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ORDINANCE
NUMBER 2016 - 046

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING THE CHARLOTTE COUNTY ZONING ATLAS FROM RESIDENTIAL ESTATE 1 (RE-1) TO PLANNED DEVELOPMENT (PD), FOR PROPERTY LOCATED AT 12260 BURNT STORE ROAD, CONTAINING 27.5 ACRES MORE OR LESS, IN THE PUNTA GORDA AREA, COMMISSION DISTRICT II, CHARLOTTE COUNTY, FLORIDA; PETITION Z-16-06-09; APPLICANT, BRYAN PAUL, INC.; PROVIDING AN EFFECTIVE DATE.

RECITALS

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WHEREAS, in a public hearing held on December 13, 2016, the Board of County Commissioners of Charlotte County, Florida ("Board") reviewed Petition Z-16-06-09, submitted by applicant, Bryan Paul, Inc. ("Applicant"), which requested a rezoning from Residential Estate 1 (RE-1) to Planned Development (PD) on 27.5 acres more or less of property owned by Applicant, and described as property located at 12260 Burnt Store Road, South of Punta Gorda on the East side of Burnt Store Road, in the Punta Gorda area, Commission District II, Charlotte County, Florida, and more particularly described in Exhibit "A" which is attached hereto and provided herein; and

WHEREAS, the Applicant seeks a rezoning from Residential Estate 1 (RE-1) to Planned Development (PD) in order to allow for the construction of a wide range of commercial uses on the subject site; and

WHEREAS, Petition Z-16-06-09 has previously been heard by the Charlotte County Planning and Zoning Board ("P&Z Board") and, based on the

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1 findings and analysis provided by County Staff and the evidence presented to the
2 P&Z Board, has been recommended for approval; and

3 WHEREAS, after due consideration, based on the findings and
4 analysis provided by County Staff and the evidence presented to it, the Board
5 has found that approval of Petition Z-16-06-09 is consistent with the County's
6 Comprehensive Plan, and that it meets the requirements for the granting of a
7 rezoning; and

8 WHEREAS, based on the above findings, the Board has
9 determined it to be in the best interests of the County to rezone the subject
10 property from Residential Estate 1 (RE-1) to Planned Development (PD).

11 NOW, THEREFORE, BE IT ORDAINED by the Board of County
12 Commissioners of Charlotte County, Florida:

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

16 Petition Z-16-06-09 requesting rezoning from
17 Residential Estate 1 (RE-1) to Planned Development
18 (PD) for 27.5 acres more or less of property owned by
19 Bryan Paul, Inc., located at 12260 Burnt Store Road,
20 in the Punta Gorda area, Commission District II,
21 Charlotte County, Florida, and more particularly
22 described in Exhibit "A".
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25 SECTION 2. That the zoning for this property shall run with the
26 property and shall apply to any subsequent owners, heirs and assigns.

27 SECTION 3. This ordinance shall take effect upon filing in the
28 Office of the Secretary of State, State of Florida.

PASSED AND DULY ADOPTED this 13th day of December, 2016.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: William G. Truex
William G. Truex, Chair



ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

By: Michelle DiBerardino
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney
LR2016-0496

Legal DESCRIPTION

(AS TAKEN FROM A PORTION OF OFFICIAL RECORDS BOOK 3716, PAGE 385)

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER
(NOTE: ASSUMED TO BE SECTION 4, TOWNSHIP 42 SOUTH, RANGE 23 EAST)

LESS AND EXCEPT:

RIGHT-OF-WAY FOR STATE ROAD NO. S-765 (BURNT STORE ROAD)
(NOTE: PORTION OF RIGHT-OF-WAY AS TAKEN FROM A DEED PROVIDED BY THE
FLORIDA DEPARTMENT OF TRANSPORTATION, PARCEL 121.1, DATED 8/19/67)

LESS AND EXCEPT:

