

FILED FOR RECORD  
R. B. SHORE

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CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

**ORDINANCE 11-16**

**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 COOPER CREEK CENTER (RESOLUTION 85-236, AS AMENDED BY RESOLUTIONS 86-323, 87-58, 90-39, 93-300, 95-135, AND ORDINANCES 97-23, 99-40, 02-31, 05-54, AND 11-07), ALSO KNOWN AS TBRPC DRI #103; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on January 9, 1986, the Board of County Commissioners (BOCC) approved R-85-236, a Development Order\* for the Cooper Creek Center DRI for a planned residential, commercial, office, and industrial development on approximately 604.68 acres; and

**WHEREAS**, on December 23, 1986, February 10, 1987, March 29, 1990, April 5, 1993, June 22, 1995, November 4, 1997, September 7, 1999, May 28, 2002, December 1, 2005, and February 3, 2011, The Board of County Commissioner approved Resolutions R-86-323, R-87-58, R-90-39, R-93-100, R-95-135, Ordinance 97-23, Ordinance 99-40, 02-31, 05-54, and 11-07 respectively, approving amendments to the Development Order for Cooper Creek Center, which amendments were not found to be a substantial deviation to the originally approved Development Order; and

**WHEREAS**, County Line Road Associates, LTD. has been succeeded by Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, and Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, as the Developer of Cooper Creek Center; and

**WHEREAS**, said Cooper Creek Center is a MULTI-USE PROJECT, as defined in Section 380.0651(3)(I), Florida Statutes, on approximately 604.68 acres, located in south Manatee County, the legal description of which is attached as "Exhibit A"; and

**WHEREAS**, the buildout date, pursuant to this amendment, for Cooper Creek Center expires on December 30,2015; and

**WHEREAS**, the expiration date of the Development Order, pursuant to this amendment, is December 302016; and

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DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

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**WHEREAS**, the Developer has requested that further amendments to the Cooper Creek Center Development Order, as previously amended ("prior DO") be approved to provide for and approve the following changes to the project:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office square feet.
3. Amend Map H to permit an additional right in/right out access from University Parkway.
4. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.
6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

**WHEREAS**, while the development of Cooper Creek Center has commenced and is underway in accordance with the Prior DO\*, this Development Order shall be, hence forth, considered the approved Cooper Creek Center Development of Regional Impact Development Order; and

**WHEREAS**, the above described changes in conjunction with all previous changes, do not constitute a Substantial Deviation to the Development Order, as amended, for Cooper Creek Center, pursuant to Chapter 380, Florida Statutes; and

**WHEREAS**, this Development Order shall be considered an amended Development Order; and

**WHEREAS**, all future development shall comply with the requirements of the Comprehensive Plan (Ordinance 89-01, as amended) and Land Development Code (Ordinance 90-01, as amended), except where specifically approved by the BOCC in this Development Order.

**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 an amendment to an approved Development of Regional Impact; and

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

**WHEREAS**, the Planning Commission of Manatee County as the Local Planning Agency of Manatee County has held a duly noticed public hearing on May 12, 2011 to

consider the NOPC application, has found said NOPC application consistent with the Manatee County Comprehensive Plan and has recommended approval of this ordinance, subject to the conditions specified herein; and,

**WHEREAS**, the Board of County Commissioners has received and considered the comments of the Tampa Bay Regional Planning Council; and

**WHEREAS**, the Board of County Commissioners of Manatee County on , May 24, 2011 held a duly noticed public hearings on said NOPC and has solicited, received and considered all testimony, reports, comments, evidence, and recommendations from interested citizens, County and City agencies, and the applicant, as well as the review and report of the Manatee County Planning Department;

**WHEREAS**, said Board of County Commissioners has considered all of the foregoing in the adoption of this Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 24<sup>th</sup> DAY OF MAY, 2011 AS FOLLOWS:**

**SECTION 1. AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER FOR DRI #14, ORDINANCE 11-07.**

Ordinance 11-07 is hereby amended and restated in its entirety below. This Ordinance shall constitute the amended and restated Development Order for the Cooper Creek Development of Regional Impact. All prior Development Orders shall be superceded 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, application for amendment of the Zoning Ordinance, NOPC for an amended Development Order\*, the recommendation and findings of the Planning Commission of Manatee County, as well as all other matters presented to said Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. All recitals preceding Section 1 of this Ordinance are adopted as findings of fact.

