

ORDINANCE NO. 07-34

FILED FOR RECORD  
R. B. SHORE

DRI #18, RIVER CLUB PARK OF COMMERCE

2007 APR 16 AM 9:37

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA REGARDING LAND DEVELOPMENT, RENDERING AN AMENDED AND RESTATED DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, FOR THE RIVER CLUB DEVELOPMENT OF REGIONAL IMPACT (ORDINANCE 01-46, AS AMENDED BY ORDINANCE 06-29); ALSO KNOWN AS TBRPC DRI #239 PROVIDING FOR DEVELOPMENT APPROVAL, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

2007 APR -9 AM 11:00

FILED

**WHEREAS**, Manatee Joint Venture previously received approval of a Development of Regional Impact (DRI) known as River Club DRI (AKA River Club Residential\*) located in Manatee County; and

**WHEREAS**, the amended DRI Development Order for the existing River Club DRI in Manatee County is Resolution R-89-243, as amended by Resolutions R-92-27 and R-93-238; and

**WHEREAS**, On June 14, 1988, and prior to approval of the Development Order for the River Club DRI, a Settlement Agreement\* was entered into between the Florida Department of Community Affairs, Tampa Bay Regional Planning Council, Manatee Joint Venture, Pursley Properties, Inc., and D'Urso Communities concerning aggregation and development of River Club, and a small parcel on SR 70; and

**WHEREAS**, the Settlement Agreement\* included a ±245 acre portion of River Club identified as Tract II; and

**WHEREAS**, the Settlement Agreement\* provided that Tract II\* shall undergo DRI review and that the Owner\* of Tract II\* shall have the option of either submitting an ADA\* for Tract II\* only, or submitting a Substantial Deviation ADA\* to the Development Order issued for Tract I\* and Braden Woods; and

**WHEREAS**, the Settlement Agreement\* specified that the traffic impacts of Tract I, River Club Residential\* and the Braden Woods subdivision be included as part of project traffic to the Tract II, River Club Park of Commerce\* development; and

**WHEREAS**, on April 26, 1990, a Credit Agreement was entered into between Manatee Joint Venture and Manatee County [No. CR-88-01(P)] as to parks and recreation impact fee credits; and

**WHEREAS**, on May 23, 1995, an Impact Fee Credit Agreement was entered into between Manatee Joint Venture and Manatee County [River Club LDA-93-03(R)] as to transportation impact fee credits; and

**WHEREAS**, on December 8, 1999, Manatee Joint Venture filed a Substantial Deviation ADA\* to the Development Order issued for Tract I\* and Braden Woods to allow new development on Tract II\* (a.k.a. River Club Park of Commerce\*) and the Tract I Four Acre Out Parcel\*, in accordance with the options provided in the Settlement Agreement\* for: 325,000 square feet of retail and service development; 100,000 square foot furniture store;

325,000 square feet of office; 60,000 square feet of mini-warehouses; 270 motel rooms; 2 single-family residential lots (Four Acre Out Parcel\* of Tract I); 450 multi-family units; and a group care home for 300 persons; and

**WHEREAS**, the County and Manatee Joint Venture have agreed for administrative purposes that River Club Tract II\* (River Club Park of Commerce\*) and a portion of River Club Tract I\* (the Four Acre Out Parcel\*) shall be governed by its own Development Order; and

**WHEREAS**, on June 1, 2006, Manatee County approved Ordinance 06-29 amending Ordinance 01-46 to:

1. Amend Map H to allow single-family attached residences on all parcels approved for multi-family residential, delete the group care (assisted living) use, limit the mini-warehouse use to the northern parcels adjacent to S.R. 70, and fill a 5.27-acre wetland in the northwest portion of the site;
2. Amend Table 1 to delete the 300 bed group care facility, add single-family attached residences as a permitted use, and increase the number of dwelling units from 450 to 500;
3. Modify Stipulation J(1) requiring the developer to provide a site for the fire district;
4. Modify Stipulation K(1) requiring the developer to make a cash payment to the school board; and
5. Change the owner, developer, and authorized agent for the project.

**WHEREAS**, the Developer has filed a Notice of Proposed Change (NOPC) to request that further amendments to the River Club Park of Commerce Development Order ("DO") be approved as follows:

1. A six year, 11 month and 30 day extension to the build out date (from October 23, 2008 to October 22, 2015), with a corresponding increase to the termination date and restrictions on down zoning;
2. Change the project owner and developer, and
3. Amend the Development Order to update terminology and departmental references; and other changes for internal consistency.

**WHEREAS**, the Tampa Bay Regional Planning Council, Florida Department of Community Affairs, and Manatee County were provided copies of the NOPC by Manatee Joint Venture and were, therefore, afforded the opportunity to comment on the proposed changes; and

**WHEREAS**, the described Project\* lies within the unincorporated area of Manatee County; and

**WHEREAS**, the Board of County Commissioners as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, has the

statutory authority to consider and approve Notices of Proposed Changes (NOPC) for amendments to an approved Development of Regional Impact; and

**WHEREAS**, the public notice requirements of Manatee County and Chapter 380, Florida Statutes, have been adhered to and satisfied; and

**WHEREAS**, the Manatee County Planning Commission has reviewed the NOPC and filed a recommendation on the NOPC with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners has received and considered the report and recommendation of the Tampa Bay Regional Planning Council (TBRPC); and

**WHEREAS**, the Board of County Commissioners held duly noticed public hearings on February 1, 2007 and April 5, 2007 on the NOPC and has solicited, received, and considered all testimony reports, comments, evidence, and recommendations from interested citizens, County agencies, the applicant, and the review and report of the Manatee County Planning Department.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 5th DAY OF APRIL, 2007 AS FOLLOWS:**

**SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #18, ORDINANCE 06-29.**

Ordinance 06-29 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the River Club Park of Commerce Development of Regional Impact. The prior Development Orders shall be superseded by this Ordinance. Provided this amendment shall not be construed to terminate the rights of the Developer, if any, granted under Section 163.3167(8), Florida Statutes, to the extent such rights have been previously granted and are not specifically herein or otherwise modified or amended.

**SECTION 2. FINDINGS OF FACT**

The Board of County Commissioners of Manatee County, after considering the testimony, evidence, documentation, NOPC for an amended Development Order\*, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A. All recitals proceeding Section 1 of this Ordinance are adopted as findings of fact.
- B. The following information and commitments submitted by Manatee Joint Venture, River Club Properties, Inc., and PG Farms, Inc. are hereby incorporated in this Development Order by reference:
  - 1. Substantial Deviation Application for Development Approval\*(ADA\*) received December 10, 1999.
  - 2. Substantial Deviation (ADA\*) First sufficiency response: received April 18, 2000.