A TRACT OR PARCEL OF LAND LYING IN THAT PORTION OF THE NORTHWEST
QUARTER (NW 1/4) OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 23 EAST,
CHARLOTTE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 4, RUN
SOUTH 89°39'48" EAST ALONG THE NORTH LINE OF SAID SECTION FOR 1016.00
FEET TO THE POINT OF BEGINNING; FROM SAID POINT OF BEGINNING CONTINUE
SOUTH 89°39'48" EAST ALONG SAID NORTH LINE, 613.86 FEET; THENCE LEAVING
SAID NORTH LINE SOUTH 02°32'20" EAST, 1,348.50 FEET; THENCE NORTH 89°49'54"
WEST, 284.82 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF
THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 4; THENCE ALONG SAID
EAST LINE SOUTH 03°08'02" EAST, 407.67 FEET; THENCE LEAVING SAID EAST LINE
SOUTH 89°57'58" WEST, 1273.56 FEET TO A POINT OF INTERSECTION WITH THE
EASTERLY RIGHT OF WAY LINE OF BURNT STORE ROAD (STATE ROAD NO. S-765);
THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 03°49'46" WEST, 39.24
FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; THENCE NORTHERLY
ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS 1,949.86 FEET) (DELTA
13°24'49") (CHORD BEARING NORTH 10°04'25" WEST) (CHORD 455.44 FEET), FOR
456.48 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID SECTION
4; THENCE ALONG SAID WEST LINE NORTH 03°11'11" WEST, 589.09 FEET TO A
POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF THOSE LANDS DESCRIBED
AS PARCEL ONE IN OFFICIAL RECORD BOOK 2133, PAGES 1639 THROUGH 1640,
CHARLOTTE COUNTY, FLORIDA, PUBLIC RECORDS; THENCE ALONG SAID SOUTHERLY
LINE NORTH 88°00'19" EAST, 1,059.08 FEET TO A POINT OF INTERSECTION WITH THE
EASTERLY LINE OF SAID PARCEL ONE; THENCE NORTH 07°08'52" WEST ALONG SAID
EASTERLY LINE, 650.20 FEET TO THE POINT OF BEGINNING.

N88°00'19"E 1059.08'(D)
N88°00'49"E 1059.37'(C)

CB=N
CB:

FD. 3/4" IRON PIPE
W/ CAP LB 342

N16°38'36"W 5.30'(C)

N03°11'11"W 589.09'(D)
N03°11'57"W 588.78'(C)

1, RANGE 23 EAST
1, RANGE 23 EAST

FD. 4"X4" CONC. MON.
W/ STATE ROAD DISK(BROKEN)