B. The real property involved in this development and owned by Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, and Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust,

and Wilmington Land Company, a Florida Corporation, is located in Manatee County, Florida, and is described on "Exhibit A" attached hereto and made a part hereof.

C. The Developer\* has received County approvals for and has completed certain development consistent with the prior DO.

D. Development of the Cooper Creek Center site to date has proceeded in accordance and in compliance with the prior Development Order, as amended, and the Land Development Regulations of Manatee County.

1. The Developer has submitted the information requested in the County environmental consultant's Summary Report dated September, 1985.
2. The Developer has instituted and conducted the required water quality monitoring program.
3. The Developer has submitted a Master Drainage Plan which has been approved by Manatee County and TBRPC.
4. The County and Developer have entered into a Fee Agreement dated February 10, 1987 regarding the advance payment of Transportation Component Impact Fees, with which the Developer is in full compliance and which shall remain in full force and effect, and is attached hereto and make a part hereof by reference as "Exhibit D". The Developer\* has obtained all impact fee credits due under this agreement.
5. The required improvements set forth in Exhibit C of R-86-323 have been constructed (Construct a second northbound to westbound left turn lane on Interstate 75 exit ramp to University Parkway).
6. The required transportation improvements set forth in Section 4, Development Conditions B(6) a., b., c., and d. of this Development Order, have been constructed by the Developer and accepted by Manatee County.

E. An application has been submitted to Manatee County and is being processed concurrently with this NOPC to revise the General Development Plan for the 604.68 acre project.

F. A notice of Public Hearing in these proceedings was duly published in The Herald and Herald Tribune, newspapers of general circulation in Manatee County, Florida, pursuant to Section 380.06(11), Florida Statutes, and Section 502.5, Manatee County Land Development Code, and proof of such publication has been duly filed in these proceedings.

G. The Board of County Commissioners of said County has received and considered the recommendation of the Manatee County Planning Commission concerning this NOPC to a Development Order pursuant to Section 380.06, Florida Statutes.

H. The Board of County Commissioners held a public hearing on May 24, 2011 regarding the said NOPC described herein, in accordance with the requirements of The Manatee County Land Development Code (Ordinance 90-01, as amended) and the 2020 Manatee County Comprehensive Plan (Ordinance No. 89-01, as amended) and has further considered the testimony, comments, and information received at the Public Hearing.

I. Manatee County has adopted the Manatee County Comprehensive Plan which is in compliance with applicable state laws.

J. The Comprehensive Plan requires Certificates of Level of Service be issued for Water, Wastewater, Solid Waste, Parks and Recreation, Transit, Transportation, and Drainage in compliance with state requirements.

K. This Development Order is issued based on information provided by the Developer\* in the ADA\*, as amended, and information provided in the sufficiency responses, NOPC's, and ensures compliance with the Manatee County Comprehensive Plan. Subject to the Development Order conditions listed in Section 4, the County has determined that, with the required transportation improvements listed in Conditions B. (2) and (7) of this Development Order, adequate Levels of Service exist until December 30, 2012 for this project in each of these areas referenced in subsection 1.J above, except potable water which will shall be addressed in accordance with the requirements of the Comprehensive Plan.

L. The build-out date is approved for December 30, 2015.

M. The proposed Development of Regional Impact regarding the property described in Section 6 herein is found to be consistent with the requirements of the previously adopted Development Orders and The Manatee County Comprehensive Plan.