3. Substantial Deviation (ADA\*) Second sufficiency response: received November 13, 2000.
  4. Substantial Deviation (ADA\*) Third sufficiency response received March 8, 2001.
  5. Substantial Deviation (ADA\*) Fourth sufficiency response received May 15, 2001.
- C. In construing and enforcing the provisions of the documents incorporated in this Development Order by Section 2.B. above, the following shall apply:
1. The Development Order shall control over any incorporated document in conflict or inconsistent with its terms.
  2. The most recent response of Manatee Joint Venture, River Club Properties, Inc., and PG Farms, Inc. in the referenced document shall control over previous response, whenever there is a conflict, otherwise the responses shall be considered cumulative.
  3. Any information, commitments, or impact mitigating provisions in the above-referenced documents which are inconsistent with the specific conditions set forth in this ordinance and the exhibits hereto, shall be deemed superseded and inapplicable.
- D. An application has been submitted to Manatee County and is being processed concurrently with this NOPC to approve an amendment to the General Development Plan for the entire 249.60 acre project.
- E. The Board of County Commissioners has received and considered the recommendation of the Manatee County Planning Commission concerning the DRI and the application of General Development Plan amendment as it relates to the real property described in Section 6 of this Ordinance, pursuant to Section 380.06, Florida Statutes. The report was rendered on January 11, 2007, following a public hearing.
- F. The BOCC held public hearings on February 1, 2007 and April 5, 2007, regarding the NOPC and the proposed amended General Development Plan, in accordance with the requirements of the Manatee County Land Development Code (Ordinance 90-01, as amended) and the Manatee County Comprehensive Plan (Ordinance 89-01, as amended) and has further considered the testimony, comments, and information received at the public hearing.
- G. The real property, which is the subject of this application is entitled River Club Tract II\* (hereinafter River Club Park of Commerce\*) and a portion of River Club Tract I\*(hereinafter Four Acre Out Parcel\*) which consists of approximately 249.60 acres, and is located within unincorporated Manatee County and is described in Section 6 of this Development Order. No change is requested as to the Four Acre Out Parcel\* which has been developed and conveyed to third parties pursuant to the terms of the Development Order.
- H. The Owner\* of River Club Park of Commerce\* is Villages at Riverclub Acquisition, LLC and Casvak River Club LLC.

- I. The authorized agent for Villages at Riverclub Acquisition, LLC and Casvak River Club LLC; is Robert F. Greene, 1301 6<sup>th</sup> Avenue W., Suite 400. Bradenton, FL 34205.
- J. A comprehensive review of the impact generated by development of River Club Park of Commerce\* and the Four Acre Out Parcel\* has been conducted by the departments of Manatee County and TBRPC.
- K. The Developer\* for purposes of this application is Villages at Riverclub Acquisition, LLC and Casvak River Club LLC.
- L. The Project\* is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.

### **SECTION 3. CONCLUSIONS OF LAW**

Based upon the previous findings of fact and the following conditions of the Development Order approval, the Board of County Commissioners of Manatee County concluded that:

- A. The development of River Club Park of Commerce\* and the Four Acre Out Parcel\* is consistent with the local land development regulations, the State Comprehensive Plan, the Comprehensive Regional Policy Plan, and the 2020 Manatee County Comprehensive Plan (Ordinance 89-01, as amended).
- B. The development of River Club Park of Commerce\* and the Four Acre Out Parcel\* is consistent with the report and recommendations of the TBRPC issued on August 13, 2001, on March 13, 2006 and October 9, 2006 regarding this NOPC, as conditioned herein.
- C. These proceedings have been duly conducted pursuant to applicable laws and regulations, and based upon the record in these proceedings, the Developer\* is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
- D. The review by the County, TBRPC, other participating agencies, and interested citizens reveals that impacts of the development amendments described in the ADA\* for River Club Park of Commerce\* and the Four Acre Out Parcel\* are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order. To the extent that the ADA\* is inconsistent with the terms and conditions of this Development Order, the terms and conditions of this Development Order shall prevail. A summary of the development covered by this Development Order is included as Table 1.
- E. The River Club Park of Commerce\* and Four Acre Out Parcel\* development does not unreasonably interfere with the achievement of the objectives of the Adopted State Land Development Plan applicable to the area.
- F. Pursuant to Section 380.06(19), Florida Statutes, the changes proposed pursuant to the NOPC submitted on August 15, 2006 and approved with conditions pursuant to Ordinance 07-34 are not presumed to be a Substantial Deviation,

## **SECTION 4. DEFINITIONS**

The definitions contained in Chapter 380, Florida Statutes and in the Manatee County Land Development Code and Comprehensive Plan shall apply to this Development Order in addition to those listed herein. The following capitalized terms used herein shall have the following meanings:

- A. "Acceptable Level of Service" shall, for links and intersections in Manatee County, Florida, mean Level of Service "C" on an average daily basis, or "D" on a peak hour basis, as provided in the Land Development Code. Level of Service "D" shall be measured on a peak hour basis as determined by the Highway Capacity Manual or the most current manual and computer software version in accordance with guidelines acceptable to Manatee County. Level of Service "C" capacity on an average daily basis shall be calculated either as 10 times the peak hour Level of Service "D" capacity, or if actual data is available to determine the "K" factor (please refer to the Florida Department of Transportation Planning and Statistics Department), then on the basis of the "K" factor.
- B. "Application" and "Application for Development Approval\*" or "ADA\*" shall mean the River Club Park of Commerce Development of Regional Impact (DRI) Application for Development Approval\* received on December 8, 1999 and four sufficiency responses received on April 18, 2000, November 13, 2000, March 8, 2001, and May 15, 2001, respectively; and all information submitted by the Developer\* in response to the sufficiency reviews of state, regional, and local agencies, the NOPC submitted on March 11, 2003 and amended on January 31, 2006, and this NOPC submitted on August 15, 2006.
- C. "Best Management Practices" shall mean the practices which are technologically and economically feasible in abating pollution generated by point and non-point sources, to a level compatible with water quality and quantity objectives of the Land Development Code.
- D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the current year plus one year of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.
- E. "County" shall mean the Board of County Commissioners for Manatee County, or their designee(s).
- F. "County Transportation Authority" shall mean the County Department responsible for roadway approvals.

- G. “Developer” shall mean Villages at Riverclub Acquisition, LLC and Casvak River Club, LLC, their heirs, assigns, designees, agents, and designated successors in interest as to the River Club Park of Commerce\* and the Four Acre Out Parcel\* DRI.
- H. “Development Approval\*” shall mean any approval for development granted through this DRI Development Order, the Preliminary Site Plan\*, Preliminary Plat, Final Plat, or Final Site Plan process or Construction Drawing approval where site plans or subdivision plats are not required, and all conditions of approval.
- I. “Four Acre Out Parcel” (AKA Tract I Four Acre Out Parcel\*), shall mean that portion of Tract I\* of River Club, located at the southeast intersection of State Road 70 and Braden Run, as described in Section 6.
- J. “Funding Commitments” shall mean to assure completion of any improvement required by this Development Order, or any combination of the following:
1. binding commitments for actual construction with a posting of a cash bond, irrevocable letter of credit, or other financial instrument, in a form satisfactory to the County; or
  2. actual construction; or
  3. the placement of the improvements in the capital improvements work plan of a responsible entity for construction during the fiscal year when the improvement is required, as long as the improvement is within the first two years of the responsible entity’s work plan at the time of Preliminary Site Plan\* approval of a subphase or phase; or
  4. a local development agreement as defined by Florida Statutes or the Land Development Code. The funding commitment shall guarantee that the improvement will be in place when needed or concurrent with the expected impacts of the development.
- K. “Horizontal Development” shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development\* (e.g., roadways, drainage, water, sewer, communications, utilities, etc.).
- L. “Master Development Plan\*” shall mean Map H, revised March 10, 2006, attached as Exhibit “A” and incorporated by reference in Ordinance 06-29.
- M. “Owner\*” shall mean Villages at Riverclub Acquisition, LLC and Casvak River Club LLC, their heirs assigns, designees, agents, and successors in interest as to the River Club DRI.
- N. “Preliminary Site Plan” (PSP) shall mean a Preliminary Site Plan\* for a Phase or Sub-Phase as defined in The Manatee County Land Development Code (Ordinance 90-01, as amended).
- O. “Project” shall mean the land uses by area, square footage, and density described in the ADA\* to be constructed on the real property described in Section 6 herein.

