)(1) and (2) above who proposes a Plan Amendment, Rezoning, Plat Vacation or Street Vacation which acts to increase the base density on a parcel(s) of land shall apply for a TDU in accordance with the provisions of this section, except as provided in subsection (g)(4)c.

(d) Sending Zones (SZ):

(1) Criteria. In order for property to qualify as an SZ, the proposed SZ must contain at least one density unit and it must comply with one of the following criteria:

- a. It is located within a Managed Neighborhood, as depicted on FLUM Series Map #2: 2050 Framework.
- b. It is located within the Rural Service Area, as depicted on FLUM Series Map #3: Service Area Delineation, and contains a bona fide agricultural use or consists of substandard platted lots.
- c. It has a Resource Conservation or Preservation FLUM designation.
- d. It is located within the Coastal High Hazard Area (CHHA).
- e. It contains historical or archaeological resources.
- f. It contains environmentally sensitive resources.
- g. It is located within the Prime Aquifer Recharge Area, as depicted on FLUM Series Map #6: Prime Aquifer Recharge Area.
- h. It is located within the one-half mile setback of the Shell and Prairie Creek Watershed Overlay District or within Tippen Bay or Long Island Marsh, as depicted on FLUM Series Map #4: Watershed Overlay District.
- i. It is located within a Public Water System Wellhead Protection Area, as depicted on FLUM Series Map #7: Public Water System Wellhead Protection Areas.
- j. It is designated as a Wildlife Corridor Critical Linkage, as depicted on FLUM Series Map #22: Critical Wildlife Corridors.

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- k. It is located within the Urban Service Area and a building permit and/or Certificate of Occupancy has been issued to develop a school, place of worship, park, cemetery or mausoleum subsequent to December 3, 2007.
- l. It is vacant and located within the Urban Service Area, and the owner wishes to retain an allowed residential density below the base density.
- (2) Determination of Density for an SZ.
- a. The density will be the base density.
- b. Density units shall only be certified and transferred in whole units. A fractional unit shall not entitle the applicant to an additional density unit.
- c. A certification of transferable density units may not be derived from density which has been already sold, transferred, or limited by easements, deed restrictions, equitable servitudes, restrictive covenants, special exceptions, existing development, land development regulations, or similar measures.
- (3) Other Provisions.
- a. Density on those portions of a proposed SZ that contain an environmentally sensitive resource or which contain an historic or archeological resource must be totally removed. Density can be retained on other areas of the SZ if such retention is deemed consistent with the provisions of this section and the covenant.
- b. An SZ may be used for mitigation or for relocation of protected plant or animal species, as such use or relocation may be allowed by federal and state regulations, provided the terms of the covenant are satisfied.
- c. SZ sites within subsection (d)(1)a shall be placed under restrictive covenant and all density served except that owners shall retain one unit of density per platted lot if public potable water or sanitary sewer service is available.
- d. SZ sites within subsection (d)(1)b:
- i. If consisting of substandard platted lots, such SZ sites shall be placed under a restrictive covenant and all density severed except that owners shall retain one unit of density per platted lot if public potable water or sanitary sewer service is available.
- ii. If not consisting of substandard platted lots, such SZ sites shall be placed under a conservation easement if environmentally sensitive land or agricultural easement if under active agricultural use and the intent is to continue that use. SZ sites under active agricultural use may retain one unit per 30 acres of active agricultural use, up to a maximum of 5 units, for use by the property owner, family members of the property owner, or a land manager.
- e. SZ sites within subsections (d)(1)c, g, or h shall be placed under a conservation easement and no density shall be retained, although an existing residential structure may be retained and such structure shall be counted as one residential unit.
- f. SZ sites within subsections (d)(1)d, e, f, or i:
- i. If public potable water or sanitary sewer service is available, SZ sites shall be placed under a restrictive covenant and all density severed except that owners shall retain one unit of density per platted lot or parcel.
- ii. If public potable water or sanitary sewer service is not available, SZ sites shall be placed under a conservation easement and no density shall be retained, an existing residential structure may be retained and such structure shall be counted as one residential unit.

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g. SZ sites within subsection (d)(1)j shall be placed under a conservation easement if environmentally sensitive land or agricultural easement if under active agricultural use and the intent is to continue that use. SZ sites under active agricultural use may retain one unit of density and active agricultural uses may continue but may not be intensified or expanded. If the property owner does not choose to manage the land for wildlife, the County or appropriate State or non-profit agency may be given rights to manage any non-agricultural and non-residential portions of the property for wildlife usage.

(4) Providing for County Ownership.

a. An applicant may request that the County purchase or assume ownership, through donation, of a proposed SZ. The request must be expressed during the pre-application meeting. The request will be reviewed by the County. The review will consider the costs and benefits associated with the acquisition.

b. If the County agrees to assume ownership the applicant may not be required to supply a covenant or surveys.