N. The "Developer\*" submitted to Manatee County, Florida an ADA\* and NOPC, and sufficiency responses identified in Section 1 which are incorporated herein by reference.

O. This amended Development Order is consistent with all prior Manatee County Development Approvals\* granted pursuant thereto.

P. The real property which is the subject of this Application\* is legally described as set forth in "Exhibit A" of this Development Order.

Q. The proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.

R. The authorized agent for the Developer\* is Elizabeth Benac and Todd Mathes of Benderson Development Company, LLC.

S. The Owners\* of the property are Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3

Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and the Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.

T. A comprehensive review of the impact generated by the development has been conducted by the departments of Manatee County, the Planning Commission, Tampa Bay Regional Planning Council (TBRPC), and the Florida Department of Community Affairs in conjunction with the original Development Order, as amended, and all notices of proposed change.

U. The Developer will be issued a Level of Service Certificate which will expire on December 30, 2012.

V. The Developer has prepared and submitted and the County has approved Construction Drawings and issued construction permits for the transportation improvements listed in Transportation Condition B.(7).

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

A. Based upon the previous findings of fact and the following conditions of Development Approval\*, the Board of County Commissioners of Manatee County concluded that:

1. The Development will not unreasonably interfere with the achievement of the objectives of the Adopted State Land Development Plan applicable to the area.
2. The Development remains consistent with the report and recommendations of Tampa Bay Regional Planning Council issued on July 8, 1985, regarding DRI #103, and on May 9, 2011 regarding this NOPC.
3. This Development remains consistent with the State Comprehensive Plan.
4. This Development remains consistent with the Manatee County Comprehensive Plan and Land Development Code.

B. That 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.

C. That the review by the County, the TBRPC, and other participating agencies and interested citizens reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order and the ADA\*. To the extent that the ADA\* is inconsistent with the terms and conditions of this Order, the terms and

conditions of this Order shall prevail. A summary of the development covered by this development order is included as Table 1.

D. The Board of County Commissioners finds that the changes do create a Substantial Deviation. However, Pursuant to Section 380.06(19), Florida Statutes, the Developer has submitted clear and convincing evidence to rebut the presumption that the changes proposed by this NOPC and approved pursuant to Ordinance 11-16 are 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 most recent Highway Capacity Manual, TRB Special Report 209 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. Acceptable Level of Service for links and intersections in Sarasota County, Florida, shall mean Level of Service "C" on an average daily basis ("D" on a peak hour basis), which shall be measured as provided in this paragraph. Where a link or intersection in Sarasota County is operating at Level of Service "D" on an average daily basis ("E" on a peak hour basis) on the effective date of this Ordinance, then the Acceptable Level of Service in Sarasota County for that link or intersection shall mean Level of Service "D" on an average daily basis ("E" on a peak hour basis).

B. "Application\*" and "Application for Development Approval\*" or "ADA" shall mean Cooper Creek Center's Development of Regional Impact Application for Development Approval\*, and the NOPC submitted on July 26, 1996, and revised on March 31, 1997 and August 19, 1997, the NOPC, submitted on January 27, 1999, the NOPC submitted on January 9, 2002, the NOPC submitted on May 17, 2005, the NOPC submitted on March 26, 2009, and the NOPC submitted on March 16, 2011(included as "Exhibit G").

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 (BMP list of approved practices by Board resolution for Special Overlay Districts-Evers Reservoir and Lake Manatee Watershed Areas).

D. "Conceptual Master Plan\*" shall mean a graphic depiction of the development shown on Revised "Map H", last revised April, 2011, for the Cooper Creek Center, and attached hereto as "Exhibit B".

E. "Conservation Area\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.

F. "County Transportation Authority\*" shall be defined as the Planning Department in cooperation with Manatee County's Transportation Department, or whatever County entity is responsible for roadway approvals.

G. "Developer\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-4I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest.