- P. “River Club Park of Commerce” shall mean the real property as described in Section 6 herein.
- Q. “River Club Residential” shall mean all portions of the River Club DRI which are described in Section 6 of Resolution R-89-243, as amended by Resolutions R-92–27, R-93-238, and R-01-158.
- R. “River Club Tract I” shall mean that portion of the River Club DRI which consists of: 1) River Club Residential\*, and 2) the Four Acre Out Parcel\*, both as defined herein.
- S. “River Club Tract II” shall mean the portion of the River Club DRI which consists of River Club Park of Commerce\*.
- T. “Settlement Agreement” shall mean that agreement entered into between the Florida Department of Community Affairs, Tampa Bay Regional Planning Council, Manatee Joint Venture, Pursley Properties, Inc., and D’Urso Communities on June 14, 1988, concerning aggregation and development of River Club, and a small parcel on State Road 70, known as the Four Acre Out Parcel\*.
- U. “Total p.m. Peak Hour Project Trips” shall mean the total number of vehicle trips that come in or go out of a development project site via all access points during the weekday p.m. peak hour of the adjacent street traffic.
- V. “Tract I,” (AKA River Club Tract I\*) shall mean that portion of River Club DRI which consists of: 1) River Club Residential\*, and 2) the Four Acre Out Parcel\*, both as defined herein.
- W. “Tract I Four Acre Out Parcel,” (AKA Four Acre Out Parcel\*) shall mean that portion of Tract I\* of River Club, at the southeast intersection of State Road 70 and Braden Run, as described in Section 6.
- X. “Tract II,” (AKA River Club Tract II\*) shall mean that portion of River Club DRI which consists of River Club Park of Commerce.\*
- Y. “Transportation Impact Area” shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by this Project\* will be four and a half (4½%) or more of the Manatee County adopted Level of Service. This area is generally depicted on Figure 21-1 which was submitted with the 2<sup>nd</sup> Sufficiency Response.
- Z. “Vertical Development” or “Vertical Construction” shall mean and be deemed to include the construction of or the addition to any existing structure.
- AA. “Warranted” shall mean a determination by the County based on generally accepted transportation engineering practices that the Acceptable Level of Service\* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All reserved vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination.



BB. "Wetland\*" shall mean any wetland under the jurisdictional limits defined by Chapter 62-340, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined by Chapter 40D-4, FAC, and implemented by the Southwest Florida Water Management District.

The definitions contained in Chapter 380, Florida Statutes, shall apply to this Development Order.

Note: An asterisk (\*) in the text of this Development Order denotes that the word is defined.

**SECTION 5. DEVELOPMENT CONDITIONS**

**A. DEVELOPMENT APPROVAL\* AND LEVEL OF SERVICE CERTIFICATE CONDITIONS**

A(1). This Development Order shall constitute approval of the ADA\* for River Club Park of Commerce\* ,except as modified by this NOPC, subject to the conditions set forth herein and shall be limited to the development amounts set forth in Table 1, below.

This Development Order shall constitute approval of the ADA\* for the Four Acre Out Parcel\* subject to the conditions set forth in Section 5, N(1) only and shall be limited to two single-family dwelling units and recreation/open space.

A(2). Development may occur at those locations identified on Map H (See Attached Exhibit A in Ordinance 06-29) in accordance with the permissible range of land uses within that Tract, provided all conditions of this Development Order are adhered to and the specific amount and type of Vertical Development\* proposed is concurrent with all necessary infrastructure improvements.

<b>TABLE 1 – DEVELOPMENT TOTALS</b>		
<b>TYPE OF DEVELOPMENT:</b> Multi-Use Development.		
<b>LOCATION:</b> Southeast corner of the intersection of I-75 and SR 70		
<b>LAND USE</b>	<b>TOTALS (Size/Units)</b>	<b>ACREAGE</b>
Retail and Service Development -(Including a furniture store of 100,000 sq.ft.) -(Including commercial of 325,000 sq.ft.)	425,000 sq. ft. (100,000 sq.ft.) (325,000 sq.ft.)	97 acres
Office	325,000 sq. ft.	
Industrial -(mini-warehouse)	60,000 sq. ft.	
Motel	270 Rooms	
Residential -Multi-Family (Apts.)/Single-family attached	500 Dwelling Units	57 acres
Residential -Four Acre Out Parcel	2 single-family lots	2 acres*

Right-of-way (main road), FP&L Easement, Wetlands, Borrow Pit & Open Space		93 acres
		TOTAL = 249 acres
<b>BUILD-OUT DATE</b>	<b>October 22, 2015</b>	

\* Includes only the lot area and not associated open space in the Four Acre Out Parcel

A(3). The development totals specified with Table 1 above are approved subject to the conditions found within the Development Order and the transportation improvements required by Stipulation B(1) and Table 3. The Developer\* has demonstrated the availability of adequate infrastructure and the ability to meet Acceptable Levels of Service for roadways, solid waste service, mass transit, drainage, and parks and recreation provided that the maximum cumulative total for the project does not exceed the following threshold:

1,608 Total P.M. Peak Hour Project Trips\*

The Certificate of Level of Service shall be valid until March 13, 2010.

A(4). Prior to expiration of the Certificate of Level of Service (March 13, 2010) granted under Stipulation A(3) above, any Preliminary Site Plans\* for development that cumulatively, with previously approved Preliminary Site Plans\*, exceed any of the thresholds established in A(3) above shall be subject to review and approval of a new concurrency analysis for traffic, water, and wastewater and the issuance of a revised Level of Service Certificate. Any transportation analysis resulting in additional roadway or intersection improvements shall be approved by the Board of County Commissioners at an advertised public hearing. The County has no obligation to approve any development totals that would require triple left turn lanes at the northbound exiting intersection of 87th Street East and State Road 70.

A(5). Every Preliminary Site Plan submitted to Manatee County shall contain a summary table of approved land uses to date, their corresponding total number of p.m. peak hour project trips\* expected to be generated (based upon the 6<sup>th</sup> Edition of the ITE Trip Generation Manual), and the cumulative totals of approved land uses, trip generation, potable water and wastewater usage for River Club Park of Commerce\*. This table shall be adjusted annually to reflect trips counted and reflected in the Annual Monitoring Report.

A(6). All single-family residential development which does not have a Final Subdivision Plat prior to March 13, 2010 and all remaining development which does not have a building permit prior to March 13, 2010 shall be subject to review and approval of a concurrency analysis. The additional CLOS shall require Board of County Commission approval. If a new concurrency analysis is submitted it shall be required to consider the impacts of all projects, approved and pending, which have been submitted prior to submission of the new concurrency analysis.