(e) Receiving Zones (RZ):

(1) Criteria: In order for property to qualify as an RZ, the proposed RZ must comply with one of the following criteria and also not be located within a prohibited area, as described below:

a. It must be located within the Urban Service Area and designated as one of the following areas on FLUM Series Map #2: 2050 Framework:

i. Emerging Neighborhood.

ii. Maturing Neighborhood.

iii. Economic Center.

iv. Economic Corridor.

v. CRA.

vi. Revitalizing Neighborhood.

vii. Rural Settlement Overlay District, as depicted on FLUM Series Map #8: Special Area Overlay Districts.

b. It must be located within the Rural Service Area and designated as Rural Community Mixed Use on FLUM Series Map #1: 2030 Future Land Use.

(2) Prohibited Receiving Zones. Any property meeting any one of the following criteria shall be prohibited from being an RZ:

a. Property within Managed Neighborhoods, as depicted on FLUM Series Map #2: 2050 Framework, as may be amended.

b. Property designated as Resource Conservation or Preservation on FLUM Series Map #1: 2030 Future Land Use.

c. Properties containing historic or archeological resources or land deemed to contain environmentally sensitive resources; except that when a portion of a property contains these resources, that area deemed not to contain resources may receive density if it meets one of the criteria of a receiving zone, a conservation easement will be required over the resource along with an undeveloped buffer of at least 100 feet or may have the required 100-foot buffer reduced only if approved through an environmental resource permit or applicable State or Federal permit. Any development shall comply with Federal and State regulations as well as policies set forth in the Comprehensive Plan to protect

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environmentally sensitive resources. An historical or archeological resource that is to be integrated into a development will not need to be buffered.

d. Property within the Prime Aquifer Recharge Area, as depicted on FLUM Series Map #6: Prime Aquifer Recharge Area.

e. Property within the one-half mile setback of the Shell and Prairie Creek Watershed Overlay District or within Tippen Bay or Long Island Marsh, as depicted on FLUM Series Map #4: Watershed Overlay District.

f. Property within a Public Water System Wellhead Protection Area, as depicted on FLUM Series Map #7: Public Water System Wellhead Protection Areas unless public potable water and sanitary sewer services are available.

g. Property on any barrier island, except that density may be transferred within Manasota Key or Sandpiper Key according to the provisions of the Manasota Key Zoning District Overlay.

(5) Other Provisions.

a. Property within the Coastal High Hazard Area may be eligible to become an RZ. In order to make use of this exception, the applicant must transfer Coastal High Hazard Area density credits to the property. Density credits from Category 1 hurricane storm surge zone cannot be transferred into a tropical storm surge zone of an RZ nor can density credits from an AE flood zone be transferred into a VE flood zone of an RZ or be used for density in a building which touches a VE flood zone. Notwithstanding this exception, no transfers of density from a less to a more restrictive flood zone may take place west of the Myakka River and Charlotte Harbor. Also notwithstanding this exception, in no case shall an increase of density be allowed on property located on a barrier island, except as provided by the Manasota and Sandpiper Key Zoning District Overlay.

b. Any property within the Charlotte Harbor Community Redevelopment Area (CHCRA), other than land zoned CR-3.5, shall qualify as an RZ. Such properties are permitted to receive density from any property located within the CHCRA or from any property located in any Coastal High Hazard Area throughout the County with no limitations based on storm surge or flood zone transfers. Nothing in this article shall prevent the CHCRA from codifying a specific process for properties within the CHCRA.

c. Density certified under (d)(1) criteria k and l shall only be transferred onto properties located within qualified RZs with available public potable water and sanitary sewer services. Such density transfers shall also comply with all other special provisions. Such density transfers from a DRI shall only occur within that DRI.

d. Density on property west of the Myakka River and Charlotte Harbor may only be increased by a transfer of density from a SZ located west of the Myakka River and Charlotte Harbor. There shall be no transfer of density credits west of the Myakka River and Charlotte Harbor from other areas of the County. This transfer of density credits between properties west of the Myakka River and Charlotte Harbor shall comply with the provisions of this section. To ensure that density is not increased west of the Myakka River and Charlotte Harbor, an applicant cannot purchase density from the County's LATF to be located west of the Myakka River and Charlotte Harbor.

e. Density on property located within the Rural Service Area may only be increased by a transfer of density from a SZ located within the Rural Service Area.

(f) Covenant Requirement.

(1) The covenant shall be prepared by the applicant and executed in accordance with the requirements of this section. Once the draft is approved, the covenant shall be signed by the applicant and held in escrow pending the approval of the certification.

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(2) Each covenant shall be reviewed by the County Attorney and shall contain such provisions that are reasonably required by the County Attorney proscribing the use of the proposed SZ following the approval of the certification, including the following:

- a. If the property contains environmentally sensitive resources or historic or archeological resources, the covenant shall limit or preclude uses of the proposed SZ such that the resources, whichever may be applicable, will be maintained in perpetuity following the completion of the certification.
- b. If the property is submitted as a bona fide agricultural use, the covenant shall restrict the uses of the property to bona fide agricultural uses and the use of any retained density to family members of the property owner or employees, and their families, engaged in the agricultural operation.
- c. Limit or preclude activities which are determined through the processes of this section to be detrimental to the appropriate maintenance of the proposed SZ.
- d. Indicate the property or portions thereof that is restricted from future development and/or subject to limitations on future development. If the SZ consists of only a portion of the property, the covenant shall not contain provisions over the use of the remainder of the property unless such provisions are deemed necessary to ensure the viability of the SZ. The covenant may provide for spreading the remaining density onto the portion of the property used as an SZ. Environmentally sensitive resources or historic or archeological resources shall be protected.
- e. Bind all owners of the proposed SZ and their respective heirs, successors and assigns.
- f. Encumbrances as defined herein shall be satisfied prior to the County executing the restrictive covenant.

