

WJ
BCC #14

October 2, 2006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

ORDINANCE
NUMBER 2006 - 082

AN ORDINANCE APPROVING AN AMENDMENT TO THE CHARLOTTE COUNTY ZONING ATLAS FROM AGRICULTURE ESTATES (AE) TO PLANNED DEVELOPMENT (PD), FOR PROPERTY LOCATED SOUTH OF NOTRE DAME BOULEVARD, EAST OF BURNT STORE ROAD AND WEST OF GREEN GULF BOULEVARD, IN THE PUNTA GORDA AREA, CONTAINING 300 ACRES MORE OR LESS; PETITION Z-06-06-40-TDU; APPLICANT, BURNT STORE ROAD INVESTMENTS, LLC; PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, in a public hearing held on Tuesday, September 19, 2006, the Board of County Commissioners of Charlotte County ("Board") reviewed Petition Z-06-06-40-TDU which requested a rezoning from Agriculture Estates (AE) to Planned Development (PD) on 300 acres more or less of property owned by Burnt Store Road Investments, LLC, 825 Coral Ridge Drive, Coral Springs, Florida 33071, and described as located in Commission District II, South of Notre Dame Boulevard, East of Burnt Store Road and West of Green Gulf Boulevard, in the Punta Gorda area, Charlotte County, Florida, more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Burnt Store Road Investments, LLC, as the applicant, seeks a rezoning to Planned Development to increase the density from a low density single-family use (1 unit per 10 acres) to a higher density residential use that allows a mixed residential development, including single-family units as well as multi-family units; and

BARBARA T. SCOTT, CLERK, CHARLOTTE COUNTY
OR BOOK 3049, PGS 66-72 7 pg(s)
INSTR # 1600165
Doc Type GOV, Recorded 10/06/2006 at 04:27 PM
Rec. Fee: \$61.00
Cashiered By: MARGEC Doc. #:1



1 WHEREAS, Petition Z-06-06-40-TDU has previously been heard by
2 the Charlotte County Planning and Zoning Board ("P&Z Board") and, based on
3 the findings and analysis presented in the Planning and Zoning Division staff
4 report dated July 28, 2006, and the evidence presented to the P&Z Board, has
5 been recommended for approval with conditions; and

6 WHEREAS, after due consideration, based on the Planning and
7 Zoning Division staff report dated July 28, 2006, and the evidence presented to it,
8 the Board has found that approval of Petition Z-06-06-40-TDU is consistent with
9 the 1997-2010 Charlotte County Comprehensive Plan, and that it meets the
10 requirements for the granting of a rezoning, and;

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

14 NOW, THEREFORE, BE IT ORDAINED by the Board of County
15 Commissioners of Charlotte County, Florida:

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

19 Petition Z-06-06-40-TDU requesting rezoning from
20 Agriculture Estates (AE) to Planned Development
21 (PD) for 300 acres more or less of property owned by
22 Burnt Store Road Investments, LLC, and described as
23 located South of Notre Dame Boulevard, East of
24 Burnt Store Road and West of Green Gulf Boulevard,
25 in the Punta Gorda area, Charlotte County, Florida,
26 and more particularly described in Exhibit "A"
27 attached hereto and incorporated herein by this
28 reference.
29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

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

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

PASSED AND DULY ADOPTED this 19 day of September, 2006.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: Thomas G. Moore
Thomas G. Moore, Chairman

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

By: Anne L. Pfahler
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney

RB
LR 2006-478

LEGAL DESCRIPTION:

