

ORDINANCE NO. 2011- 28

AN ORDINANCE AMENDING ORDINANCE NO. 89-05, AS AMENDED, THE COLLIER COUNTY GROWTH MANAGEMENT PLAN FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY PROVIDING FOR: AN AMENDMENT, SPECIFICALLY AMENDING THE FUTURE LAND USE ELEMENT TO CHANGE THE SQUARE FOOT LIMITATION IN THE VANDERBILT BEACH ROAD NEIGHBORHOOD COMMERCIAL SUBDISTRICT FOR CERTAIN USES AND FURTHERMORE RECOMMENDING TRANSMITTAL OF THE ADOPTION AMENDMENT TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, Collier County, pursuant to Section 163.3161, et. seq., Florida Statutes, the Florida Local Government Comprehensive Planning and Land Development Regulation Act, was required to prepare and adopt a comprehensive plan; and

WHEREAS, the Collier County Board of County Commissioners adopted the Collier County Growth Management Plan on January 10, 1989; and

WHEREAS, the Community Planning Act of 2011 provides authority for local governments to amend their respective comprehensive plans and outlines certain procedures to amend adopted comprehensive plans; and

WHEREAS, D. Wayne Arnold of Q. Grady Minor and Associates, and Richard D. Yovanovich, Esquire of Coleman, Yovanovich and Koester, P.A. requested an amendment to the Future Land Use Element of the Growth Management Plan, to modify the language of the Vanderbilt Beach Road Neighborhood Commercial Subdistrict to allow for a grocery/supermarket, physical fitness facility, craft/hobby store, home furniture/furnishing store and department store use to exceed the 20,000 square feet limitation for a single commercial use, up to a maximum of 50,000 square feet, for Parcel 1 (9.2± acres, zoned Bradford Square MPUD) only, and with the overall maximum development limitation of 100,000 square feet of commercial land uses on Parcel 1 to remain; the subject portion of the Subdistrict portion of the

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Subdistrict is located at the northeast corner of Vanderbilt Beach Road and Livingston Road, in Section 31, Township 48 South, Range 26 East; and

WHEREAS, Collier County did submit these Growth Management Plan amendments to the Department of Community Affairs for preliminary review on March 31, 2011; and

WHEREAS, the Department of Community Affairs did review the amendments to the Future Land Use Element to the Growth Management Plan and transmitted its findings in writing to Collier County within the time provided by law; and

WHEREAS, Collier County has 60 days from receipt of the Objections, Recommendations, and Comments Report from the Department of Community Affairs to adopt, adopt with changes or not adopt the proposed amendments to the Growth Management Plan; and

WHEREAS, the Board of County Commissioners of Collier County did take action in the manner prescribed by law and did hold public hearings concerning the adoption of the Future Land Use Element to the Growth Management Plan on September 13, 2011; and

WHEREAS, Collier County has gathered and considered additional information, data and analysis supporting adoption of these amendments, including the following: the Collier County Staff Report; the documents entitled Collier County Growth Management Plan Amendments and other documents, testimony and information presented and made a part of the record at the meetings of the Collier County Planning Commission held on July 21, 2011 and August 4, 2011, and the Collier County Board of County Commissioners held on September 13, 2011; and

WHEREAS, all applicable substantive and procedural requirements of law have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: ADOPTION OF AMENDMENTS TO THE GROWTH MANAGEMENT PLAN.

The Board of County Commissioners hereby adopts the amendment to the Future Land Use Element, in accordance with Section 163.3184, Florida Statutes. The text and maps of the amendments are attached hereto as Exhibit "A" and are incorporated by reference herein.

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SECTION TWO: SEVERABILITY.

If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION THREE: EFFECTIVE DATE.

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 13th day of Sept, 2011.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

by: [Signature]
Attest as to Chairman's
Signature only.

BY: [Signature: Fred W. Coyle]
FRED W. COYLE, Chairman

Approved as to form and
legal sufficiency:

[Signature: Heidi Ashton-Cicko]
Heidi Ashton-Cicko
Assistant County Attorney
Section Chief, Land Use/Transportation

This ordinance filed with the
Secretary of State's Office the
23rd day of September, 2011
and acknowledgement of that
filing received this 3rd day
of October, 2011
By [Signature]
Deputy Clerk

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Exhibit A

CP-2010-1

I. URBAN DESIGNATION

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A. Urban Mixed Use District

16. Vanderbilt Beach Road Neighborhood Commercial Subdistrict

The purpose of this Subdistrict is to provide primarily for neighborhood commercial development at a scale not typically found in the Mixed Use Activity Center Subdistrict.

The intent is to provide commercial uses to serve the emerging residential development in close proximity to this Subdistrict, and to provide employment opportunities for residents in the surrounding area. Allowable uses shall be a variety of commercial uses as more particularly described below, and mixed use (commercial and residential). Prohibited uses shall be gas stations and convenience stores with gas pumps, and certain types of fast food restaurants.