(3) The covenant shall be accompanied by a management plan if required herein.

- a. A management plan shall be required if the applicant proposes to qualify the property as an SZ because it contains an environmentally sensitive resource, or historic or archeological resource, or a bona fide agricultural use, or a Wildlife Corridor Critical Linkage. The management plan shall describe how the proposed SZ will be maintained in perpetuity, how the resource shall be protected, and shall contain any other information reasonably requested or required by the County regarding the use, maintenance and the protection of the resources of the proposed SZ following the approval of the certification. If the property owner does not choose to manage the land for wildlife, the property owner must secure the County or appropriate state or non-profit agency to manage any non-agricultural and non-residential portions of the property for wildlife usage.
- b. Substandard lots and property located within the Coastal High Hazard Area shall not require a management plan.
- c. The executed covenant shall be recorded with the Charlotte County Clerk of the Circuit Court by the applicant, and a recorded copy must be returned to the County.

(g) Procedure.

(1) Pre-application Meeting. The property owner shall meet with the County prior to submitting an application to discuss the requirements of the TDU program and determine whether a proposed SZ is acceptable.

(2) Certification of Sending Zone.

- a. Any owner of property may request a determination of the County on whether such property meets the criteria of an SZ at a pre-application meeting. If such determination is positive, the owner may apply to have their property approved as an SZ and Density Units certified.

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- b. No subsequent transfer to a different RZ shall take place without approval of a TDU pursuant to the requirements of this section.
- c. Once a certification is approved and effective, density units shall not be restored to an SZ unless the area in which the SZ is located qualifies as an RZ. In such situations, the property may become an RZ if it meets all other requirements for an RZ under this section and the property has not been used for mitigation purposes for other developments.
- d. Contents of application. An application for certification of transferable density units shall include the following items:
- i. Notarized affidavits from all owners of the proposed SZ authorizing the application. The affidavit from the owners of the proposed SZ shall also provide consent to the modification of the FLUM and/or zoning district of the proposed SZ to conform with the revised and reduced density applicable to the proposed SZ upon the approval of the certification, at the County's discretion. Consent to a future plat vacation may also be necessary.
  - ii. A copy of the most current deed or title to the SZ property.
  - iii. Legal descriptions (with acreages) of the proposed SZ.
  - iv. Signed and sealed surveys of the proposed SZ that illustrate boundaries and all existing easements. The survey of the proposed SZ is not required if the proposed SZ consists of platted lots and the lots are included in their entirety. In such a case, a copy of the most recent plat with the proposed SZ outlined will suffice; the applicant must also indicate whether any easements or land encumbrances exist on the property. If a plat exists, the property owner(s) may be required to submit a plat vacation along with the certification application. The need for the plat vacation submittal will be determined at the pre-application meeting. If it is determined that it is not appropriate to pursue a plat vacation along with the certification, the applicant remains obligated to supply a boundary survey and utility easements if it becomes appropriate to pursue the vacation at a future time.
  - v. Maps illustrating the location of the proposed SZ.
  - vi. Title document dated no later than two months prior to the application submittal date and which shows that the signatories who will execute the covenant constitute the owners of all interests in the proposed SZ. The document shall further indicate that there are no unacceptable encumbrances against the proposed SZ. If unacceptable encumbrances exist, they shall be fulfilled, removed, satisfied, released, subordinated or limited to the satisfaction of the County Attorney such that the enforcement of the encumbrances will not impair or otherwise adversely affect the covenant, whether in whole or in part, or that the covenant will be prior in dignity to the encumbrances.
  - vii. A draft covenant pursuant to subsection (f), including a management plan, as required, in subsection (f)(3).
  - viii. A narrative indicating the base density of the SZ and describing how the calculation was derived, including an indication of how any encumbrances as identified per subsection (d)(2)c affect this base density and a statement of the number of density units requested to be transferred from the property and the number of density units requested to be retained.
  - ix. If the property is located in the Coastal High Hazard Area, a boundary map of the property with the storm surge zones illustrated upon the map along with an indication of the acreage of each associated storm surge zone. If there are VE and AE flood zones, these shall also be illustrated on the map. Any encumbrances must be subtracted from the



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whole. The County may agree to delineate these areas; this must be agreed upon at the pre-application meeting.