H. "Development Approval\*" shall mean any approval for development granted through the Preliminary and Final Site Plan\*, Preliminary and Final Subdivision Plat process, and construction drawing approval where site plans are not required, and all its conditions of approval.

I. "Development Order" shall mean the Ordinance Granting a Development Order for Cooper Creek Center, Ordinance 11-16.

J. "Fee Agreement\*" shall mean the Transportation Component Impact Fee agreement by and between the County and the developer's predecessors in interest which was adopted on February 10, 1987 and is attached hereto as "Exhibit D".

K. "Funding Commitments\*" shall mean to assure the completion of any improvement required by this Development Order, or any combination of the following:

1. Binding commitments for the actual construction with a posting of a cash bond or irrevocable letter of credit 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 said improvement is within the first two years of the Manatee County Capital Improvement Plan or the first two years of the FDOT 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, whichever is sooner.

L. "Horizontal Development\*" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development\* (e.g., roadway, drainage, water, sewer, communication, utilities, etc).

M. "Master Development Plan\*" shall be defined as Revised Map H, last revised April, 2011, incorporated as "Exhibit B" and made a part hereof. Development on Map H shall be limited to the total number of dwelling units and non-residential development on Table 1.

N. "Owner\*" shall mean Dick Road-Blend-All Hotel Development, Inc., a New York corporation, Walden Avenue-Blend-All Hotel Development, Inc., a New York corporation, WR-I Associates, LTD., a Florida limited partnership, RB-3 Associates, a New York general partnership, Nathan Benderson, Ronald Benderson, and David H. Baldauf, as Trustee under a Trust Agreement dated September 22, 1993, known as the Randall Benderson 1993-1 Trust, and Wilmington Land Company, a Florida Corporation, their heirs, assigns, designees, agents, and successors in interest as to the Cooper Creek Center DRI and all its stipulations.

O. "Post Development Wetland\*" shall mean any Wetland\* area, which upon completion of the subphase, that will be a jurisdictional Wetland\* under the regulations of the Southwest Florida Water Management District or the Florida Department of Environmental Protection. This definition shall not apply to stormwater ponds or littoral shelves not required for mitigation.

P. "Preliminary Site Plan\*" (PSP\*) shall mean a Preliminary Master Development Plan\* or a Preliminary Site Plan\* for a Phase or Sub-Phase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended), for a Phase or Sub-Phase.

Q. "Preservation Areas\*" shall mean areas as defined by TBRPC and shown on revised "Exhibit C", last revised on July 28, 1999.

R. "Site Development Plan\*" shall be defined as any preliminary plat, final plat, Preliminary Site Plan\*, or final site plan to be submitted for consideration of approval pursuant to the LDC.

S. "Traffic Study\*" shall mean a report presented by the Developer\*, pursuant to the provisions of Section 380.06, F.S. and Rule 9J-2.045 F.A.C., using a methodology acceptable to the County Transportation Authority\*, the Tampa Bay Regional Planning Council, the Florida Department of Community Affairs, and the Florida Department of Transportation. Such study will be designed to determine if the proposed development will reduce daily or peak hour Level of Service\* on any of the roadway segments or intersections within the Transportation Impact Area\*, to below an Acceptable Level of Service\*. Any such Traffic Study\* shall include traffic to be generated by the proposed Phase or Sub-Phase, existing traffic, and traffic anticipated from prior Development Approvals\* cumulatively.

T. "Transportation Impact Area\*" shall be defined as the roadway segments and intersections receiving transportation impacts where the cumulative traffic generated by a proposed PSP\* in combination with prior approvals of this project will be five percent (5%) or more of the Acceptable Level of Service\*. This area will be determined in conjunction with any traffic study required for Development Approval after December 30, 2007. This area is generally depicted on Map J which was submitted with the ADA. This area will be revised as appropriate, based on a new Traffic Study\*.

U. "Vertical Development\*" shall mean and shall be deemed to include the construction of new residential units and non-residential units or the reconstruction or addition to any structure.