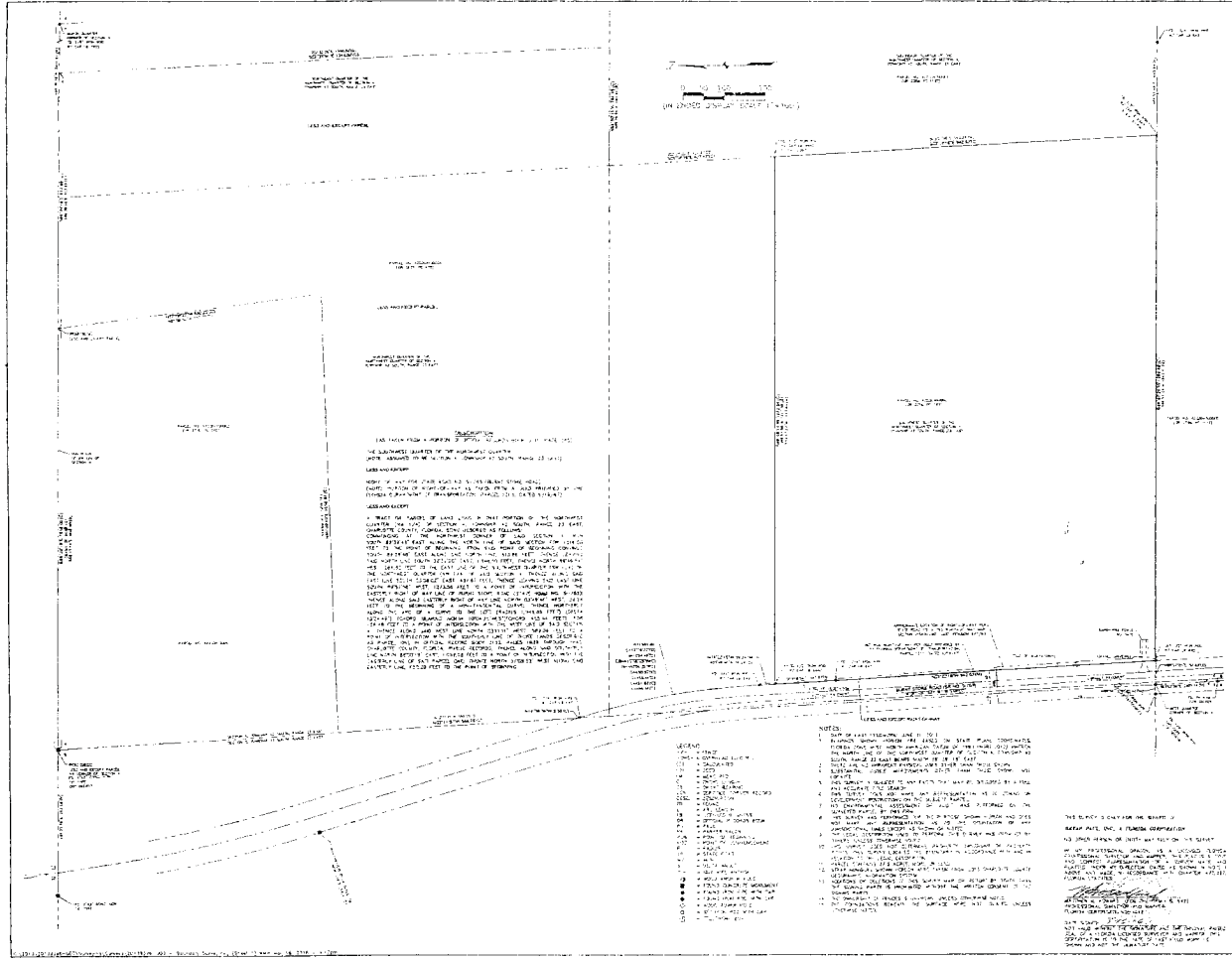
EXHIBIT "A"

REVISIONS

NO.	DATE	DESCRIPTION
1	08/15/08	ISSUED FOR PERMIT
2	08/15/08	ISSUED FOR PERMIT
3	08/15/08	ISSUED FOR PERMIT
4	08/15/08	ISSUED FOR PERMIT
5	08/15/08	ISSUED FOR PERMIT
6	08/15/08	ISSUED FOR PERMIT
7	08/15/08	ISSUED FOR PERMIT
8	08/15/08	ISSUED FOR PERMIT
9	08/15/08	ISSUED FOR PERMIT
10	08/15/08	ISSUED FOR PERMIT

DATE: 08/15/08
PROJECT NO: 08-0004
SCALE: AS SHOWN

BOUNDARY SURVEY
1 OF 1



- NOTES
1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING ACT.
 2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 3. ALL BEARINGS ARE TRUE BEARINGS.
 4. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 5. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 6. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 7. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 8. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 9. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.
 10. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.

THIS SURVEY WAS CONDUCTED BY JOHNSON ENGINEERING, INC. ON 08/15/08. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING ACT. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF. ALL BEARINGS ARE TRUE BEARINGS. THE TOTAL AREA OF THIS PARCEL IS 10.00 ACRES.

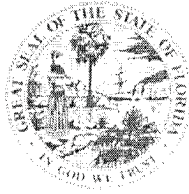
The following is the Conditions recommended by staff and also by the P&Z Board.

