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Aug. 24, 2007

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ORDINANCE  
NUMBER 2007 - 059

AN ORDINANCE APPROVING AN AMENDMENT TO THE CHARLOTTE COUNTY ZONING ATLAS FROM AGRICULTURE ESTATES (AE) TO PLANNED DEVELOPMENT (PD), FOR PROPERTY LOCATED SOUTH OF SCHAM ROAD, NORTH OF TRIBUNE BOULEVARD, EAST OF BURNT STORE ROAD, AND WEST OF GREEN GULF BOULEVARD, IN THE PUNTA GORDA AREA, CONTAINING 78.56 ACRES MORE OR LESS, COMMISSION DISTRICT II; PETITION Z-07-04-18-TDU; APPLICANT, BURNT STORE RANCH, LLC, C/O MR. ROBERT S. BARBER; PROVIDING AN EFFECTIVE DATE.

RECITALS

18 WHEREAS, in a public hearing held on Tuesday, August 21, 2007,  
19 the Board of County Commissioners of Charlotte County ("Board") reviewed  
20 Petition Z-07-04-18-TDU which requested a rezoning from Agriculture Estates  
21 (AE) to Planned Development (PD) on 78.56 acres more or less of property  
22 owned by Burnt Store Ranch, LLC c/o Mr. Robert S. Barber ("Applicant"), whose  
23 address is 16631 North River Road, Alva, Florida 33920, and described as  
24 located South of Scham Road, North of Tribune Boulevard, East of Burnt Store  
25 Road, and West of Green Gulf Boulevard, Punta Gorda area, in Commission  
26 District II, and more particularly described in Exhibit "A" attached hereto and by  
27 this reference incorporated herein; and

28 WHEREAS, the Applicant seeks a rezoning to Planned  
29 Development (PD) in order to amend the zoning designation from a low density  
30 single-family use (1 unit per 10 acres) to a higher density residential use (5 units



1 per acre) that allows a mixed residential development including single-family  
2 units as well as multi-family units; and

3 WHEREAS, Petition Z-07-04-18-TDU has previously been heard by  
4 the Charlotte County Planning and Zoning Board ("P&Z Board") and, based on  
5 the findings and analysis presented in the Planning and Zoning Division staff  
6 report dated June 19, 2007, and the evidence presented to the P&Z Board, has  
7 been recommended for approval with conditions; and

8 WHEREAS, after due consideration, based on the Planning and  
9 Zoning Division staff report dated June 19, 2007, and the evidence presented to  
10 it, the Board has found that approval of Petition Z-07-04-18-TDU is consistent  
11 with the 1997-2010 Charlotte County Comprehensive Plan, and that it meets the  
12 requirements for the granting of a rezoning, and;

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

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

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

21

22 Petition Z-07-04-18-TDU requesting rezoning from  
23 Agriculture Estates (AE) to Planned Development  
24 (PD) for 78.56 acres more or less of property owned  
25 by Burnt Store Ranch, LLC c/o Mr. Robert S. Barber,

1 and described as located South of Scham Road,  
2 North of Tribune Boulevard, East of Burnt Store Road,  
3 and West of Green Gulf Boulevard, in the Punta  
4 Gorda area, Commission District II, Charlotte County,  
5 Florida, and more particularly described in Exhibit "A"  
6 attached hereto and incorporated herein by this  
7 reference.

8  
9 SECTION 2. That the zoning for this property shall run with the  
10 property and shall apply to any subsequent owners, heirs and assigns.

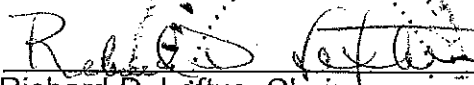
11 SECTION 3. This ordinance shall take effect upon filing in the  
12 Office of the Secretary of State, State of Florida.