V. "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.

W. "Wetland\*" shall mean any wetland under the jurisdictional limits defined by Chapter 40D-4.021, Florida Administrative Code, and implemented by the Florida Department of Environmental Protection, or as defined within Chapter 40D-4, F.A.C., and implemented by the Southwest Florida Water Management District.

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

## **SECTION 5. DEVELOPMENT CONDITIONS**

- A.(1) Approved Development Totals and development authorized for construction pursuant to this D.O. are as set forth in Table 1. Building Permits for non-residential development and Final Plats (or Building Permits if platting is not required) for residential shall be obtained prior to December 30, 2015.
- A.(2) Development may occur anywhere on site provided all conditions of this Development Order are adhered to and it is concurrent with all necessary infrastructure improvements.
- A.(3) The Developer\* has demonstrated the availability of adequate infrastructure, including roads, parks, transit, waste water service, solid waste service, fire, police, and other emergency services and will be issued a revised Level of Service Certificate which will expire December 30, 2012. Concurrency for potable water will be addressed at the Final Site Plan approval, pursuant to the Manatee County Comprehensive Plan Policies 2.4.1.2. and 2.4.1.5.
- A.(4) 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: 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). The Board and staff have not reviewed any such "tradeoff" and have not determined whether any "tradeoff" is appropriate. Any 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 biennial report shall include information indicating cumulative amounts of development which have been approved by the County as of the biennial 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. An amendment to applicable provisions of this Development Order pursuant to an NOPC or Substantial Deviation proceeding shall not be necessary or required to approve a "trade off" pursuant to this condition.

The following limitations shall apply to any tradeoff:

1. Residential uses shall not be increased nor decreased by more than 200 dwelling units. 680 to 1,080 Dwelling Units
2. The mix of approved uses shall not be increased nor decreased by more than 49,000 square feet of General Commercial or Office. 725,000 to 823,000 square feet for General Commercial and 91,000 to 189,000 Square Feet for Office
3. Hotel uses shall not be increased or decreased by more than 75 motel rooms. 175 to 325 Rooms.
4. School uses shall not be increased by more than 6,000 square feet (20,000 to 26,000 Square Feet). A decrease of school use may result in a corresponding increase in office use.

**TABLE 1  
COOPER CREEK CENTER  
PROJECT SUMMARY**

<b>TYPE OF DEVELOPMENT:</b>	Multi-use	
<b>LOCATION:</b>	Northwest quadrant of I-75 and University Parkway, in southeastern Manatee County	
<b>TOTAL DEVELOPMENT AREA:</b>		<b>604 Acres</b>
Residential		317.2 Acres
Commercial/Hotel/School <sup>1</sup>		131.5 Acres
Office/School		30 Acres
Open Space (Roads, Right-of-Way, Conservation, Preservation, Floodway, etc.)		124.98 Acres

	Development Totals	
Residential	767 d.u.	
Commercial <sup>1, 2, 3</sup>	774,000 Sq. Ft.(1)	
Office <sup>1, 3</sup>	140,000 Sq. Ft.	
Motel	250 Rooms	
School <sup>3</sup>	0 to 20,000 Sq. Ft.	
P.M. Peak Trips (net external)	2,817 Trips	
<b>BUILD-OUT DATE</b>	December 30, 2015	

- <sup>1</sup> May include communication antenna structures as allowed by the approved General Development Plan and applicable regulations.
- <sup>2</sup> Includes one existing communication antennae structure.
- <sup>3</sup> May include up to an additional 6,000 sq. ft. of school upon corresponding decrease of office and/or commercial uses.

A.(5) Existing agricultural uses on the property, in whole or in part, as an approved secondary use are hereby granted until development commences on the applicable section or portion of the site.

- A.(6) Any excess infrastructure capacity constructed to potentially serve development beyond that described in Condition A.(1) shall be at the developer's risk and shall not be construed to vest additional Vertical Development\* construction rights.