Recommended Conditions:

- a. Development on the subject property shall occur as generally illustrated in the PD Concept Plan submitted by the applicant, prepared by Banks Engineering, dated March 15, 2016, except for such modifications as may be required to meet the conditions of the PD zoning district. In addition, the Site Plan Review conditions of approval, per the letter dated May 5, 2016, signed by Shaun Cullinan, Charlotte County Planning and Zoning Official, are required to be met. The open space area shall be no less than 5.47 acres. Areas indicated for commercial development will be developed as such. Revisions consistent with the notes on the approved PD Concept Plan shall be permitted. Commercial development standards shall be as indicated on the PD Concept Plan, with minor modifications allowed only to increase lot sizes.
- b. Subject property shall retain two dwelling units of residential density. The applicant is authorized to develop a total of 200,000 square feet of commercial space and two dwelling units. Commercial uses shall be permitted but limited as follows:
 - i. All uses listed in the CG zoning district under Permitted Uses (section 3-9-42(b)) shall be permitted uses in this PD zoning district except for the use numbered (42) Sexually Oriented Business, which shall not be allowed.
 - ii. The use listed as item number (6) Noncommercial vehicle rental in the CG zoning district under Conditional Uses (section 3-9-42(d)) shall be the only Conditional Use allowed in this PD zoning district. All other uses listed as "Conditional Uses" in the CG zoning district shall not be allowed.
 - iii. One use that is allowed as a Special Exception use in the CG zoning district (section 3-9-42(f)), which is a "Farmers Market", shall also be a permitted use in this PD zoning district only if it is described and shown in detail on the approved Final Site Plan and may be subject to additional conditions. In this PD zoning district the "Farmers Market" shall only be allowed to sell food items and the sale of non-food items at the "Farmers Market" is strictly prohibited.
- c. The maximum building heights shall be limited to a maximum of 60 feet and all buildings and structures erected on subject property must comply with all Commercial Design Standards of County codes.
- d. If FLU Policy 6.2.2: Development Timing Standards is effective, a Developers Agreement to fund the widening of Burnt Store Road shall be finalized and approved by the Board of County Commissioners prior to the Final Site Plan Review application for the first phase of development.
- e. The developer must include vehicular, pedestrian and bicycle connections to adjacent properties to the north, east and south.
- f. The developer is required to provide sidewalks throughout the subject site, with a minimum width of five (5) feet along at least one side of all internal roadways.
- g. There shall be one full access point located on Burnt Store Road located at the southwest corner of subject property. The specific design and locations of additional access points shall be determined at the time of Final Site Plan Review.
- h. The development must use 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 reclaimed water utility lines, when available, along with the potable water and sanitary sewer lines throughout the development. A Developers

Agreement with Charlotte County Utilities for the extension of potable water, sanitary sewer, and reclaimed lines must be approved by the Board of County Commissioners prior to the Final Site Plan Review application for the first phase of development.

- i. The site shall be developed with a unified landscaping theme. Only Florida Friendly landscaping shall be allowed within the common areas. The developer shall also make every effort to ensure that business owners and tenants within the development also use Florida Friendly landscaping. The applicant shall institute an education program for all business owners and tenants on the correct use of pesticides, herbicides, and fertilizers. Only organic or other slow release forms of fertilizers shall be utilized throughout the development.
- j. All landscaping must be irrigated as necessary to ensure survival. When made available by the Utility, reclaimed water shall be utilized for common area and private irrigation throughout the development. The developer is encouraged to construct reclaimed water retention basins on site if at all possible. The developer, community development district, or similar entity, is required to maintain all common areas within the development area.
- k. Landscaping and Buffer requirements:
 - i. At a minimum, a Type C landscape buffer must be placed within the 25-foot PD setback along the north and east property lines. The typical landscaping requirements of County Code for commercial uses in the CG zoning district, located adjacent to a public street, shall be required along the west and south property lines.
 - ii. The developer must comply with section 3-9-100: Buffers, Landscaping and Tree Requirements of the Land Development Regulations as they are typically applied to the CG zoning district.
 - iii. The developer is required to remove exotic and nuisance species from subject property.
- l. If outdoor lighting is proposed, it shall be shielded or directed in such a way that light does not shine beyond the boundaries of subject property.
- m. Subject property shall obtain Final Site Plan Review approval prior to issuance of any development permits.
- n. The developer shall minimize impervious surfaces within the development wherever practicable.
- o. In order to provide "green" features within the overall site design to the highest degree practicable, the owner shall provide that, at a minimum:
 - i. Bio-retention areas or rain gardens are required as part of landscaping features for this development; and
 - ii. Water conservation measures such as the use of low-flow plumbing fixtures and rain sensors for control of irrigation systems; and
 - iii. Parking spaces for recreation areas shall use pervious surfacing.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 14, 2016

