

ORDINANCE NO. 13- _____

AN ORDINANCE AMENDING ORDINANCE NO. 89-05, AS AMENDED, THE COLLIER COUNTY GROWTH MANAGEMENT PLAN FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, SPECIFICALLY AMENDING THE FUTURE LAND USE ELEMENT RELATING TO THE BAYSHORE/GATEWAY TRIANGLE REDEVELOPMENT OVERLAY AND DENSITY BONUSES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Collier County, pursuant to Section 163.3161, et. seq., Florida Statutes, the Community Planning Act, formerly 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, Collier County Community Redevelopment Agency staff has prepared plan amendments to the Future Land Use Element to change the density bonuses allowed in the Bayshore/Gateway Triangle Redevelopment Overlay; and

WHEREAS, Collier County transmitted the Growth Management Plan amendments to the Department of Economic Opportunity for preliminary review on January 9, 2013 after public hearings before the Collier County Planning Commission and the Board of County Commissioners; and

WHEREAS, the Department of Economic Opportunity reviewed the amendments to the Growth Management Plan and transmitted its comments in writing to Collier County within the time provided by law; and

WHEREAS, Collier County has 180 days from receipt of the Comments Report from the Department of Economic Opportunity to adopt, adopt with changes or not adopt the proposed amendments to the Growth Management Plan; 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

public hearings of the Collier County Planning Commission held on April 4, 2013 and May 2, 2013, and the Collier County Board of County Commissioners held on May 28, 2013; 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 these amendments to the Future Land Use Element in accordance with Section 163.3184, Florida Statutes. The amendments are attached hereto as Exhibit "A" and are incorporated herein by reference.

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 28th day of May, 2013.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

Deputy Clerk

BY: _____
GEORGIA A. HILLER, ESQ.
Chairwoman



Approved as to form and legal sufficiency:

Heidi A Cicko HFAAC
5/31/13
Heidi Ashton-Cicko
Managing Assistant County Attorney

Attachment: Exhibit "A"

CP\12-CMP-00865\30

EXHIBIT "A"

CP-2012-3

FUTURE LAND USE ELEMENT

IMPLEMENTATION STRATEGY

GOALS, OBJECTIVES AND POLICIES

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OBJECTIVE 5

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Policy 5.1:

All rezonings must be consistent with this Growth Management Plan. For properties that are zoned inconsistent with the Future Land Use Designation Description Section but have nonetheless been determined to be consistent with the Future Land Use Element, as provided for in Policies 5.9 through 5.13, the following provisions apply:

- a. For such commercially-zoned properties, zoning changes will be allowed provided the new zoning district is the same or a lower intensity commercial zoning district as the existing zoning district, and provided the overall intensity of commercial land use allowed by the existing zoning district, except as allowed by Policy 5.11, is not exceeded in the new zoning district. The foregoing notwithstanding, such commercial properties may be approved for the addition of residential uses, in accordance with the Commercial Mixed Use Subdistrict, though an increase in overall intensity may result. A zoning change of such commercial-zoned properties to a residential zoning district is allowed as provided for in the Density Rating System of this Future Land Use Element and as provided for in the Bayshore/Gateway Triangle Redevelopment Overlay.
- b. For such industrially-zoned properties, zoning changes will be allowed provided the new zoning district is the same or a lower intensity industrial, or commercial, zoning district as the existing zoning district, and provided the overall intensity of industrial land use allowed by the existing zoning district is not exceeded in the new zoning district.
- c. For such residentially-zoned properties, zoning changes will be allowed provided the authorized number of dwelling units in the new zoning district does not exceed that authorized by the existing zoning district, and provided the overall intensity of development allowed by the new zoning district does not exceed that allowed by the existing zoning district, except as provided for in the the Bayshore/Gateway Triangle Redevelopment Overlay.
- d. Any property deemed consistent may be combined and developed with other abutting property provided the density and intensity of development derived from the property deemed consistent is not increased.
- e. Overall intensity of development shall be determined based upon a comparison of public facility impacts as allowed by the existing zoning district and the proposed zoning district.

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I. URBAN DESIGNATION

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B. DENSITY RATING SYSTEM:

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1. The Density Rating System is applied in the following manner:

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- e. All new residential zoning located within Districts, Subdistricts and Overlays identified above that are subject to this Density Rating System shall be consistent with this Density Rating System, except as provided in:
 - 1) Policy 5.1 of the Future Land Use Element.
 - 2) The Urban Mixed Use District for the "vested" Port of the Islands development.
 - 3) The Buckley Mixed Use Subdistrict.
 - 4) The Commercial Mixed Use Subdistrict.
 - 5) The Vanderbilt Beach/Collier Boulevard Commercial Subdistrict.
 - 6) Livingston/Radio Road Commercial Infill Subdistrict.
 - 7) Vanderbilt Beach Road Neighborhood Commercial Subdistrict.
 - 8) The Bayshore/Gateway Triangle Redevelopment Overlay

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C. Urban Commercial District

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1. Mixed Use Activity Center Subdistrict

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For residential-only development, if a project is located within the boundaries of a Mixed Use Activity Center which is not within the Urban Residential Fringe Subdistrict or Urban Coastal Fringe Subdistrict, up to 16 residential units per gross acre may be permitted. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Coastal Fringe Subdistrict, the eligible density shall be limited to four dwelling units per acre, except as allowed by the density rating system and the Bayshore/Gateway Triangle Redevelopment Overlay. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Residential Fringe Subdistrict, eligible density shall be as allowed by that Subdistrict. For a residential-only project located partially within and partially outside of an Activity Center, the density accumulated from the Activity Center portion of the project may be distributed throughout the project.

