

June 4, 2007

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ORDINANCE
NUMBER 2007 - 037

AN ORDINANCE APPROVING AN AMENDMENT TO THE CHARLOTTE COUNTY ZONING ATLAS FROM AGRICULTURE ESTATES (AE) TO PLANNED DEVELOPMENT (PD), FOR PROPERTY LOCATED SOUTH OF TRIBUNE BOULEVARD, NORTH OF TERN BAY BOULEVARD, EAST OF BURNT STORE ROAD, AND WEST OF GREEN GULF BOULEVARD, IN THE PUNTA GORDA AREA, CONTAINING 330 ACRES MORE OR LESS, COMMISSION DISTRICT II; PETITION Z-07-02-10-TDU; APPLICANT, CORAL CREEK BURNT STORE, LLC C/O RESOURCE CONSERVATION PROPERTIES, INC. AND CHARLOTTE ORANGE GROVE, LLC C/O MICHAEL SAADEH, MANAGING MEMBER; PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, in a public hearing held on Tuesday, May 15, 2007, the Board of County Commissioners of Charlotte County ("Board") reviewed Petition Z-07-02-10-TDU which requested a rezoning from Agriculture Estates (AE) to Planned Development (PD) on 330 acres more or less of property owned by Coral Creek Burnt Store, LLC c/o Resource Conservation Properties, Inc. and Charlotte Orange Grove, LLC c/o Michael Saadeh, Managing Member, whose address is 9990 Coconut Road, Suite 200, Bonita Springs, Florida 34135, and described as located South of Tribune Boulevard, North of Tern Bay Boulevard, East of Burnt Store Road and West of Green Gulf Boulevard, Punta Gorda area, in Commission District II, and more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Coral Creek Burnt Store, LLC c/o Resource Conservation Properties, Inc. and Charlotte Orange Grove, LLC c/o Michael



1 Saadeh, Managing Member, as the applicant, seeks a rezoning to Planned
2 Development (PD) in order to allow for the development of a community
3 consisting of residential and commercial uses; and

4 WHEREAS, Petition Z-07-02-10-TDU has previously been heard by
5 the Charlotte County Planning and Zoning Board ("P&Z Board") and, based on
6 the findings and analysis presented in the Planning and Zoning Division staff
7 report dated March 21, 2007, and the evidence presented to the P&Z Board, has
8 been recommended for approval with conditions; and

9 WHEREAS, after due consideration, based on the Planning and
10 Zoning Division staff report dated March 21, 2007, and the evidence presented to
11 it, the Board has found that approval of Petition Z-07-02-10-TDU is consistent
12 with the 1997-2010 Charlotte County Comprehensive Plan, and that it meets the
13 requirements for the granting of a rezoning, and;

14 WHEREAS, based on the above findings, the Board has
15 determined it to be in the best interests of the County to rezone the subject
16 property from Agriculture Estates (AE) to Planned Development (PD).

17 NOW, THEREFORE, BE IT ORDAINED by the Board of County
18 Commissioners of Charlotte County, Florida:

19 SECTION 1. The following petition for an amendment to the
20 Charlotte County Zoning Atlas is hereby approved subject to the conditions
21 contained in the attached Exhibit "B":

22

23 Petition Z-07-02-10-TDU requesting rezoning from
24 Agriculture Estates (AE) to Planned Development

1 (PD) for 330 acres more or less of property owned by
2 Coral Creek Burnt Store, LLC c/o Resource
3 Conservation Properties, Inc. and Charlotte Orange
4 Grove, LLC c/o Michael Saadeh, Managing Member,
5 and described as located South of Tribune Boulevard,
6 North of Tern Bay Boulevard, East of Burnt Store
7 Road and West of Green Gulf Boulevard, in the Punta
8 Gorda area, Commission District II, Charlotte County,
9 Florida, and more particularly described in Exhibit "A"
10 attached hereto and incorporated herein by this
11 reference.
12

13 SECTION 2. That the zoning for this property shall run with the
14 property and shall apply to any subsequent owners, heirs and assigns.

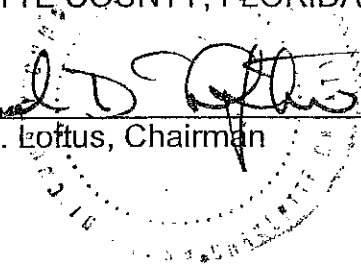
15 SECTION 3. This ordinance shall take effect upon filing in the
16 Office of the Secretary of State, State of Florida.
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23 [SIGNATURE PAGE FOLLOWS]
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1 PASSED AND DULY ADOPTED this 15 day of May, 2007.