- x. Maps and surveys of the proposed SZ illustrating the existing land cover according to level 3 of the FLUCCS, locations of heritage trees, and listed flora and fauna species. This requirement may be eliminated by the County at the pre-application meeting under the following circumstances: property on which no density shall be retained; property that clearly does not contain any environmentally sensitive, historic or archeological resources; property which contains a bona fide agricultural use; property of which the County already has detailed knowledge as relates to environmentally sensitive, historic and archeological resources; and other circumstances that will be determined on a case by case basis.

(3) Transfer of Sending Density.

- a. For any proposed RZ located in the Coastal High Hazard Area, the applicant shall provide a map related to storm surge and flood zones detailing the amount of density which will be increased in each associated storm surge and flood zone. The County may agree to delineate these areas; this must be agreed upon at the pre-application meeting.
- b. An application for a TDU that proposes to transfer density that has not yet been certified shall include the information required for a certification. Further, the application shall include information related to the RZ, such as property owner information and the application number for associated Plan Amendment, Rezoning, Plat Vacation or Street Vacation that established or is establishing the requirement for the TDU.
- c. An application for a TDU that utilizes a certificate or the LATF option shall include information related to the RZ, such as property owner information and the application number for an associated Plan Amendment, Rezoning, Plat Vacation or Street Vacation that established or is establishing the requirement for the TDU.
  - i. If utilizing a certificate, the original certificate shall be submitted with the application for appropriate modification or extinguishment and held in escrow by the County Attorney.
  - ii. If the LATF option is being utilized, a certificate shall be issued that reflects the density units actually paid for by the applicant to the County in accordance with the process described in subsection (k) and Resolutions 2004-248 and 2004-249.
- d. Approval. An application for certification or TDU will be placed on consent agenda for approval by the Board of County Commissioners.

(4) Transfer of Density.

- a. A TDU application, if approved, will serve to transfer the number of density units that will be increased by a Plan Amendment, Rezoning, Plat Vacation or Street Vacation to that parcel of land upon which the increase occurs. The TDU process is the Board's acknowledgement that the density has been shifted from an SZ to an RZ.
- b. Plan Amendment and/or Rezoning not involving a Planned Development (PD) rezoning:
  - i. An applicant shall simultaneously submit one of the following:
    - a) A TDU application utilizing certificates of transferable density credit.
    - b) A TDU application requesting the LATF option.
    - c) A certification application to sever density from an SZ and a TDU application requesting transfer of that density to the proposed RZ.
    - d) An agreement to purchase density credits and a TDU application requesting transfer of the credits to the proposed RZ. The transfer of ownership related to the density

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referred to in the agreement must occur within ten working days of the approval of the Plan Amendment, Rezoning, Plat Vacation, or Street Vacation.

- ii. The TDU application, and certification application as applicable, shall be held in abeyance until the approval of the Plan Amendment and/or Rezoning and will be submitted to the Board of County Commissioners for approval at the next convenient board hearing after adoption of the Plan Amendment and/or Rezoning.
- c. For a Plan Amendment with a PD rezoning or a PD rezoning, an applicant may submit the TDU application subsequent to the adoption of the PD rezoning. The TDU must be approved by the Board of County Commissioners, and the density transferred to the RZ, prior to submittal by the applicant for preliminary plat approval, or, if platting will not be requested, prior to submittal for any permits to develop. A project which proposes to phase development in over time may submit individual TDU applications to transfer density equivalent to that necessary for development of that phase.
- d. For a Street Vacation or Plat Vacation which acts to increase the property's base density, an applicant may, instead of submitting a TDU application, may choose to submit a restrictive covenant with the vacation that limits the density of the property to that existing at the time of application. If, in the future, the property owner seeks to increase the density on the previously vacated property, a public hearing shall be held to lift any restrictive covenant and concurrently transfer all required density onto the property.

(5) Notification. A Plan Amendment, Rezoning, Plat Vacation, or Street Vacation shall have notice of the transfer of density included in the advertisements and agenda notices for the Plan Amendment, Rezoning, Plat Vacation, or Street Vacation.

Standards for approval.

- a. The Board may not grant a certification unless it finds that:
  - i. The certification meets the intent, purpose and provisions of this section, and the property meets the criteria of an SZ set within subsection (d).
  - ii. The applicant has signed and notarized the covenant.
  - iii. The applicant has submitted a plat vacation, if necessary.

(6) Incentive Density Program. The purpose of Incentive Density Program is to implement FLU Policy 1.2.16: Incentive Density and FLU Policy 1.2.17: Incentive Density Usage, and to promote development and redevelopment within Revitalizing Neighborhoods, address the deficiency of market-rate rental properties, low-, very low- and moderate-income housing and workforce housing, and promote development within Economic Centers and Community Redevelopment Areas.