Mixed-use developments - whether consisting of residential units located above commercial uses, in an attached building, or in a freestanding building - are allowed and encouraged within Mixed Use Activity Centers. Density for such a project is calculated based upon the gross project acreage within the Activity Center. If such a project is located within the boundaries of a Mixed Use Activity Center which is not within the Urban Residential Fringe Subdistrict and is not within the Coastal High Hazard Area, the eligible density is sixteen dwelling units per acre. If such a project is located within the boundaries of a Mixed Use Activity Center that is not within the Urban

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Residential Fringe Subdistrict but is within the Coastal High Hazard Area, the eligible density shall be limited to four dwelling units per acre, except as allowed by the Bayshore/Gateway Triangle Redevelopment Overlay. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Residential Fringe Subdistrict, eligible density shall be as allowed by that Subdistrict. For a project located partially within and partially outside of an Activity Center, and the portion within an Activity Center is developed as mixed use, some of the density accumulated from the Activity Center portion of the project may be distributed to that portion of the project located outside of the Activity Center. In order to promote compact and walkable mixed use projects, where the density from a mixed use project is distributed outside the Activity Center boundary:

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V. OVERLAYS AND SPECIAL FEATURES

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F. Bayshore/Gateway Triangle Redevelopment Overlay

The Bayshore/Gateway Triangle Redevelopment Overlay, depicted on the Future Land Use Map, is within the boundaries of the Bayshore/Gateway Triangle Redevelopment Plan adopted by the Board of County Commissioners on June 13, 2000. The intent of the redevelopment program is to encourage the revitalization of the Bayshore/Gateway Triangle Redevelopment Area by providing incentives that will encourage the private sector to invest in this urban area. This Overlay allows for additional neighborhood commercial uses and higher residential densities that will promote the assembly of property, or joint ventures between property owners, while providing interconnections between properties and neighborhoods. The intent of this Overlay is to allow for more intense development in an urban area where urban services are available. ~~One or more~~ Two zoning overlays have been ~~will be~~ adopted into the Collier County Land Development Code to aid in the implementation of this Overlay. The following provisions and restrictions apply to this Overlay:

1. Mixed-Use Development: Mix of residential and commercial uses are permitted. For such development, commercial uses are limited to C-1 through C-3 zoning district uses; hotel/motel use; theatrical producers (except motion picture), bands, orchestras, and entertainers; and, uses as may be allowed by applicable FLUE Policies. Mixed-use projects will be pedestrian oriented and are encouraged to provide access (vehicular, pedestrian, bicycle) to nearby residential areas. The intent is to encourage pedestrian use of the commercial area and to provide opportunity for nearby residents to access these commercial uses without traveling onto major roadways. Parking facilities are encouraged to be located in the rear of the buildings with the buildings oriented closer to the major roadway to promote traditional urban development.
2. Residential uses are allowed within this Overlay. Permitted density shall be as determined through application of the Density Rating System, and applicable FLUE Policies, except as provided below and except as may be limited by a zoning overlay.
3. Non-residential/non-commercial uses allowed within this Overlay include essential services; parks, recreation and open space uses; water-dependent and water-related uses; child care centers; community facility uses; safety service facilities; and utility and communication facilities.

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4. Properties with access to US-41 East and/or Bayshore Drive and/or Davis Boulevard (SR 84) and/or the west side of Airport-Pulling Road are may be allowed a maximum density of 12 residential units per acre via use of the density bonus pool identified in paragraph 11, except that no project may utilize more than 97 units - 25% of the total density pool units available. The 97 unit cap will terminate when the BCC adopts, by LDC amendment, limitations and a cap on the use of the 388 density pool units for any one project. In order to be eligible for this higher density, the project must be integrated into a mixed-use development with access to existing neighborhoods and adjoining commercial properties and comply with the standards identified in Paragraph #8, below, except for mixed use projects developed within the “mini triangle” catalyst project site as identified on the Bayshore/Gateway Triangle Redevelopment Overlay Map. The “mini triangle” catalyst project site is eligible for the maximum density of 12 units per acre, with development standards as contained in the Gateway Triangle Mixed Use District zoning overlay, adopted February 28, 2006 (Ordinance No. 06-08), and amended December 14, 2006 (Ordinance No. 06-63). For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies, except as may be limited by a future zoning overlay.
- ~~5. Properties with access to Bayshore Drive, are allowed a maximum density of 12 residential units per acre. In order to be eligible for this higher density, the project must be integrated into a mixed-use development with access to existing neighborhoods and adjoining commercial properties and must comply with the standards identified in Paragraph #8, below. For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies, except as may be limited by a future zoning overlay.~~
5. Properties having frontage on one or more of Bayshore Drive, Davis Boulevard, Airport-Pulling Road (west side only) or US 41 East, are may be allowed to redevelop as a residential-only project at a maximum density of 8 residential units per acre via use of the density bonus pool identified in paragraph 11 except that no project may utilize more than 97 units - 25% of the 388 total density pool units available. The 97 unit cap will terminate when the BCC adopts, by LDC amendment, limitations and a cap on the use of the 388 density pool units for any one project. In order to be eligible for this higher density the redevelopment must comply with the following:
- a. Project shall be in the form of a PUD.
 - b. Project site shall be a minimum of three acres.
 - c. Project shall constitute redevelopment of the site.
 - d. All residential units shall be market rate units.