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3 BOARD OF COUNTY COMMISSIONERS
4 OF CHARLOTTE COUNTY, FLORIDA

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6 By: Richard D. Loftus
7 Richard D. Loftus, Chairman
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11 ATTEST:
12 Barbara T. Scott, Clerk of
13 Circuit Court and Ex-Officio Clerk
14 to the Board of County Commissioners
15

16 By: Anne S. Blahler
17 Deputy Clerk
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21 APPROVED AS TO FORM
22 AND LEGAL SUFFICIENCY
23

24 By: Janette S. Knowlton
25 Janette S. Knowlton, County Attorney
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A LEGAL DESCRIPTION FOR THE REZONING PARCEL

LEGAL DESCRIPTION OF A PORTION OF SECTIONS 4 AND 9 TOWNSHIP 42 SOUTH, RANGE 23 EAST CHARLOTTE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN THAT PORTION OF SECTIONS 4 AND 9, TOWNSHIP 42 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 9 RUN SOUTH 89°37'33" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 9, FOR 2,134.68 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING AND LEAVING SAID NORTH LINE RUN SOUTH 03°04'59" EAST, FOR 2,086.95 FEET;
THENCE RUN SOUTH 89°51'55" WEST, FOR 3,228.96 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. S-765 (BURNT STORE ROAD), AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION NO. 01540-2601;
THENCE RUN NORTH 00°08'05" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR 2,069.65 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 651, PAGE 1415 OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE RUN NORTH 89°35'36" EAST ALONG SAID SOUTH LINE AND THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 2332, PAGE 443, OF SAID PUBLIC RECORDS, FOR 789.15 FEET;
THENCE LEAVING SAID SOUTH LINE RUN NORTH 03°12'45" WEST ALONG THE EAST LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 2332, PAGE 443, FOR 671.89 FEET;
THENCE LEAVING SAID EAST LINE RUN SOUTH 89°42'22" WEST ALONG THE NORTH LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 2332, PAGE 443 AND THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 789, PAGE 1469, OF SAID PUBLIC RECORDS, FOR 766.93 FEET TO A POINT OF INTERSECTION WITH SAID EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. S-765 (BURNT STORE ROAD);
THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING COURSES, NORTH 02°47'35" WEST, FOR 621.69 FEET;
THENCE RUN NORTH 02°47'18" WEST, FOR 500.07 FEET;
THENCE RUN NORTH 03°21'21" WEST, FOR 895.60 FEET TO A POINT OF TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 4;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE RUN NORTH 89°57'58" EAST ALONG SAID NORTH LINE OF THE SOUTHWEST QUARTER (SW 1/4), FOR 2,587.00 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 4;
THENCE RUN SOUTH 89°57'58" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER (SE 1/4) OF SAID SECTION 4, FOR 513.42 FEET;
THENCE RUN SOUTH 03°04'59" EAST, FOR 1,204.50 FEET;
THENCE RUN SOUTH 86°45'53" WEST, FOR 27.18 FEET;
THENCE RUN SOUTH 02°58'45" EAST, FOR 70.02 FEET;
THENCE RUN NORTH 87°04'54" EAST, FOR 27.31 FEET;
THENCE RUN SOUTH 03°04'59" EAST, FOR 1,396.14 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBES AN AREA OF APPROXIMATELY 330.00 ACRES.

SUBJECT TO: A 50.00 FOOT DRAINAGE AND RIGHT-OF-WAY EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 799, PAGES 334 THROUGH 335, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS SHOWN ARE STATE PLANE FOR THE FLORIDA WEST ZONE (1983/90 ADJUSTMENT) AND ARE BASED ON THE NORTH LINE OF THE NE 1/4 OF SECTION 9 TO BEAR SOUTH 89°37'33" WEST.

CONDITIONS:

- a. Development on the subject property shall occur as generally illustrated in the PD Concept Plan submitted by the applicant, prepared by Barraco and Associates, Inc. dated December 15, 2006, and revised on March 28, 2007, except such modifications as may be required to meet the conditions of the PD zoning district. In addition, the Development Review Committee (DRC) conditions of approval per letter dated January 25, 2007 are required to be met. The total commercial area shall be 27± acres and the total residential and open space area shall be 303± acres. The open space area shall be no less than 66± acres (which includes 48.5 acres of lake area, 4.8± acres of which may be counted toward open space). Residential development standards shall be as indicated on the PD Concept Plan submitted by the applicant, with minor modifications allowed only to increase lot sizes.
- b. The applicant/development shall submit a Concept Plan for commercial development area prior to Preliminary Plat application or Final DRC application, whichever shall occur first.
- c. The subject property currently retains thirty-three (33) units of density. The applicant is proposing to develop a total of 999 units including 300 multi-family units and 699 single-family units. The applicant may modify the number of multi-family units and single-family units provided that the total number of units does not exceed 999 and provided that if the final development mix proposes more than 699 single-family units then the applicant shall provide an updated traffic impact statement and proportionate share calculation to reflect the new development mix. The subject property shall require 956 units of transferred density. The transfer of density units must be approved by the Board of County Commissioners prior to Preliminary Plat application or Final DRC application, whichever shall occur first.
- d. No development shall occur prior to Final DRC approval.
- e. Within the commercial portion,
 - i. The maximum commercial floor area is 200,000 square feet.
 - ii. The permitted uses and structures, permitted accessory uses and structures, prohibited uses and structures, and special exceptions shall follow those in the Commercial General (CG) zoning district.
 - iii. Development standards shall meet those of the CG zoning district.
 - iv. At a minimum, two (2) vehicular entries to the commercial area are required. The main entry shall be located on Burnt Store Road, and the secondary entry shall be located on the northern side. There is one internal entrance to the residential area.
 - v. The commercial portion is subject to the provisions of Chapter 3-5, Article XXIV, Commercial Design Standards, of the Charlotte County Code. All buildings within this portion shall build to the same architectural style.
 - vi. Exterior signage will consist of one landscaped, monument style sign per entrance. Lighting shall be from an external source. All other signage shall be in compliance with the existing County Sign Ordinance, Section 3-9-95.
 - vii. Landscaping around the buildings and parking lot shall meet the landscape requirements of Chapter 3-5, Article XVIII, Landscaping and Buffering, of the Charlotte County Code. At a minimum, a Type "C" buffer must be

provided around the commercial site, except for clear areas necessitated by sight triangles for vehicles exiting and entering site. A wall at least 6 feet in height that shall be placed along the internal boundary of the eastern and southern side of the commercial area to buffer the adjacent residential units. The developer or staff can request a modification of this buffer requirement, which will be considered a minor modification to this condition. Landscaping will be placed on the exterior and interior side of the wall with the majority of landscaping be placed on the exterior wall adjacent to the residential area.

- f. For the archaeological site:
 - i. The three archaeological sites located on the subject site be preserved as a green space archaeological area as part of any proposed development.
 - ii. If improvements, tree removal, landscaping, or planting are to be conducted within the preserve area then an archaeological management plan will need to be created for the preserve areas.
 - iii. Prior to any clearing activities, a fence should be placed around the archaeological preservation area boundaries. No storage of equipment or fill should occur within the preserve areas.
- g. The developer shall minimize impervious surfaces within the development wherever practicable.
- h. A development time line and phasing plan for the entire PD shall be submitted prior to Final DRC approval. A monitoring report shall be submitted annually from the day of Final DRC approval until buildout, identifying the development activities which occurred during the past year and summarizing current and previous year statistics (as applicable).
- i. The maximum building height for single-family development is 35 feet from the base flood elevation; the maximum building height for multi-family development is 40 feet from the base flood elevation the maximum building height for commercial is 60 feet from the base flood elevation, and the maximum building height within the recreation area is 40 feet from the base flood elevation.
- j. The roadways for this development shall be constructed consistent with the sections shown on the approved DRC Plan. If the roadways for this development are private, following Final DRC approval, the developer, and subsequently, the homeowner's association, is required to maintain all private roads within the development area.
- k. The development must utilize potable water and sanitary sewer utilities. The potable water and sanitary sewer lines must be connected to the site before any certificates of occupancy shall be issued. The developer must also extend re-use water utility lines along with the potable water and sanitary sewer lines throughout the development. A developer's agreement with Charlotte County Utilities for the extension of potable water, sanitary sewer, and re-use lines must be approved by the Board of County Commissioners prior to the final DRC application for any phase of development.
- l. The site shall be developed with a unified landscaping theme. Only Florida Friendly plantings and/or xeriscaping shall be allowed for landscape plantings within the common areas. The developer shall also make every effort to ensure that residential

property owners within the development also utilize Florida Friendly plantings and xeriscape landscaping. The applicant shall institute an education program for all homeowners on the correct use of pesticides, herbicides, and fertilizers. A partnership with the Cooperative Extension Service of the University of Florida to interact with the Florida Yards and Neighborhoods program is encouraged. Only natural organic or other slow release forms of fertilizers shall be utilized throughout the development.