- a. At the time of an application for a Plan Amendment and/or Rezoning to increase the base density of the property, the applicant must file an application for Incentive Density and the Board at a public hearing may grant the Incentive Density at no cost.
- b. The applicant must enter a developer's agreement with the County to comply with the requirements of Incentive Density, if applicable.
- c. Properties located west of the Myakka River and Charlotte Harbor shall only receive Incentive Density from Managed Neighborhoods west of the Myakka River and Charlotte Harbor, and such Incentive Density must come from a similar or more restrictive FEMA flood zone.
- d. If a Revitalization Plan is approved by the Board, Incentive Density may be granted to the applicant according to the policies set forth in the Revitalization Plan.
- e. For development of long-term market-rate rental housing, such projects must meet the following:

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- i. Shall be market-rate rentals in perpetuity.
  - ii. Shall be located outside of the Coastal High Hazard Area.
  - iii. Shall be located within Economic Centers, Economic Districts, or Revitalizing Neighborhoods.
  - iv. Shall not be age-restricted.
- f. For a development of low-, very low- and moderate-income housing, or workforce housing, such projects must meet the following:
- i. Shall be income restricted for no less than 20 or 30 years, depending on funding sources, i.e. State or Federal funding.
  - ii. Shall be located outside of the Coastal High Hazard Area.
  - iii. Shall be located within Economic Centers, Economic Districts, or Revitalizing Neighborhoods.
  - iv. Shall not be age-restricted.
- g. An adopted equivalency matrix or conversion table may be used to increase residential dwelling units above the maximum approved by the Comprehensive Plan or DRI development orders, provided such property shall be located outside of the Coastal High Hazard Area and shall not be located west of the Myakka River and Charlotte Harbor.
- (h) Effective Date of the Certification or TDU.
- (1) A certification shall become effective only when the covenant and the management plan, as applicable, have been recorded by the applicant with the Charlotte County Clerk of the Circuit Court.
- a. Upon the date of the recording of a certification approved pursuant to this section, the County shall issue a certificate to the property owner(s) of the SZ. The issuance of the certificate shall establish the quantity of density units for the property at the time the certificate is issued and shall be considered a final determination. Once a certificate has been issued for the SZ, the property owner shall maintain the property in accordance with the requirements of the covenant.
    - i. Density credits approved pursuant to this article may be transferred to an eligible RZ.
    - ii. Density credits transferred to an eligible RZ pursuant to this article, which are not used for the intended RZ development, may be recertified. The RZ owner shall simultaneously apply to revise the zoning district and/or FLUM, whichever is applicable, of the original RZ from which these credits were transferred to reflect the decrease in density.
    - iii. Upon the sale of density credits to another owner, the seller of the density credits shall surrender the certificate to the County for appropriate modification or extinguishment.
    - iv. In the event an SZ property owner has not found a willing RZ to which it can transfer its density credits, density credits from the SZ may be transferred to the County.
  - b. A TDU shall not become effective and no permits to develop shall be issued for the RZ, until:
    - i. The TDU has been approved by the County.
    - ii. The LATF fee required by subsection (k), if applicable, has been paid to the County.
    - iii. The certification of the SZ has been approved and all documents necessary have been recorded with the Charlotte County Clerk of the Circuit Court.
    - iv. The certificate, if applicable, has been surrendered to the County for appropriate modification or extinguishment.
- (i) Limited Relief.

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- (1) If the application does not meet the substantive requirements of this article, the applicant may request to the Board limited relief from those requirements. The relief would be from the strict application of the requirements which have either prohibited the certification or TDU for the owner of the affected real property. Additionally, the applicant must establish the following prerequisites to the satisfaction of the Board, if applicable. The applicant cannot seek limited relief from any provisions of density transferring within the area west of the Myakka River and Charlotte Harbor.
  - (2) The request shall be in writing and shall contain, at a minimum, the following information:
    - a. The section(s) from which relief is sought.
    - b. The nature of the relief.
    - c. The reasons why the limited relief should be granted.
  - (3) Upon receipt of the written appeal, it will be placed on the nearest available agenda date of the Board.
  - (4) The Board may provide limited relief to the substantive requirements of this article based on the following findings, if applicable:
    - a. The proposed TDU furthers the intent and purpose of this section.
    - b. The proposed TDU furthers the Goals, Objectives, and Policies of the Comprehensive Plan.
    - c. The proposed TDU directs further growth in a logical, efficient, and economical manner away from those areas of the County less suited to such growth, and toward those areas of the County better suited to provide the public services and facilities necessary for such growth.
    - d. The proposed TDU will further the protection of environmentally sensitive historic and archeological resources, or bona fide agricultural uses.
    - e. The proposed TDU will shift density from one area to another area, where such shift is found to be in the best interest of the County.
    - f. The proposed TDU will further the health, safety and welfare of general public.
    - g. The proposed TDU located with the CHHA. A study must be submitted by the applicant to demonstrate no negative impact on evacuation times.
- (j) Waiver. There shall be no waiver from the requirement of complying with this section except through the adoption of a Comprehensive Plan text amendment and accompanying map amendment.
- (k) Land Acquisition Trust Fund (LATF).
- (1) If an applicant does not choose to include a proposed SZ or an approved certificate with a proposed TDU, the applicant shall pay a contribution fee to be deposited in the County's Land Acquisition Trust Fund.
  - (2) Once an applicant submits a TDU application indicating their desire to use the LATF option, the County will provide the current unit price equivalent for a unit of density within seven days. The unit price will be current to market conditions, directly related to the county's current acquisition costs of acquiring lands under the LATF, and reflective of land values within the general area of the proposed RZ.
  - (3) The unit price shall be formally established by the resolution at the time of approval of the TDU application. In the event that the applicant chooses to not contribute to the LATF at the time of adoption of the TDU, or chooses to submit the development in phases, a process for payment shall be established in the resolution with the understanding that the amount of the fee required upon payment shall be the unit price equivalent for a density unit at the time of payment, which may not be the same price as would have been paid by the applicant at the time of approval of the TDU by the Board.