A(7). Tradeoffs between the land uses set forth in Table 1 may be granted by the Board of County Commissioners with an amendment to the General Development Plan approved by the Board along with a traffic study addressing any changes in trip generation, distribution, average queue length at intersections, and any mitigation necessary as a result of the tradeoff (Note: Even if the trip generation estimates as a result of the tradeoff are less than or equal to what was previously approved, a traffic study shall still be required to address the change in entering and exiting percentages, and consequently other measures of effectiveness). On January 5, 2006, the Board approved an amendment to the General Development Plan to implement a "tradeoff" in accordance to this provision. Any future proposal for a "tradeoff" shall be reviewed for compliance with the provisions of this Development Order, the Manatee County Land Development Code, and the Manatee County Comprehensive Plan. The developer shall also be required to demonstrate that 1) the quantities of solid waste generated, potable water consumed, and wastewater, and 2) the impacts to the County Parks, Transit Services, EMS, and Sheriff, in the event of any tradeoffs, are less or meet County standards in effect at the time of tradeoff. The Developer\* shall give DCA and the Tampa Bay Regional Planning Council notice of its intent to trade off land uses at least 15 days prior to the County's approval of any such trade off. The Notice shall identify the resulting impacts of the trade off in terms of land use, traffic generation, potable water, wastewater, solid waste, and affordable housing. In addition, the DRI annual report shall include information indicating cumulative amounts of development which have been approved by the County as of the annual report date and the resulting impacts on traffic generation, potable water, wastewater, solid waste, and affordable housing. Following the County's approval of any such trade off, the County shall provide to the Department of Community Affairs and TBRPC a copy of said approval. Such notice shall not require an NOPC or Substantial Deviation Determination.

A(8). Trade offs between approved land use totals shall be limited to the minimum and maximum exchanges listed in Table 2 below:

**TABLE 2  
Minimum and Maximum Development for Trade Off of Land Uses**

<b>Land Use</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Unit</b>
Commercial	200,000	360,000	Square Feet
Furniture Store	0	100,000	Square Feet
Office	200,000	360,000	Square Feet
Mini-Warehouse	0	70,000	Square Feet
Motel	130	450	Rooms
Multi-Family Apt.	300	500	Dwelling Units

A(9). The following limitations shall apply to any tradeoff between land uses:

- a.) Following the County's approval of any such tradeoff thru an amended Zoning Ordinance, the County shall provide to the DCA and TBRPC a copy of said approval. Such notice shall not require a Substantial Deviation Determination.
- b.) Tradeoffs not exceeding the limits set forth in Table 2, above, shall not constitute a Substantial Deviation.

c.) Any deviations below the minimums or above the maximum development totals set forth in Table 2, above, shall require Substantial Deviation Determination pursuant to Section 380.06. (19) Florida Statutes.

- A(10). The Project\* site may continue to be used for agricultural activities, but at no greater intensity than at present. No silvacultural or agricultural activities shall be initiated on land not currently under such use.
- A(11). Any excess infrastructure capacity constructed to potentially serve development beyond that permitted with any Preliminary or Final Site Plan shall be at the Developer\*'s risk and shall not be construed to vest additional Vertical Development\* construction rights.
- A(12). Preliminary and Final Site Plan Applications for Vertical Development\* shall be reviewed for compliance with this Development Order and shall be subject to the requirements of the 2020 Manatee County Comprehensive Plan and Land Development Code in effect at the time of such site plan application which are not specifically addressed in this Development Order or are not inconsistent with this Development Order.

**B. TRANSPORTATION CONDITIONS**

B(1). The following roadway and intersection improvements shall be required. The Developer\* shall, at the time of each application for Preliminary Site Plan\* approval, furnish to the County\* an accurate, up to date report of the amount of development, defined in terms of total p.m. peak hour trips\*, identified in the DRI documentation, which has previously been permitted in the Project\*. The Developer\* shall not be entitled to a Preliminary Site Plan\* approval which would result in the cumulative number of total p.m. peak hour trips for the Project\* to exceed the applicable subphase total p.m. peak hour project trip transportation improvement thresholds unless Funding Commitments\* have been obtained to ensure that the improvements required are in place Concurrent\* with such subphase.

**Table 3  
REQUIRED IMPROVEMENTS**

	Location	Total Traffic LOS Prior to Improvement	Project Traffic Impact (Percent)	Required Improvement	When Required ( total p.m. peak hour project traffic)
1.	S.R. 70/I-75 East Ramps Intersection	F	50.7	Add second NB I-75 to EB S.R. 70 RT lane *	1,314
				Signalize the EB S.R. 70 to NB I-75 and NB I-75 to EB S.R. 70 intersections when warranted by the MUTCD and approved by FDOT.	1,314 (1) completed by others
2.	S.R. 70/87th Street Intersection	F	39.0	Add second NB to WB LT lane, while maintaining existing NB through lane and NB to EB RT lane.	1,314 (1) completed by others
				Add second WB to SB LT lanes, while maintaining existing two WB through lanes and WB to NB RT lane.	1,314 (1) completed by others
				Add two SB to WB RT lanes, while maintaining existing SB through lane and	1,314 (1) completed by

				SB to EB LT lane. Add second EB to NB LT lane, while maintaining existing two EB through lane and EB to NB RT lane.	others
				Signalize	1,314 (1) completed by others
3.	S.R. 70/I-75 West Ramps Intersection	F	19.5	Signalize the SB I-75 LT onto EB S.R. 70 when warranted.	1,314 (1) completed by others
				Add dual LT lane at SB I-75 off-ramp onto EB S.R. 70	1,314 (1) completed by others
4.	Project's West access/S.R. 70			Widen EB S.R. 70 to provide a deceleration and EB to SB right turn lane	Prior to first C.O. for Vertical Development*
<b>ACRONYM LISTING:</b> EB - East Bound      MUTCD - Manual of Uniform Traffic Control Devices WB - West Bound      LT - Left-Turn NB - North Bound      RT - Right Turn SB - South Bound					

\* If requested by FDOT and Manatee County. If this improvement undergoes permitting from FDOT, an operational analysis will be required to show that the proposed geometrics will yield safe and efficient operation for design year traffic. This process may result in additional or alternative mitigation requirements.

(1) Represents 80% of initial Phase 1 total project traffic entering and exiting the development.

**B(2).** A monitoring program to verify that the actual number of trips generated by River Club Park of Commerce\* is reflective of the transportation analysis and subsequently prescribed mitigative measures shall be instituted by the Developer\*. The program shall provide annual p.m. peak hour project driveway counts at locations identified on Exhibit D in Ordinance 06-29. The monitoring program shall commence one (1) year after Vertical Construction\* commences. Monitoring shall continue on an annual basis until Project\* buildout.

The monitoring program shall consist of weekday PM peak hour directional counts from 4:00 to 6:00 PM, with subtotals at 15-minute increments, at the specified locations shown on Exhibit D (through volumes on SR 70 will not have to be counted.) The sum of the Project\* entrance trips will be totaled in 15-minute increments and the highest four consecutive 15-minute totals will be summed to determine the Project\*'s total PM peak hour traffic volume.