### TRANSPORTATION CONDITIONS

- B.(1) 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 December 30, 2015 shall be subject to review and approval of a transportation analysis pursuant to Section 380.06 Florida Statutes and issuance of a transportation level of service certificate pursuant to the Manatee County Land Development Code. Completed.
- B.(2) Maintenance of Acceptable Level of Service\* on intersections or in the Study Area to be determined consistent with methodologies in accordance with Section 380.06, Florida Statutes shall be verified by the developer to the satisfaction of the County Transportation Authority\* as part of each biennial report as required by Subsection 380.06(18), Florida Statutes.
- B.(3) There shall be no approvals granted as to development beyond that specified in Table 1 unless the transportation improvements required have been completed or such improvements are determined as not warranted under the Traffic studies\*.
- B.(4) The Developer\* shall continue to demonstrate continuous progress towards building permit applications for the development totals set forth in Table 1. Continuous progress shall mean Final Plat approval (or the issuance of building permits if a Final Plat is not required) for 200 residential lots or dwelling units and the issuance of building permits for at least 50,000 square feet of non-residential use. Failure to demonstrate such progress may require a revised and updated Traffic Study\* to demonstrate that Acceptable Levels of Service\* are still projected to exist at the time building permits are issued. The determination that a revised and updated Traffic Study\* is required shall be made by the Board of County Commissioners at a public hearing with notice to the developer, upon recommendation by the Planning Director.
- B.(5) The Developer\* shall provide for a bus bay area acceptable to Manatee County at one location within each commercial land use area and at one location on University Parkway near the project entrance at time of Development. (This condition provides the Transportation Management System required by TBRPC).
- B.(6) The Developer\* shall implement, at their expense, the following specified safety transportation improvements.
- a. Signalize the intersection of University Parkway and Cooper Creek Boulevard. The signal shall be of the mast arms type. Completed.

- b. Provide a westbound right-turn deceleration lane on University Parkway, at the intersection with Cooper Creek Boulevard. The turning lane length shall be 500 feet. Completed.
- c. Provide an additional southbound left-turn lane on Cooper Creek Boulevard at the intersection with University Parkway. The resulting dual left-turn lanes shall have a queue length component of 225 feet each. The Southbound right-turn lane queue length should be 150 feet. The dual left-turn lanes shall be supplemented by guiding pavement markings to provide turning lane separation (2-ft long dashed lines with 4-ft gaps to channelize turning traffic). Completed.
- d. Add one right hand, northbound to eastbound turn lane from Honore Avenue to Cooper Creek Boulevard, approximately 400 feet in length. Completed
- e. Add one eastbound to northbound left turn lane from University Parkway to Cooper Creek Boulevard adjacent to the existing left turn lane prior to the issuance of the Certificate of Occupancy for the second office building in Parcel K. Completed.

B.(7) The Developer\* shall evaluate the need for traffic safety and circulation improvements with each PSP\*. Manatee County shall review and evaluate the information submitted by the Developer\* and reserve the right to require additional safety and circulation improvements such as turn lanes, signals, signal timing, and pavement markings.

## ENVIRONMENT

### Air Quality

C.(1) Manatee County shall reserve the right to require mitigation measures or a revision of the site plan to alleviate potential negative impacts of the project on ambient air quality.

### Water Quality, Wetlands\* and Drainage

D.(1) In order to protect water quality in the Braden River watershed and the Evers Reservoir Watershed, there shall be no degradation of water quality by stormwater exiting the site. All stormwater discharges to the Braden River shall be required to meet all state water standards and criteria as defined in Chapters 62-302, and 62-25, F.A.C., as well as Manatee County requirements.