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- (4) The payment of the contribution fee is required prior to preliminary plat approval, or, in the event a preliminary plat will not be requested by the applicant, prior to request for any permits to develop. The applicant shall not be issued any permits for development on the RZ, or the applicable phase of the RZ, until such time as the payment of the fee has been received by the County.
- (5) The amount of the fee shall be equal to the number of density units approved for the RZ multiplied by the unit price for a density unit, included as part of the resolution adopting the TDU.
- (6) An applicant who is proposing to transfer density onto property located in a tropical storm surge or Category 1 hurricane storm surge zone, or who is proposing to increase density on property west of the Myakka River and Charlotte Harbor, cannot utilize the LATF option.



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

March 29, 2018

Mr. Roger D. Eaton  
Clerk of the Circuit Court  
County Comptroller  
Charlotte County  
18500 Murdock Circle, Room 416  
Port Charlotte, Florida 33948

Attention: Ms. Michelle DiBerardino

Dear Mr. Eaton:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2018-014, which was filed in this office on March 29, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

# SUN NEWSPAPERS


Charlotte • DeSoto • Englewood • North Port • Venice

PUBLISHER'S AFFIDAVIT OF PUBLICATION  
STATE OF FLORIDA  
COUNTY OF CHARLOTTE:

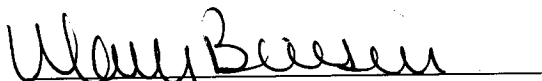
Before the undersigned authority personally appeared Melinda Dickinson, who on oath says that she is legal clerk of the Charlotte Sun, a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a **Legal Notice** was published in said newspaper in the issues of:

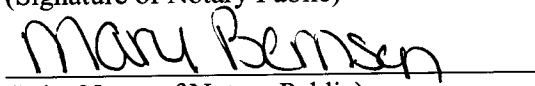
March 12, 2018

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

  
(Signature of Affiant)

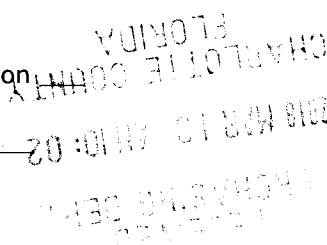
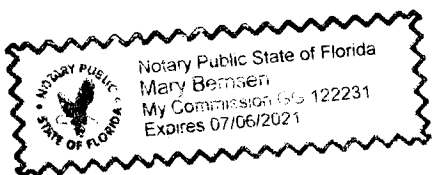
Sworn and subscribed before me this 12<sup>th</sup> day of March, 2018.

  
(Signature of Notary Public)

  
(Print Name of Notary Public)

Personally known   L   OR Produced Identification

Type of Identification Produced \_\_\_\_\_



# NOTICE OF PUBLIC HEARING FOR ONE OR MORE OF THE FOLLOWING MATTERS: PROPOSED CHANGES TO THE FUTURE LAND USE MAP AND COMPREHENSIVE PLAN ELEMENTS, DEVELOPMENTS OF REGIONAL IMPACT OR CHANGES THERETO, REZONINGS, PRELIMINARY AND FINAL PLATS, STREET AND PLAT VACATIONS, DRC FINAL DETAIL PLANS OR CHANGES THERETO, AND STREET NAMING

A PUBLIC HEARING ON PROPOSALS AND PETITIONS AS DESCRIBED BELOW WILL BE CONDUCTED BY THE BOARD OF COUNTY COMMISSIONERS AT A REGULAR MEETING ON TUESDAY, March 27, 2018, at 2:00 P.M. OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD DURING THE COURSE OF ACTION. THE HEARING WILL BE HELD IN COMMISSION CHAMBERS, ROOM 119, FIRST FLOOR, BUILDING A, THE CHARLOTTE COUNTY ADMINISTRATION CENTER, 18500 MURDOCK CIRCLE, PORT CHARLOTTE, FLORIDA. THE BOARD IS NOT BOUND TO CONSIDER THE PETITIONS IN THE ORDER LISTED IN THIS NOTICE. ANY OF THESE PETITIONS MAY BE CONSIDERED AS SOON AS THE MEETING COMMENCES.