This Subdistrict consists of two parcels comprising approximately 17 acres, located on the north side of Vanderbilt Beach Road and east of Livingston Road, as shown on the Subdistrict Map. For mixed-use development, residential density shall be limited to sixteen dwelling units per acre. Residential density shall be calculated based upon the gross acreage of the Subdistrict parcel on which it is located (Parcel 1 or Parcel 2). Rezoning of the parcels comprising this Subdistrict is encouraged to be in the form of a PUD, Planned Unit Development. At the time of rezoning, the applicant must include architectural and landscape standards for each parcel.

a. Parcel 1

This parcel is located at the intersection of Livingston Road and Vanderbilt Beach Road. A maximum of 100,000 square feet of gross leasable floor area for commercial uses may be allowed. Allowable uses shall be the following, except as prohibited above: retail, personal service, restaurant, office, and all other uses as allowed, whether by right or by conditional use, in the C-1 through C-3 zoning districts as set forth in the Collier County Land Development Code, Ordinance 04-41, as amended, in effect as of the date of adoption of this Subdistrict (Ordinance No. 2005-25 adopted on June 7, 2005); other comparable and/or compatible land uses not found specifically in the C-1 through C-3 zoning districts, limited to: general and medical offices, government offices, financial institutions, personal and business services, limited indoor recreational uses, and limited retail uses; mixed-use development (residential and commercial uses). The maximum floor area for any single commercial user shall be 20,000 square feet, except for a grocery/supermarket, physical fitness facility, craft/hobby store, home furniture/furnishing store, or department store use, which shall not exceed a maximum of 50,000 square feet.

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b. Parcel 2

This parcel is located approximately ¼ mile east of Livingston Road and is adjacent to multifamily residential uses. A maximum of 80,000 square feet of gross leasable floor area for commercial uses may be allowed. Allowable uses shall be the following, except as prohibited above: General and medical offices, community facilities, and business and personal services, all as allowed, whether by right or by conditional use, in the C-1 through C-3 zoning districts as set forth in the Collier County Land Development Code, Ordinance 04-41, as amended, in effect as of the date of adoption of this Subdistrict (Ordinance No. 2005-25 adopted on June 7, 2005). The maximum floor area for any single commercial user shall be 20,000 square feet.

At the time of rezoning of Parcel 2, the developer shall provide restrictions and standards to insure that uses and hours of operation are compatible with surrounding land uses. Permitted uses such as assisted living facilities, independent living facilities for persons over the age of 55, continuing care retirement communities, and nursing homes, shall be restricted to a maximum of 200 units and a maximum floor area ratio (FAR) of 0.6. The developer of Parcel 2 shall provide a landscape buffer along the eastern property line, abutting the Wilshire Lakes PUD, at a minimum width of thirty (30) feet. At the time of rezoning, the developer shall incorporate a detailed landscape plan for that portion of the property fronting Vanderbilt Beach Road as well as that portion along the eastern property line, abutting the Wilshire Lakes PUD.

In addition to the prohibited uses applicable to both parcels, the following list of uses shall also be prohibited on Parcel 1.

- 0742 – Veterinary services for Animal Specialties – Horses are prohibited, other animals are allowed
- 0752 – Animal specialty services, except Veterinary (dog grooming is allowed)
- 5261 – Retail nurseries, lawn and garden supply stores
- 5499 – Poultry dealers – retail and egg dealers – retail
- 5531 – Auto and home supply store, except automobile accessory and parts dealers – retail (no on-site installation)
- 5813 – Drinking places (alcoholic beverages)
- 5921 - Liquor stores exceeding 5,000 square feet
- 5932 – Uses merchandise stores
- 5962 – Automatic merchandising machine operators
- 7211 – Power laundries, family and commercial
- 7215 – Coin-operated laundries and drycleaning
- 7216 – Drycleaning plants, except rug cleaning
- 7299 – Miscellaneous personal services, not elsewhere classified
 - Coin operated service machine operations
 - Comfort station operation
 - Escort service
 - Locker rental
 - Massage parlors (except those employing licensed therapists)
 - Rest room operation
 - Tattoo parlors
 - Turkish baths
 - Wedding chapels, privately operated

(Words underlined are added, words ~~struck through~~ are deleted)

7389 – Business services, not elsewhere classified, except Appraisers
7623 – Refrigeration and air-conditioning service and repair shops
7629 – Electrical and electronic repair shops, not elsewhere classified
7641 – Re-upholstery and furniture repair
7692 – Welding repair
7694 – Armature rewinding shops
7699 – Repair shops and related services, not elsewhere classified
7841 – Adult oriented video tape rental
7993 – Coin operated amusement devices
8641 – Civic, social and fraternal associations

CCPC Recommendation: Not part of the Subdistrict Text

As a condition of approval, and prior to the adoption of this Growth Management Plan amendment, the owner shall record in the official land records restrictive covenants for the benefit of surrounding property owners, including the Orchards, Village Walk, Tiburon at Pelican Marsh and Wilshire Lakes, that will prohibit the prohibited uses contained within the Subdistrict.

(Words underlined are added, words ~~struck through~~ are deleted)

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2011-28

Which was adopted by the Board of County Commissioners on the 13th day of September, 2011, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 21st day of September, 2011.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners



By: Martha Vergara,
Deputy Clerk