Clerk of the Circuit Court
Charlotte County
18500 Murdock Circle, Room 416
Port Charlotte, Florida 33948

Attention: Ms. Michelle DiBerardino

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Charlotte County Ordinance No. 2016-046, which was filed in this office on December 14, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



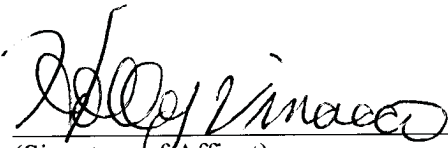
NOTARIAL PUBLIC
CHARLOTTE COUNTY
FLORIDA
NOV 29 2016

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

Before the undersigned authority personally appeared Holly Vinacco, who on oath says that she is legal clerk of the Charlotte Sun, the Englewood Sun, and the North Port Sun, each a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Public Hearing, was published in said newspaper in the issue(s) of:

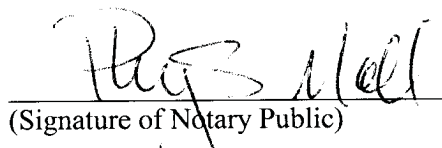
November 28, 2016

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 publication day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of one 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 said newspaper.



(Signature of Affiant)

Sworn and subscribed before me this 28th day of November, 2016.



(Signature of Notary Public)



Personally known 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 PLATS, STREET AND PLAT VACATIONS

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, **DECEMBER 13, 2016, 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

PP-16-09-05

Quasi-Judicial

Commission District II

Vasco PGF Development, LLC has requested Preliminary Plat approval for a subdivision to be named, Vasco Street, consisting of 24 residential lots. The site is 7.30 acres, more or less, and is located south of Rio Villa Drive, north of Alligator Creek, east of Palm Drive, and west of Windmill Boulevard, in Section 19, Township 41S, Range 23E, in Commission District II.

Z-16-10-13

Legislative

Countywide

An Ordinance amending Charlotte County Code Chapter 3-9, by creating new Section 3-9-76.1. Watercraft Abandoned, Derelict or a Hazard to Navigation; governing the discovery and disposition of vessels that are abandoned, derelict or a hazard to navigation; providing for enforcement and penalties; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

Z-16-06-09

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Estate 1 (RE-1) to Planned Development (PD); for property located at 12260 Burnt Store Road, in the Punta Gorda area, containing 27.5± acres; Commission District II; Petition No. Z-16-06-09; applicant: Bryan Paul, Inc.; providing an effective date.

PA-16-05-07-LS

Legislative

Commission District II

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; this amendment is to amend the Future Land Use (FLU) Element of the County's Comprehensive Plan by deleting FLU Policy 6.2.2: Development Timing Standards; Petition No. PA-16-05-07-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

PA-16-09-12-LS

Legislative

Commission District IV

Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment; this request is to amend the Future Land Use Element (FLU) to revise FLU Policy 1.2.15: TDU Waivers to include the Murdock Village Community Redevelopment Area (MVCRA), FLU Policy 5.3.4: Murdock Village Zoning, to revise the zoning required for land within the MVCRA, to amend FLU Appendix I: Land Use Guide by revising the Murdock Village Mixed Use land use designation, and to amend FLU Appendix II: Future Land Use Map Series, by amending FLUM Series Map #21: TDU Waivers, to include the MVCRA; Petition No. PA-16-09-12-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

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 David.Lyles@CharlotteCountyFL.gov.