For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies.

6. For parcels currently within the boundaries of Mixed Use Activity Center #16, land uses will continue to be governed by the Mixed Use Activity Center Subdistrict, except residential density may also be increased as provided for in paragraphs 4 and 5, above. The development standards of the Bayshore Drive Mixed Use Overlay District or Gateway Triangle Mixed Use Overlay District in the Collier County Land Development Code, whichever is applicable, shall apply to all new development within the Activity Center. A zoning overlay may be developed for these properties within the Mixed Use Activity Center to provide specific development standards.

7. Existing zoning districts for some properties within the Bayshore/Gateway Triangle Redevelopment Overlay allow uses, densities and development standards that are inconsistent with the uses, densities and development standards allowed within this Overlay. These properties are allowed to develop and redevelop in accordance with their existing zoning until such time as a zoning overlay is adopted which may limit such uses, densities and development standards.
8. To qualify for 12 dwelling units per acre, as provided for in paragraphs #4 and #5 above, mixed use projects within the Bayshore/Gateway Triangle Redevelopment Overlay must comply with the following design standards of the Bayshore Drive Mixed Use Overlay District or Gateway Triangle Mixed Use Overlay District in the Collier County Land Development Code, whichever is applicable. :
- ~~a. Buildings containing only commercial uses are limited to a maximum height of three stories.~~
 - ~~b. Buildings containing only residential uses are limited to a maximum height of three stories except such buildings are allowed a maximum height of four stories if said residential buildings are located in close proximity to US 41.~~
 - ~~c. Buildings containing mixed use (residential uses over commercial uses) are limited to a maximum height of four stories.~~
 - ~~d. Hotels/motels will be limited to a maximum height of four stories.~~
 - ~~e. For mixed use buildings, commercial uses are permitted on the first two stories only.~~
 - ~~f. Each building containing commercial uses only is limited to a maximum building footprint of 20,000 square feet gross floor area.~~
 - ~~g. One or more zoning overlays may be adopted which may include more restrictive standards than listed above in Paragraphs a-f.~~
9. For density bonuses provided for in paragraphs #4 and #5 above, base density shall be as per the underlying zoning district. The maximum density of 12 or 8 units per acre shall be calculated based upon total project acreage. The bonus density allocation is calculated by deducting the base density of the underlying zoning classification from the maximum density being sought. The difference in units per acre determines the bonus density allocation requested for the project.
- ~~9-10. For all properties outside of the Coastal High Hazard Area, any eligible density bonuses, as provided in the Density Rating System, are in addition to the eligible density provided herein. However, for properties within the Coastal High Hazard Area (CHHA), only Only the affordable-workforce housing density bonus, as provided in the Density Rating System, is allowed in addition to the eligible density provided herein. For all properties, the maximum density allowed is that specified under Density Conditions in the Density Rating System.~~
- ~~10-11. A maximum of 388 dwelling units are permitted to be utilized in this Overlay for density bonuses, as provided in paragraphs #4 and #5 above, for that portion of the Overlay lying within the CHHA only. This 388 dwelling unit density bonus pool corresponds with the number of dwelling units previously entitled to the botanical gardens sites prior to their rezone in 2003 to establish the Naples Botanical Gardens PUD. The "mini triangle" catalyst project is not subject to this density bonus pool.~~
- ~~11-12. The Botanical Garden, Inc. properties located in Section 23, Township 50 South, Range 25 East, and shown on the Bayshore/Gateway Triangle Redevelopment Overlay Map, shall be limited to non-residential uses except for caretaker, dormitory, and other housing integrally related to the Botanical Garden or other institutional and/or recreational open space uses.~~

Exhibit A CP-2012-3 approved by BCC 5-28-13 – clean

G:\CDES Planning Services\Comprehensive\COMP PLANNING GMP DATA\Comp Plan Amendments\2012 Cycle Petitions\CP-2012-3 BGTR0 changes dw/10-4-12 & 4-23&24-13 & 5-2-13 & 5-28-13

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