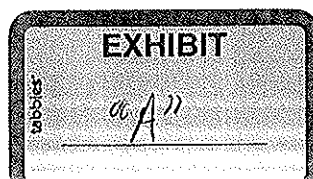
A TRACT OR PARCEL OF LAND LYING IN THAT PORTION OF SECTIONS 9 AND 16, TOWNSHIP 42 SOUTH, RANGE 23 EAST, CHARLOTTE COUNTY, FLORIDA, SAID TRACT OR PARCEL ALSO BEING THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 2004, PAGES 1371 THROUGH 1372 AND A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1979, PAGES 291 THROUGH 293, ALL OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 16 RUN SOUTH 02°03'43" WEST ALONG THE EAST LINE OF SAID SECTION 16, FOR 1,320.21 FEET TO THE SOUTHEAST CORNER OF THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF SAID SECTION 16; THENCE SOUTH 89°12'14" WEST ALONG THE SOUTH LINE OF SAID NORTH ONE-HALF OF THE NORTH ONE-HALF OF SECTION 16, FOR 5,290.35 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 01540-2601; THENCE NORTH 00°17'51" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR 1,155.41 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE RUN SOUTH 87°52'42" EAST ALONG THE SOUTHERLY LINE OF PARCEL EXCEPTION "B" OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 2004, PAGES 1371 THROUGH 1372, FOR 1,405.22 FEET TO THE EASTERLY LINE OF SAID EXCEPTION "B"; THENCE NORTH 00°18'45" WEST ALONG SAID EASTERLY LINE, FOR 246.21 FEET TO A POINT OF INTERSECTION WITH EASTERLY LINE OF PARCELS EXCEPTION (A) AND EXCEPTION (B) OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1979, PAGES 291 THROUGH 293; THENCE NORTH 00°21'03" WEST ALONG SAID EASTERLY LINE OF PARCELS EXCEPTION (A) AND EXCEPTION (B), FOR 1,373.10 FEET; THENCE LEAVING SAID EASTERLY LINE NORTH 00°20'42" WEST, FOR 228.70 FEET; THENCE NORTH 89°02'39" EAST, FOR 3,911.67 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF TROPICAL GULF ACRES UNIT NO. 10, AS RECORDED IN PLAT BOOK 4, PAGES 76A THROUGH 76N, OF SAID PUBLIC RECORDS, SAID LINE ALSO BEING THE EAST LINE OF SAID SECTION 9; THENCE SOUTH 00°57'21" EAST ALONG SAID WEST LINE OF TROPICAL GULF ACRES UNIT NO. 10 AND SAID EAST LINE OF SECTION 9, FOR 1,623.96 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBES AN AREA OF APPROXIMATELY 300.00 ACRES.

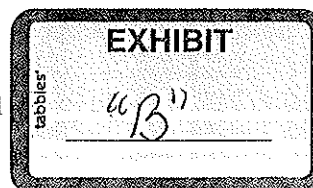
SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS SHOWN ARE STATE PLANE FOR THE FLORIDA WEST ZONE (1983/90 ADJUSTMENT) AND ARE BASED ON THE EAST LINE OF SECTION 9 TO BEAR SOUTH 00°57'21" EAST.



CONDITIONS:

- a. Development on the subject property shall occur as generally illustrated in the PD Concept Plan submitted by applicant, prepared by Barraco and Associates, Inc. dated June 15, 2006, and revised on July 30, 2006, except such modifications as may be required to meet the conditions of the PD zoning district. In addition, the DRC conditions of approval per letter dated June 19, 2006 are required to be met. The open space area shall be 64.54± acres and the residential area shall be 120.11± acres. Areas indicated for single-family development and multi-family development will be developed as such. Residential development standards shall be as indicated on the PD Concept Plan, with minor modifications allowed to increase lot sizes.
- b. The subject property currently retains thirty (30) units of density. The applicant is proposing to develop a total of eight hundred and ten (810) units including one hundred and fifty-six (156) multi-family units and six hundred and fifty-four (654) single-family units. The subject property shall require seven hundred and eighty (780) 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.
- c. No development shall occur prior to Final DRC approval.
- d. The developer shall minimize impervious surfaces within the development wherever practicable.
- e. 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 till buildout, identifying the development activities which occurred during the past year and summarizing current and previous year statistics (as applicable).
- f. The maximum building height is 35 feet from the base flood elevation.
- g. The roadways for this development shall be constructed to Charlotte County standards. If the roadways for this development are to be private, following Final DRC approval, the developer, and subsequently, the homeowner's association, is required to maintain all private roads within the development area.
- h. The site shall be developed with a unified landscaping theme. Only Florida Friendly plantings and/or xeriscaping shall be allowed for landscape plantings within 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.
- i. 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. A developer's agreement to extend reclaimed water utility lines shall be finalized and approved by Charlotte County Utilities prior to the final DRC application for any phase of development.



- j. 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.
- k. 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.
- l. A Conservation Easement preserving in perpetuity all wetlands and associated buffer uplands in the area shall be granted to the County. 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.
- m. 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.
- n. The developer is required to remove exotic/nuisance species from the subject property.
- o. A developer's agreement to fund the widening the Burnt Store Road shall be finalized and approved prior to the final DRC application for any phase of development.
- p. At a minimum, the 25-foot PD setback for the property boundary adjacent to Burnt Store Road and along the eastern property boundary 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 and along the eastern property boundary.
- q. At a minimum, the 25-foot PD setback along the northern and southern portion of the property which contains a multi-family development shall contain a Type "B" Buffer.
- r. 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.
- s. 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 reclaimed water utility lines along with the potable water and sanitary sewer lines throughout the development.

- t. 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 60-foot right-of-way is required along the east 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.
- u. The 5.92± acre recreation area will contain a clubhouse with a swimming pool, a tennis court, 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.
- v. The applicant shall work with the School Board to provide a bus stop 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.
- w. Any changes in the Concept Plan must receive a recommendation from the Natural Resources Planning Section and the Comprehensive Planning Section.