- m. All landscaping must be irrigated as necessary to ensure survival. When made available by the Utility, non-potable water shall be utilized for common area and private irrigation throughout the development. The developer is encouraged to construct re-use water retention basins on site if at all possible.
- n. The development must comply with Chapter 3-2, Article IX, Tree Requirements, of the Charlotte County Code. All heritage trees shall be preserved unless the applicant can provide substantial evidence that such preservation will cause the development of the site to be severely hindered. Should any heritage tree be removed, the applicant will plant a sufficient number of trees of the same species to equal the girth of the tree removed. These trees will not be counted as part of the points needed for development but in addition to those trees needed for points.
- o. The developer shall maintain hydrogeology to all of the wetlands. The project must comply with Chapter 3-5, Article XV, Upland Buffer Zone requirements of the County Code. A naturally vegetated upland buffer zone shall be preserved along the perimeter of all wetlands and natural surface waters to the edge of development. The buffer shall be a minimum of fifteen (15) feet and average twenty-five (25) feet in width as measured from the landward limit of the wetland or surface water.
- p. A Conservation Easement preserving in perpetuity all wetlands and associated buffer uplands in the area shall be granted to the County or the Southwest Florida Water Management District. A copy of the easement shall be sent to the County Attorney's Office and Comprehensive Planning Section of the Community Development Department for review and approval prior to being filed with the Clerk of the Circuit Court. The filing shall be completed prior to Preliminary Plat application or Final DRC application, whichever shall occur first.
- q. The developer shall obtain an incidental take permit for gopher tortoises, but all gopher tortoises shall be relocated to areas of suitable habitat on the subject property, and these areas shall be managed in perpetuity and no development shall be allowed..
- r. A developer's agreement to fund a proportionate share for the widening the Burnt Store Road shall be finalized and approved prior to the final DRC application for any phase of development.
- s. Landscaping and Buffer requirements:
 - i. At a minimum, the 25-foot PD setback for the property boundary adjacent to Burnt Store Road shall be landscaped. The applicant must comply with Chapter 3-5, Article XVIII, Landscaping and Buffer Requirements, of the County Code, by providing an eight-foot (8) perimeter landscaping strip along Burnt Store Road.

- ii. At a minimum, a type B buffer must be placed within the 25-foot PD setback along the southern and northern portion of the property which contains the residential development.
 - iii. At a minimum, a type B Buffer must be placed within the multi-family development area which is adjacent to internal single-family development.
 - iv. At a minimum, a type C buffer must be provided around the recreation area as it considered to be similar to an “active use park”. The applicant must comply with Chapter 3-5, Article XVIII, Landscaping and Buffer Requirements, of the County Code.
 - v. The developer is required to remove exotic/nuisance species from the subject property.
- t. The developer shall obtain stormwater approval prior to final DRC approval. Applicable SWFWMD and Army Corp. permits must be obtained prior to the commencement of development. All stormwater facilities must be designed to protect groundwater and surface water resources.
 - u. The developer is required to provide a sidewalk throughout the subject site, with a minimum width of five (5) feet along at least one side of all internal roadways. An eight (8) foot wide bicycle/pedestrian trail in the 100-foot right-of-way is required along the western property line on Burnt Store Road. The developer shall coordinate with the Department of Public Works. The sidewalk must be completed at the time of the Burnt Store Road widening. An eight (8) foot wide bicycle/pedestrian trail in the 50-foot right-of-way is required along the northern property line on the future Tuckers Garde Extension. The developer shall coordinate with the Department of Public Works. The sidewalk must be completed at the time of the extension.
 - v. The recreation area may contain a clubhouse and recreational facilities which include but are not limited to, a swimming pool, a basketball court, bocci ball, a playground, tennis courts, and a parking area. The clubhouse shall be built to the highest wind-bearing loads required by Charlotte County and will be made available for use as a post-storm hurricane refuge to the proposed neighborhood following a natural disaster. It is understood that the clubhouse will not be able to accommodate all residents of the community.
 - w. The applicant shall work with the Charlotte County Public Schools Transportation Department to provide a bus stop(s) and shelter(s) for the community. Should the pick up and drop off point be located at the entrance of the development, the developer shall allow for sufficient room for a parent drop-off and bus pick-up along with an adequate means for traffic circulation at the entrance. A shelter for the children is required at the pick-up area(s). This addition must be shown on the Final DRC plan for approval.
 - x. Any changes in the Concept Plan must receive a recommendation from the Natural Resources Planning Section and the Comprehensive Planning Section.
 - y. 3± acre sale center parcel will be converted to a recreation and/or commercial area when the proposed development is completed. The parcel will include permitted principal uses and structures under the Commercial Neighborhood (CN) zoning district, which will be intended to primarily serve the proposed residential neighbor and surrounding residents.