The required monitoring data shall be included in each Annual Report. If the monitoring results demonstrate that the Project\* is generating more than five (5) percent above the number of trips estimated in the original analysis or an Annual Report is not submitted within 30 days of its due date, Manatee County shall conduct a Substantial Deviation determination pursuant to Subsection 380.06(19), F.S., and may amend the Development Order to change or require additional roadway improvements. The revised Transportation Analysis shall be subject to review by all appropriate review entities.

**C. ENVIRONMENT**

**C(1).** Vegetation, Wildlife, and Wetlands\*

a. In the event that any additional state or federally-listed species or nesting colonies of wading bird species not already identified are discovered on-site

during Project\* development, the Developer\* shall immediately notify the Florida Fish and Wildlife Conservation Commission and Manatee County Planning Department and implement the recommended measures for species protection.

- b. A management plan for the Project\*, for removal of nuisance and exotic species, shall be developed by the applicant and approved by the Planning Department prior to the first Final Site Plan approval for the Project\* and included in the next annual report.
- c. Post-development wetlands\*, upland conservation tracts, and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes. These areas shall be placed under conservation easements conveyed to Manatee County consistent with the restrictions on development provided for in Section 719 of the Land Development Code.
- d. Maintenance of preserved and post-development wetlands\*, mitigation areas, and upland conservation areas shall be assured through the incorporation of a Habitat Protection Plan. The Plan shall be submitted to EMD for approval with the first Final Site Plan and included in the next annual report.
- e. The natural hydroperiod shall be restored to the post-development and on-site wetlands\* to the greatest degree possible.
- f. The Project\* site may continue to be used for agricultural activities, but at no greater intensity than at present. No silvacultural or agricultural activities shall be initiated on land not currently under such use.
- g. The Developer\* will relocate gopher tortoises to other suitable locations on site, as approved by Florida Fish and Wildlife Conservation Commission, or contribute money to purchase suitable habitat in accordance with state guidelines and permit requirements.
- h. Wildlife corridors shall be created, preserved, and maintained between wetland systems to provide habitat for various mammal, reptiles, and amphibians, as identified on Map F, dated September 17, 2001.

C(2). Air Quality

- a. Best Management Practices shall be employed during site preparation and construction to minimize air quality impacts.

C(3). Water Quality and Stormwater Management

- a. An Environmental Assessment of the site shall be conducted by an Environmental Consultant to determine potential hazardous material locations (e.g., historical cattle dipping vats, underground/above ground storage tanks, or buried drums). Should evidence of hazardous material be discovered, further investigations will be required to determine the level of contamination and appropriate remediation/mitigative measures. The Environmental Assessment for the entire site shall be conducted and

submitted for County review prior to the first Preliminary Site Plan\* approval. Development restrictions may be imposed if any contamination is discovered.

- b. An Integrated Pest Management Plan (IPM) shall be developed and approved by Manatee County prior to the first Final Site Plan. The IPM shall address the following items:
  - (1) Fertilizer/pesticide/herbicide/application; and
  - (2) Related quality control and assurance procedures.

A training manual shall be developed as part of the IPM for maintenance personnel and made available on site at all times.

- c. The Developer\* shall encourage the use of water conserving landscapes and the responsible use of water, pesticides and fertilizers by occupants; and the Developer\* shall participate in the Florida Yards and Neighborhoods Program and follow the guidelines for lawn and landscape maintenance set forth therein. These efforts shall be enforced through Property Owners' Associations.
- d. In order to protect surface water quality, stormwater exiting the site shall meet or exceed all applicable State water quality standards.
- e. The design and construction techniques listed below shall be utilized to minimize groundwater contamination:
  - (1) using shallow ponds;
  - (2) ensuring that ponds and swales are properly grassed;
  - (3) setting a maximum depth for stormwater storage;
  - (4) maintaining a minimum distance between pond bottoms and the top of the confining layer for the Floridan aquifer; and
  - (5) implementation of a site-specific groundwater quality monitoring system.
- f. The applicant is encouraged to meet with the Southwest Florida Water Management District's Venice permitting staff for a pre-application conference prior to engaging in any stormwater designs and prior to submitting any applications for Environmental Resource Permits. The pre-application conference will enable District staff to assist the Developer\* to better understand regional hydrology and its relation to approved development in the area to ensure that the proposed stormwater system will function.
- g. Prior to any site alteration activities associated with the Project\*\*, the Developer\* shall implement a construction/ongoing surface water quality monitoring program approved by Manatee County's Environmental Management Department, the City of Bradenton, and the Southwest Florida Water Management District. The surface water quality monitoring program shall include an identification of the locations, frequency, duration of sampling, parameters to be monitored, collection and analytical methods, and reporting requirements. All water quality sample collections and laboratory analysis shall be conducted in accordance with NELAP approved methodology. The laboratory performing the analyses shall be certified by the Florida Department of Health and shall have an approved

comprehensive quality assurance plan on file with the FDEP. In the event that an overall watershed monitoring program and reporting program is implemented and satisfies the intent of the ongoing surface water monitoring program of this condition, the ongoing surface water quality monitoring program may be discontinued upon the recommendation and approval of such by the County.

The stormwater management system shall be designed, constructed, and maintained to meet or exceed the applicable requirements of Chapter 62-25, 40D-4, and 62-40, F.A.C. The stormwater management system shall be designed to comply with the provisions relating to the Evers Reservoir Watershed Protection Overlay District by providing treatment, at a minimum, of 150% of that required by Chapter 62-25 and 40D-4, F.A.C.

- h. The stormwater management systems shall be designed, constructed, and maintained to meet or exceed applicable requirements of the adopted Manatee County Comprehensive Plan and Chapter 62.4, 62-25, 40D-4, 40D-40, 40D-400 F.A.C.

C(4). Soils

- a. Best Management Practices shall be employed during site preparation and construction to prevent soil erosion.

D. ARCHAEOLOGICAL AND HISTORICAL RESOURCES

- D(1). The discovery of any significant historical or archaeological resources shall be reported to the Florida Division of Historical Resources and the disposition of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County.

E. WASTEWATER MANAGEMENT

- E(1). The County has determined that there exists adequate wastewater capacity to accommodate the impacts of the Development Totals authorized in Table 1, provided that the usage does not exceed 230,900 gallons per day (See Exhibit E). The Certificate of Level of Service shall be valid until October 23, 2006. All residential development which does not have a Final Plat approval (or building permit if platting is not required) and all non-residential development which does not have a building permit prior to October 23, 2006 shall be subject to a determination by the County of whether there exists adequate wastewater capacity to accommodate the impacts of all development after this date. Such determination shall be made in accordance with the Manatee County concurrency requirements in effect at the time.
- E(2). Wastewater shall not be treated on-site or by a private utility.
- E(3). No septic tanks shall be installed on the River Club Park of Commerce\* site or the Four Acre Out Parcel\*.