COPIES OF SAID PETITIONS WITH COMPLETE LEGAL DESCRIPTIONS AND SUBSEQUENT STAFF REPORTS WILL BE AVAILABLE FOR REVIEW AT THE CHARLOTTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT AND ALL CHARLOTTE COUNTY PUBLIC LIBRARIES. A MEETING AGENDA AND PETITION PACKETS MAY BE REVIEWED AT THE FOLLOWING INTERNET ADDRESS: <http://www.charlottecountyfl.gov/Pages/BCC-meeting-agendas.aspx>

ALL INTERESTED PERSONS ARE URGED TO ATTEND THESE PUBLIC HEARINGS. THE PUBLIC IS WELCOME TO SPEAK; THERE WILL BE A FIVE-MINUTE TIME LIMIT FOR EACH CITIZEN'S PRESENTATION ON AN AGENDA ITEM. IF YOU HAVE SPECIFIC QUESTIONS OR COMMENTS, YOU ARE ENCOURAGED TO CONTACT A STAFF PERSON AT ANY TIME IN ADVANCE OF THE PUBLIC HEARING(S). PLEASE CALL 941-764-4903 AND MENTION THE PETITION NUMBER OF THE MATTER YOU WISH TO DISCUSS.

## PETITIONS

### PV-18-01-01

#### Legislative

#### Commission District I

Sunseeker Florida, Inc. and Charlotte Point Properties, LLC are requesting to vacate portions of the plats of Charlotte Harbor Subdivision and Laster's Addition to Charlotte Harbor Subdivision, including parts of Central Avenue, Pinion Street (aka, Pine Street), Shear Street, Myrtle Street, and Front Avenue (aka, Bayshore Road), a total of 22.07 acres, more or less, as recorded in Plat Book 1, Page 22 and Page 29, of the Public Records of Charlotte County, Florida, and located south and west of U.S. Highway 41, north of Charlotte Harbor, and east of Main Street, in Section 36, Township 40S, Range 22E, in Commission District I.

### Sunseeker Developer's Agreement

Conduct a public hearing to consider entering into a Developer's Agreement between Sunseeker Florida, Inc., a Florida profit corporation ("SFI"); Charlotte Point Properties, LLC, a Florida limited liability company ("CPP"); Charlotte County, a political subdivision of the State of Florida ("County") and the Charlotte Harbor Community Redevelopment Agency, a public body corporate and politic ("CHCRA") under the laws of the State of Florida established pursuant to Part III of Chapter 163, Florida Statutes. This proposed Developer's Agreement will set forth required public infrastructure improvements, sewer improvements and the terms governing their development.

### PA-17-12-40

#### Legislative

#### Commission District II

Pursuant to Section 163.3187(1)(C), Florida Statutes, adopt a Small Scale Plan Amendment to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Low Intensity Industrial (LII) to Low Density Residential (LDR); for property located at 9011 Burnt Store Road, in the Punta Gorda area, containing 4.46± acres; Commission District II; Petition No. PA-17-12-40; applicant: Janet Scinta; providing an effective date.

### PV-17-12-09

#### Quasi-Judicial

#### Commission District III

Ainger Creek Properties, LLC is requesting a Plat Vacation for a portion of the plat of Grove City Land Company Subdivision as recorded in Plat Book 1, Page 11, of the Official Records of Charlotte County, Florida. The property is 31.12 acres, more or less, and is located east of Lampp Drive, north and west of Ainger Creek, and south of the border of Sarasota County, in Section 05, Township 41, Range 20, in Commission District III.

### PA-17-12-39-LS

#### Legislative

#### County-wide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State review agencies for review and comment; the request is to amend Coastal Planning (CST) Policy 1.4.7: Manatee Protection Plan to reflect that the Board of County Commissioners accepted the manatee Protection Plan on February 14, 2017; Petition No. PA-17-12-39-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

### LADO-17-12-42

#### Quasi-Judicial

#### Commission District I

A Resolution pursuant to Section J(1)(k) of the Sandhill Development of Regional (DRI) Development Order, Resolution Number 2017-255; and Section 380.06(19)(e)2. F.S., an amendment to the Sandhill DRI Development Order by 1)using the approved equivalency matrix to exchange 12,000 square feet of approved commercial development on Parcel C-19B of Tract 4 of the Sandhill DRI for 44 single-family residential units, 2)using the approved equivalency matrix to exchange 113 multi-family residential units on Parcel R-2 in Tract 4 of the Sandhill DRI for 70 single-family residential units and retain 207 multi-family residential units on Parcel R-2 in Tract 4 of the Sandhill DRI, 3) revising Exhibit B, Map H Note #1 and Map H, Exhibit #2 Notes; and 4) clarifying language under J(1)(a)(v); for 31.28± acres of the property located at 24750 Sandhill Boulevard, in the Port Charlotte area; Commission District I; Petition No. LADO-17-12-42; Applicant: JBCC Development LLC; providing for an effective date. The Sandhill DRI is located south of the DeSoto County Line, north of Rampart Boulevard, east of Loveland Boulevard and west of the Deep Creek area; Section 7, Township 40 South, and Range 23 East, in the Port Charlotte area, currently containing a total of 713.12± acres. This application shall not be deemed to be a substantial deviation and does not require the filing of a Notice of Proposed Change.