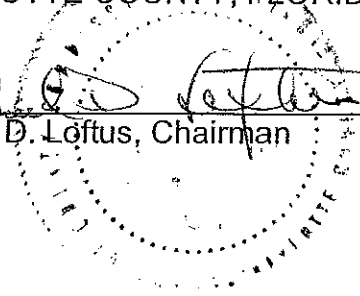
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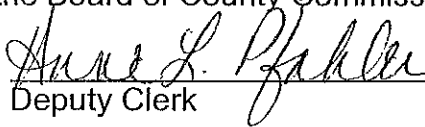
PASSED AND DULY ADOPTED this 21 day of August, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA


By:   
Richard D. Loftus, Chairman



ATTEST:  
Barbara T. Scott, Clerk of  
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

RB  
LR 2007-387

## LEGAL DESCRIPTION

Account #: 0072584-001010-9

A tract or parcel of land lying in that portion of the Northwest quarter (NW ¼) 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 ¼) of the Northwest quarter (NW ¼) 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, 1,273.56 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.

The above describes an area of approximately 46.41 acres.

Subject to easements, restrictions and reservations of record.

Bearings herein above mentioned are state plane for the Florida West Zone (NAD 1983/90 Adjustment) and are based on the North line of the Northwest quarter (NW-1/4) of said Section 4 to bear South 89°39'48" East.

Together with:

Legal Description – (O.R. Book 2068, Pages 1958-1959)  
The Northeast quarter (NE ¼) of the Northwest quarter (NW ¼) of Section 4, Township 42 South, Range 23 East, Charlotte County, Florida.

Less the following described Parcel:

Beginning at the Northwest corner of said fraction, run South 03°06'56" East along the Westerly line of the Northeast quarter of the Northwest quarter for 1339.19 feet; Thence run South 89°50'51" East along the South line of said Northeast quarter of the Northwest quarter for a distance of 284.81 feet; Thence run North 02°57'26" West for a distance of 1357.93 feet to a point on the North line of said Northeast quarter of the Northwest quarter; Thence run North 89°38'20" West along said North line for a distance of 288.63 feet to the point of beginning.

The above describes an area of approximately 32.15 acres.

Subject to easements, restrictions and reservations of record.

**EXHIBIT A**

**CONDITIONS:**

- a. Development on the subject property shall occur as generally illustrated in the PD Concept Plan submitted by the applicant, prepared by DeLisi Fitzgerald, Inc. dated February, 11, 2007, and revised on June 22, 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 March 8, 2007 are required to be met. The open space area shall be no less than 15.71± acres (The PD Concept Plan includes 12.02± acres of lake area, 1.202± acres of which may be counted toward open space). Areas indicated for single-family development and multi-family development will be developed as such. Revisions consistent with the notes on the approved PD Concept Plan shall be permitted. Residential development standards shall be as indicated on the PD Concept Plan, with minor modifications allowed only to increase lot sizes.
- b. The subject property currently retains seven (7) units of density. The applicant is proposing to develop a total of three hundred ninety (392) units including 350 multi-family units and 42 single-family units. The mix of multi-family units and single family units may be changed consistent with the PD Concept Plan. If more than 42 single family units are proposed, the applicant shall submit a revised Traffic Impact Statement and proportionate share analysis. The subject property shall require 385 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 until 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 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 within the recreation area is 40 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 developer, and subsequently, the homeowner's association or similar entity, is required to construct the future roadway connection(s) to the property which is located to the south of the subject site when that property is developed.
- i. 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-used 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

**EXHIBIT B**

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.

j. 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.

k. 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 grey water retention basins on site if at all possible.

l. 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.

m. The developer shall preserve 1.61± acres of gopher tortoise habitat on the subject property, and these areas shall be managed in perpetuity and no development shall be allowed. The developer shall relocate gopher tortoises to the preservation area. A Conservation Easement preserving in perpetuity the gopher tortoise habitat (1.61± acres) 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.

n. 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.

o. 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 portion of the property which contains a multi-family 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.
- p. 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.
- q. 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 80-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.
- r. The recreation area shall be 2.26± acres and will contain a clubhouse with a swimming pool together with other amenities such as a basketball court, tennis courts, and a parking area. The final design of the recreation area shall be determined at Final Detail Plan approval. 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.
- s. 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.
- t. Any changes in the Concept Plan must receive a recommendation from the Natural Resources Planning Section and the Comprehensive Planning Section.
- u. The developer, a homeowner's association, community development district or similar entity, is required to maintain all common areas within the development area.