F. WATER SUPPLY



- F(1). The County has determined that there exists adequate water capacity to accommodate the impacts of the Development Totals authorized in Table 1, provided that the usage does not exceed 267,000 gallons per day (See Exhibit E). The Certificate of Level of Service shall be valid until October 23, 2006. All residential development which does not have a Final Plat approval (or building permit if platting is not required) and all non-residential development which does not have a building permit prior to October 23, 2006 shall be subject to a determination by the County of whether there exists adequate potable water capacity to accommodate the impacts of all development after this date. Such determination shall be made in accordance with the Manatee County concurrency requirements in effect at the time.
- F(2). The applicant shall use the lowest quality of water available for irrigation purposes. Consideration shall be given to meeting the irrigation needs of the Project\* with the following sources, in order of preference: (1) treated stormwater; (2) non-potable quality groundwater. Prior to each Final Site Plan approval, the Developer\* shall identify the irrigation source which will be utilized.
- F(3). In the event that the use of reclaimed water is authorized within the Evers Reservoir Watershed and reclaimed water lines are installed adjacent to the site, the Developer\* shall connect to the system and require utilization of this resource to the maximum extent possible for irrigation purposes. In the mean time, irrigation of landscaping shall be limited to the use of well water or stormwater.
- F(4). Water-saving devices shall be required in the Project\* as mandated by the Florida Water Conservation Act (Section 553.14, F.S.).
- F(5). The Developer\* shall utilize the water conservation techniques/methods identified in the ADA\*. This would include, but not be limited to: water saving plumbing fixtures, appliances, and other conserving devices; and use of native landscaping materials to minimize irrigation needs.
- F(6). The Developer\* shall maintain all water lines and fire hydrants not dedicated to the County.
- G. SOLID/HAZARDOUS WASTE/MEDICAL WASTE
- G(1). The County has determined that there exists adequate solid waste capacity to accommodate the impacts of the Development Totals authorized in Table 1 of this Development Order. The Certificate of Level of Service shall be valid until October 23, 2006.
- G(2). In the event that businesses using or producing hazardous materials or medical waste locate within the Project\*, these materials shall be handled in a manner consistent with applicable Federal, State, and Local regulations.
- H. ENERGY
- H(1). The energy conservation measures shall include: individual meters for each retail facility; installation of energy saving equipment; regular maintenance of energy saving equipment; architectural design considerations; shielding of building exteriors from the direct effects of the sun to the maximum extent practical with

landscaping and reduced lighting and cooling of buildings during non business hours.

- H(2). The Developer\* shall use xeriscape landscaping wherever possible to reduce both water and energy consumption.

Landscape plans shall incorporate the preservation of native vegetation and significant amounts of xeriscape landscaping to reduce both water and energy consumption.

**I. RECREATION AND OPEN SPACE**

- I(1). The Developer\* shall be responsible for the maintenance of all recreation and open space areas within the Project\* site not dedicated to the County.

**J. PUBLIC SAFETY**

- J(1). The Developer\* shall review the concepts of “fire safe communities” as provided by the Florida Division of Forestry, and implement all appropriate measures.

**K. EDUCATION**

- K(1). This project shall be subject to all school impact fees in effect at time of application of building permits.

**L. AFFORDABLE HOUSING**

- L(1). An assessment of the potential affordable housing impacts of the Project\* was performed as part of the Application for Development Approval\*. This analysis was accepted by all reviewing agencies and determined that there is no unmet need created by this Project\*.

**M. GENERAL CONDITIONS**

- M(1). Should the Project\* significantly depart from the parameters set forth in this Development Order and the ADA\*, the Project\* will be subject to a Substantial Deviation Review, pursuant to Section 380.06(19), Florida Statutes. Any change to the Project\* which meets the criteria set forth in Subsection 380.06(19), Florida Statutes shall require a hearing to determine if the change constitutes a Substantial Deviation.

- M(2). The Developer's\* commitments set forth in the ADA\*, and, as summarized in Exhibit C attached, shall be honored, except as they may be superseded by specific terms of the Development Order.

- M(3). The Developer\* shall coordinate with the Institute for Business and Home Safety (IBHS) and the Manatee County Division of Emergency Management to determine the feasibility of incorporating fire and wind-resistant “fortified” design criteria into the commercial, office, light industrial, and motel facilities.

- M(4). Should the Developer\* divest itself of all interest in the Project\* prior to the expiration of the Development Order, the Developer\* shall designate the

successor entity to be responsible for preparation of the Annual Report, subject to approval by the County\*.

- M(5). The Manatee County Planning Director or the Director's authorized designee shall be responsible for monitoring the Development and ensuring its compliance with this Development Order. The data necessary for monitoring the Development shall be generated by Building Permits, Certificates of Occupancy, approval of plats and offering statements, the Annual Report, and on-site observations. The enforcement of the terms and conditions of this Development Order shall be through such means as are authorized by Chapter 380, Florida Statutes, and through the Manatee County Land Development Code.
- M(6). The Developer\*, its successors, assigns, or transferees, shall submit Annual DRI Reports in accordance with Section 380.06(18), Florida Statutes\* to the County\*, TBRPC, the State Land Planning Agency, and other agencies, as may be appropriate, on November 30, 2002 (Note: this date corresponds with the Annual Report submittal date for the River Club Residential\* DRI) and each year thereafter until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of the Manatee County Planning Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Planning Director decide further orders and conditions are necessary. The Developer\* shall be notified of any Board of County Commissioners' hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, modification, or change of any conditions, or any terms or conditions of this Development Order. The Annual Report shall contain the following:
- a. Any change in the plan of development, or in the representation contained in the ADA\*, or in the phasing or land uses for the reporting year and for the next year;
  - b. A summary comparison of development activity proposed and actually conducted for the year;
  - c. Identification of undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or Developer\*;
  - d. Identification and intended use of lands purchased, leased, or optioned by the Developer\* adjacent to the land encompassed by the Development Order for the Project\*;
  - e. An assessment of the Developer's\* and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the Application for Development Approval\*\* and which have been identified by the County\*, TBRPC, or DCA, as being significant;
  - f. Any known incremental DRI Applications for Development Approval\* or requests for a Substantial Deviation Determination that were filed in the reporting year and to be filed during the next year;
  - g. An indication of a change, if any, in local government jurisdiction for any portion of the Development\* since the Development Order was issued;

- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
- i. A copy of any recorded notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer\* pursuant to Subsection 380.06(15)(f), Florida Statutes;
- j. A statement that all persons have been sent copies of the Annual Report in conformance with Subsection 380.06(15) and (18), Florida Statutes;
- k. Information on the actual prices and rents of housing units constructed relative to the then current Department of Housing and Urban Development (HUD) affordable housing guidelines; and
- l. An updated map showing the locations and acreage of upland and wetland preservation.

M(7). In the event of a Development Order appeal or other legal challenge of this Development Order by the Department of Community Affairs, then the Developer\* shall pay all reasonable costs and fees of County\* staff and attorneys relating to said appeal or legal challenge at the rate for processing this Development Order under the current Planning fee schedule. Payment of all billings by the Developer\* related to such fees and costs shall be paid within forty five (45) days of submittal of an invoice.

A. **FOUR ACRE OUT PARCEL GENERAL CONDITIONS**

N(1). The Four Acre Out Parcel\*, as identified herein in Section 6, shall be limited to two single-family residential dwelling units and recreation/open space.