**Z-17-12-43** **Quasi-Judicial** **Commission District I**  
 An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas. The rezoning is from Planned Development (PD) to PD. This is a major modification of an existing PD for the Sandhill Development of Regional Impact (DRI) 1) to revise a portion of the concept plan specifically for Parcels C-19B and R-2 of Tract 4 of the Sandhill DRI to be consistent with development rights set forth in Petition LADO-17-12-42; and 2) to add specific development standards for residential development on Parcels C-19B and R-2 of Tract 4 of the Sandhill DRI; for 31.28± acres of the property located at 24750 Sandhill Boulevard, in the Port Charlotte area; Petition No. Z-17-12-43; Applicant: JBCC Development LLC; providing an effective date. The Sandhill DRI is located south of the DeSoto County Line, north of Rampart Boulevard, east of Loveland Boulevard and west of the Deep Creek area; Section 7, Township 40 South, and Range 23 East, in the Port Charlotte area.

**Land Development Regulations Table of Contents**

**Z-17-01-03A** **Legislative** **County-wide**  
 An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Chapter 3-9, Zoning, by adding Article V, Environmental Requirements and Other Requirements; creating new Section 3-9-150, Transfer of Density Units (TDU) under Article V; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Transfer of Density Units (TDU)** **Legislative** **County-wide**  
**Z-17-01-03B**  
 An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Part III, Land Development and Growth Management, Chapter 3-5, Planning and Development, of the Code of Laws and Ordinances of Charlotte County, Florida, by deleting Article XX, Transfer of Density Units, and amending Article V, Environmental Requirements and Other Requirements of Chapter 3-9, Zoning, by creating new Section 3-9-150, Transfer of Density Units (TDU); providing for intent; providing for revised definitions; providing for revised applicability; providing for revised Sending Zones (SZ); providing for revised Receiving Zones (RZ); providing for covenant requirement; providing for revised procedure; providing for effective date of the Certification or TDU; providing for revised appeal; providing for waiver; providing for Land Acquisition Trust Fund (LATF); providing for new formatting; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Z-18-01-03** **Legislative** **County-wide**  
 An Ordinance amending Charlotte County Code Chapter 3-9, Zoning; Article I, In General; amending the title of Section 3-9-6 Board of zoning appeals (BZA) powers and duties, procedures; amending Section 3-9-6.2, Special Exceptions, subsection (e)(2) Mailed Notice; and subsection (g)(3) Request for Continuance from the Zoning Official or BZA; amending Section 3-9-6.3, Variances, subsection (f)(2) Mailed Notice, subsection (g)(3) Request for Continuance from the Zoning Official or BZA; and amending Section 3-9-10, Amendments, subsections (a) Generally, (b) Initiation of proposals for amendments, and (c) Mailed Notice; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**NOPC-17-12-44** **Quasi-Judicial** **Commission District IV**  
 A Resolution pursuant to Section 380.06, Florida Statutes, amending the Master Development Order (MDO) for the Riverwood Development of Regional Impact (DRI) to extend the buildout date to November 11, 2025; for property located generally east of the Myakka River and north of S.R. 776 (Section 29, Township 40 South, Range 21 East), containing 1,288± acres, in the El Jobean area of Charlotte County; Commission District III, Petition No. NOPC-17-12-44; applicant: Riverwood Community Development District; providing an effective date.

**NOPC-17-12-45** **Quasi-Judicial** **Commission District IV**  
 A Resolution pursuant to Section 380.06, Florida Statutes, amending the Development Orders (DO) for the Riverwood Development of Regional Impact (DRI) Increment One to extend the buildout date to November 11, 2025; for property located generally east of the Myakka River and north of S.R. 776 (Section 29, Township 40 South, Range 21 East), containing 872.53± acres, in the El Jobean area of Charlotte County; Commission District III, Petition No. NOPC-17-12-45; applicant: Riverwood Community Development District; providing an effective date.

A Resolution pursuant to Section 380.06, Florida Statutes, amending the Development Orders (DO) for the Riverwood Development of Regional Impact (DRI) Increment Two to extend the buildout date to November 11, 2025; for property located generally east of the Myakka River and north of S.R. 776 (Section 29, Township 40 South, Range 21 East), containing 309± acres, in the El Jobean area of Charlotte County; Commission District III, Petition No. NOPC-17-12-45; applicant: Riverwood Community Development District; providing an effective date.

**DRC-17-00061 Final Detail Site Plan** **Quasi-Judicial** **District III**  
 L&T Engineering is requesting Final Detail Site Plan approval for Weaver Family Partnership LTD. This project will consist of two 12,000 square foot warehouse/office buildings with associated infrastructure. This site contains 9.97± acres and is located at 6900 San Casa Boulevard, in the Englewood area.

SHOULD ANY AGENCY OR PERSON DECIDE TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING, A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE, A VERBATIM RECORD OF THE PROCEEDING IS REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

*Charlotte County Board of County Commissioners does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the County's functions, including access to and participation in meetings, programs and activities. FM Sound Enhancement Units for the Hearing Impaired are available at the Front Security Desk, Building A of the Murdock Administration Complex. Anyone needing other reasonable accommodation or auxiliary aids and services please contact our office at 941.764.4191, TDD/TTY 941.743.1234, or by email to [Disability@charlottecountyfl.com](mailto:Disability@charlottecountyfl.com)*



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