**SECTION 6. LEGAL DESCRIPTION**

Development of River Club Park of Commerce\* shall be restricted to the 245.38 acre tract of land described below:

**RIVER CLUB PARK OF COMMERCE**

**DESCRIPTION:**

FROM THE N.W. CORNER OF BLOCK 1 OF BRADEN WOODS SUBDIVISION, PHASE I, AS RECORDED IN PLAT BOOK 21, PAGE 5 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, ALSO BEING THE N.E. CORNER OF BRADEN WOODS SUBDIVISION, PHASE V AS RECORDED IN PLAT BOOK 22, PAGE 97 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE N 70°20'03" W, ALONG THE BOUNDARY OF SAID BRADEN WOODS SUBDIVISION, PHASE V A DISTANCE OF 1036.13 FEET TO THE EAST LINE A 330 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT FOR THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID BOUNDARY THE FOLLOWING FOUR COURSES; N 70°20'03" W, A DISTANCE OF 30.00 FEET; THENCE S 28°55'06" W, A DISTANCE OF 464.42 FEET; THENCE S 01°11'43" W, A DISTANCE OF 1286.17 FEET; THENCE S 00°36'23" W A DISTANCE OF 1331.85 FEET; THENCE S 89°37'50" E, A DISTANCE OF 244.50 FEET TO THE N.W. CORNER OF BRADEN WOODS SUBDIVISION, PHASE III, AS RECORDED IN PLAT BOOK 21, PAGE 129 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE S 00°36'23" W, ALONG THE WEST LINE OF SAID SUBDIVISION AND THE

WEST LINE OF BRADEN WOODS SUBDIVISION, PHASE IV, AS RECORDED IN PLAT BOOK 21, PAGE 159 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, A DISTANCE OF 3884.79 FEET TO THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 93 (I-75) SECTION 13075-2402; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING TWELVE COURSES: N 83°02'44" W, A DISTANCE OF 569.68 FEET; AND N 89°32'55" W, A DISTANCE OF 260.89 FEET; AND N 13°41'35" W, A DISTANCE OF 2043.30 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 11329.16 FEET; AND NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°36'40", A DISTANCE OF 2889.07 FEET TO THE END OF SAID CURVE; AND N 03°24'57" E, A DISTANCE OF 304.84 FEET; AND N 01°15'18" E, A DISTANCE OF 1199.68 FEET; AND N 03°12'44" E, A DISTANCE OF 395.97 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S 85°05'19" E, AT A DISTANCE OF 5635.58 FEET; AND NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09°40'21", A DISTANCE OF 951.38 FEET TO THE END OF SAID CURVE; AND N 37°47'42" E, A DISTANCE OF 221.34 FEET; AND N 84°10'55" E, A DISTANCE OF 221.34 FEET; AND S 72°37'29" E, A DISTANCE OF 748.74 FEET; AND S 70°20'03" E, A DISTANCE OF 400.00 FEET TO THE END OF SAID RIGHT OF WAY LINE; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 70 (SECTION 13075-2403) THE FOLLOWING TWO COURSES; CONTINUE S 70°20'03" E, A DISTANCE OF 60.00 FEET; AND N 19°39'57" E, A DISTANCE OF 12.41 FEET TO THE AFORESAID EAST LINE OF A 330 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE S 01°11'43" W, A DISTANCE OF 685.74 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 13 AND 24, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO A 330 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT, A D.O.T. ACCESS RIGHT OF WAY (O.R.B. 977/362), A COUNTY MAINTAINED RIGHT OF WAY, AND ANY OTHER PERTINENT EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD.

CONTAINING 245.38 ACRES, MORE OR LESS.

Development of the Four Acre Out Parcel\* shall be restricted to the 4.22 acre tract of land described below:

FOUR ACRE OUT PARCEL

DESCRIPTION:

COMMENCE AT THE N.W. CORNER OF LOT 1, BLOCK 2 OF BRADEN WOODS SUBDIVISION, PHASE 1, AS RECORDED IN PLAT BOOK 21, PAGES 5-10 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA: THENCE ALONG THE EAST RIGHT OF WAY LINE OF BRADEN RUN, AS SHOWN ON SAID SUBDIVISION THE FOLLOWING TWO COURSES: N 00°27'12" E, A DISTANCE OF 29.27 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 558.00 FEET: AND NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 28°03'19", A DISTANCE OF 273.23 FEET TO THE POINT OF BEGINNING: THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING THREE COURSES: NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°01'59", A DISTANCE OF 39.28 FEET TO THE P.T. OF SAID CURVE: AND N 32°32'30" E, A DISTANCE OF 227.04 FEET TO THE P.C. OF A CURVE:

TO THE LEFT HAVING A RADIUS OF 642.00 FEET: AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°52'33", A DISTANCE OF 144.28 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 70: THENCE S 70°20'03" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 392.15 FEET: THENCE S 19°39'57" W. A DISTANCE OF 431.80 FEET: THENCE N 70°20'03" W, A DISTANCE OF 441.58 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 98°50'34", A DISTANCE OF 43.13 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTION 18, TOWNSHIP 35 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA.  
SUBJECT TO PERTINENT EASEMENT, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD.

CONTAINING 4.22 ACRES, MORE OR LESS.

#### **SECTION 7. COMMENCEMENT OF DEVELOPMENT**

Physical development of the Project\* shall commence by October 23, 2008. If physical development of the Project\* has not commenced within two years, or if any five year period shall expire without significant additional physical development activity on the site, the BOCC may conduct a public hearing in accordance with the Land Development Code after appropriate notice to the Developer\* and may, at its option, based on testimony presented at that hearing, rescind, suspend, or take other appropriate action on any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer\*. For purposes of this provision, "physical development" shall be the actual construction of buildings or infrastructure by the Developer\* that is approved on a Final Site Plan or Plat for the Project\*.

#### **SECTION 8. BUILD-OUT**

Buildout shall be completed by October 22, 2015.

#### **SECTION 9. TERMINATION DATE**

This Development Order shall expire October 22, 2017 to allow for post-development monitoring. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.

#### **SECTION 10. DEVELOPER\* COMMITMENTS**

The ADA and the four sufficiency responses submitted are specifically incorporated by reference, except as they may be superseded by specific terms of this Development Order to the extent that commitments are made in these documents, they shall be honored as Developer\* Commitments. The Developer\* Commitments for the River Club Park of Commerce and the Four Acre Out Parcel\* are attached as Exhibit C.

#### **SECTION 11. RESTRICTIONS ON DOWN-ZONING**

Prior to the buildout date (October 22, 2015) of this Development Order, the County shall not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County can demonstrate that:

1. substantial changes in the conditions underlying the approval of the Development Order have occurred; or
2. the Development Order was based upon substantially inaccurate information provided by the Developer\*; or
3. the change is clearly established by the County to be essential for the public health, safety, or welfare.

Any down-zoning or reduction in intensity shall be affected only through the usual and customary procedures required by statute or ordinance for change in local land development regulations.

For purposes of this Development Order, the term "down-zone" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this Development Order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer\* by this Development Order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the development, but is included to comply with Paragraph 380.06(15)(c)3, Florida Statutes.

#### **SECTION 12. BINDING ORDER UPON DEVELOPER AND COUNTY**

This Development Order shall be binding upon the Developer\*, Owner\*s, the County, and upon the Developer\*s and Owner\*s grantees, successors, and assigns.

#### **SECTION 13. COMPLIANCE WITH CODES AND ORDINANCES**

All development undertaken pursuant to this Development Order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically provided herein.

#### **SECTION 14. RENDITION**

The Planning Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the BOCC approval to the Developer\*, DCA, and TBRPC.

#### **SECTION 15. NOTICE OF RECORDING**

The Developer\* shall record a notice of adoption of this Development Order as required pursuant to Chapter 380, Florida Statutes, and shall furnish the Planning Department a copy of the recorded notice.

#### **SECTION 16. SEVERABILITY**

It is the intent of this Development Order to comply with the requirements of all applicable law and constitutional requirements. If any provision of this Ordinance or the application thereof to any person or circumstance is for any reason held or declared to be unconstitutional, inoperative, or void by a Court of Competent jurisdiction, such holdings of

invalidity shall not affect the remaining portions or applications of this Ordinance, and to this end the provisions of this Ordinance are declared severable.

**SECTION 17. EFFECTIVE DATE**

This Ordinance shall become effective upon filing of a certified copy with the Department of State and transmitted to the Developer\*, DCA, and TBRPC provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said of appeal.

**ADOPTED AND ADOPTED WITH A QUORUM PRESENT AND VOTING BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THIS THE 5th DAY OF APRIL, 2007 .**

**BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA**

By: *Guy Stein*

**Chairman**

**ATTEST: R. B. SHORE  
Clerk of the Circuit Court**



BY: *Susan L. Zorn*  
**Deputy Clerk**



## **Ordinance 07-34 - List of Exhibits**

Exhibits A, B, D, and E are included with Ordinance 06-29  
C. Developer Commitments

## **EXHIBIT C DEVELOPER COMMITMENTS**

The following are Developer\* commitments set forth in the Application for Development Approval\* (ADA\*) and Sufficiency Responses (SR) which shall be honored by the Developer\*, except as they may be superseded by specific terms of the Development Order.

1. Obtain Development Approval\* and complete development pursuant to the requirements of the Settlement Agreement\* dated June 14, 1988; Preliminary Development Agreement dated May 16, 2000 (for River Club Park of Commerce\*); and River Club Development Order R-89-243, as amended. (ADA\* page 10-1)
2. Complete Park of Commerce infrastructure buildout and land sales to end users within seven years of the commencement of development. (ADA\* page 1-2)
3. Development proposed to be controlled or managed by accounting for PM Peak Hour Vehicle Trips. (ADA\* page 10-2)
4. Commercial areas on the Commerce Park site are designed to serve area residents and "passers" by the regional highway system. (ADA\* page 10-7)
5. The Developer\* shall relocate gopher tortoises to other suitable locations on site and/or contribute money to purchase suitable habitat in accordance with state guidelines and permit requirements. (ADA\* page 12-2/SR1/Page 15)
6. Construction plans shall identify construction limits and barriers which are to be installed prior to site development. (ADA\* page 12-2)
7. Certain upland areas (inclusive of the majority of the power line corridor) shall be protected from development. Such areas shall include representative pine flatwood areas. (ADA\*, Environmental Assessment, page 6)
8. Development plans shall provide for upland buffers adjoining all post-development wetland systems to provide some habitat for various small mammals, reptiles and amphibians. Wildlife corridors will be created between wetland systems to allow wildlife to move through the site. (ADA\*, Environmental Assessment, page 7)
9. Wetland hydroperiods shall be established with the preparation of construction plans. (ADA\*, page 13-1)
10. Wetlands\* to be preserved or mitigated are shown on Map F. The majority of on-site wetlands\* shall be protected in their natural condition to the maximum extent possible. The stormwater system for the various development sites shall be configured to avoid significant alterations of the current watersheds for individual wetlands\* thereby preserving their hydroperiods. (ADA\* page 13-1)
11. Enhancement of the onsite wetlands\* through the removal of exotics and maintenance of watersheds for all wetlands\* are the primary methods of enhancement proposed. (ADA\*, page 13-1)
12. Planned wetland alterations are set forth in the ADA\*, page 13-2.

13. The Developer\* shall utilize stake silt screens along the limits of construction to prevent erosion and turbidity from entering wetlands\*. (ADA\*, page 13-3)
14. Upland conservation areas, as conceptually set forth on Map F, set forth the intent regarding establishment of said areas to be consistent with the final stormwater plan. (ADA\*, page 13-3)
15. The stormwater drainage/retention easement accruing to the Owner\*s of Tract III, as shown in the referenced Settlement Agreement\* will be accommodated. (ADA\*, page 14-1)
16. Canal and lake bank stabilization shall typically be accomplished by utilizing proper slopes with sod to stabilize the soil. (ADA\*, page 15-2)
17. A water truck shall be utilized to minimize dust from unpaved roads during construction activities. (ADA\*, page 15-2)
18. On-site fill shall typically come from, to the maximum extent practicable, stormwater retention facility excavations. (ADA\*, page 15-2)
19. All potable water shall be obtained from Manatee County. (ADA\*, page 17-1)
20. Conventional water saving fixtures shall be utilized for plumbing facilities. (SR3/Exhibit G/#21)
21. Wastewater services shall be obtained from Manatee County. (ADA\*, page 18-2)
22. The existing on site borrow pit shall be utilized as a future component of the stormwater treatment system, with modifications to accommodate future development, as approved by permit. (ADA\*, page 19-1)
23. Stormwater treatment shall be provided for a minimum of  $\frac{3}{4}$  inch of rainfall or pursuant to the permit requirements of Manatee County and SWFWMD. This reflects the required 50% increase in treatment due to the Project\*'s location within the Ever's Reservoir Watershed. (ADA\*, page 19-1)
24. The predevelopment run-off rates for a 25 year 24 hour storm shall be determined utilizing the Soil Conservation Service unit hydrograph method for the existing site. (ADA\*, page 19-3)
25. No hazardous or toxic waste shall be generated within the Project\*. Any hazardous or toxic materials utilized on site shall be minimal and will be handled, stored and disposed of according to state regulations. (ADA\*, page 20-1)
26. Access to the Park of Commerce shall come from three primary driveways: right in/right out on SR 70, east of I-75; SR 70 at the intersection of 87th Street; Linger Lodge Road.
27. Fugitive dust shall be controlled by moistening exposed soil on a regular basis during site preparation and construction activities. (SR3/Exhibit G/#28)

28. Police and fire services shall be obtained from Manatee County and the Braden River Fire District. Private security will be provided on site at the option of tenants and end users. (ADA\*, page 25-1)
29. Private recreation facilities shall be provided to meet or exceed County standards for multi-family uses. (ADA\*, page 26-1)
30. All open space shall be private and maintained by the Developer\*, end user, or assigns. (ADA\*, page 26-1)
31. Energy conservation measures shall include: individual meters for each retail facility; installation of energy saving equipment; regular maintenance of energy saving equipment; architectural design considerations; shielding of building exteriors from the direct effects of the sun to the maximum extent practical with landscaping and reduced lighting and cooling of buildings during non business hours. (SR3/Exhibit G #32)



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 6<sup>th</sup> day of

April 2007  
R.B. SHORE  
Clerk of Circuit Court

By: Maggie Hamilton o.c.



## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

April 10, 2007

Honorable R. B. "Chips" Shore  
Clerk of Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

Attn: Maggie Hamilton, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 5, 2007, and certified copies of Manatee County Ordinance Nos. PDMU 99-02 (G) (R-3) and 07-34, which were filed in this office on April 9, 2007.

As requested, one date stamped copy is being returned for your records.

Sincerely,

Liz Cloud  
Program Administrator

LC/lbh  
Enclosures

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

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