D.(2) The Developer\* shall continue to conduct the approved comprehensive surface water quality and quantity monitoring program approved by the County. The program shall continue through one year beyond project buildout. The County may require that the program may be extended beyond buildout if conditions are observed that would require additional monitoring. All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP 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. Any violation of federal, state, or local water quality standards shall require corrective measures as required by the appropriate authority. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

Any changes to the Surface Water Quality Monitoring Program Criteria, ", shall be submitted to the City of Bradenton and TBRPC for review and comment, and approval by Manatee County.

Should Manatee County adopt a Comprehensive Evers Reservoir Watershed Surface Water Quality Monitoring Program and the Developer\* participates in this Comprehensive Surface Water Quality Monitoring Program, then the Developer\*, with the approval by Manatee County and TBRPC, may terminate the required Surface Water Quality Monitoring Program contained in this Development Order.

- D.(3) The Developer\* shall continue to conduct the comprehensive ground water quality and quantity monitoring program as previously approved by Building and Development Services Department .The program shall continue through one year beyond project buildout. All monitoring reports shall be submitted to Manatee County and to the TBRPC with each biennial report.

Any changes to the Groundwater Quality Monitoring Program Criteria shall be submitted to the City of Bradenton and TBRPC for review and comment, and approval by Manatee County.

All water quality sample collections and laboratory analysis shall be made in accordance with USEPA/FDEP 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. Any violation of federal, state, or local water quality standards shall require corrective measures as required by that approved authority.

- D.( ) The Developer\* shall be responsible for Operation and Maintenance for all portions of the Surface Water Management System, except for those portions which are dedicated to and accepted by the County.
- D.( 5) All development shall be subject to the requirements of Chapter 40D-4, F.A.C. All Wetlands\* in the entire 604.68 acre development shall be subject to the requirements of Section 719 of the Manatee County Land Development Code or as otherwise approved by Manatee County.
- D.(6) Impacts to Wetlands\*, Preservation Areas\*, and Conservation Areas\* shall be mitigated in accordance with Table 3. Mitigation shall be required prior to the completion of the parcel in which the impact occurs.

a. **Preservation and Conservation Areas\***

Preservation and Conservation Area\* shall comprise of all SWFWMD jurisdictional wetlands, In addition to other areas as delineated on Exhibit C.

The Conservation Areas\* on site encompass approximately 51.96 acres as indicated on the attached Revised Preservation/Conservation Map dated July 28, 1999, Exhibit C. All Conservation Areas\* shall remain undisturbed or mitigated.

There shall be no impact to those Wetlands\* encompassing approximately 16.41 acres, indicated as Preservation Areas\* on the attached Revised Preservation/Conservation Map, dated July 28, 1999, Exhibit C. Impacts authorized pursuant to state and federal permits approved prior to the effective date of this development order and impacts for necessary infrastructure (such as roads, utility lines, recreational trails, and paths, as provided by TBRPC policy) may be allowed.

**b. Wetland Areas\***

Wetlands created as a result of flood storage compensation shall be credited as mitigation lands if acceptable to the Building and Development Services Department and other permitting agencies.

As required by Manatee County Comprehensive Plan Policy 3.3.1.5, the Developer\* shall provide buffers around all Post-Development Wetlands\*. Variable width buffers may be approved in accordance with Section 719.11.1 of the Land Development Code.

Mitigation security for impacts to wetlands, preservation, and conservation areas shall be required in accordance with applicable County Ordinances.

All herbaceous mitigation areas and littoral shelves used for mitigation shall be monitored annually after planting for a period of three years. Forested mitigation areas shall be monitored annually for at least five years. Monitoring shall include survival rates, species diversity composition, spreading, and exotic species encroachment. Additional planting may be required to maintain an 85 percent survival of planted species at the end of three years.

All Post Development Wetlands\*, Conservation and Preservation Areas\*, and their buffers shall be protected by a recorded conservation easement to Manatee County, as a separate easement document acceptable to Manatee County, and shall be shown on any Preliminary and Final Site Plans and Subdivision Plats. Deed restrictions shall be included that prohibit development activity and removal of native vegetation in the conservation easement unless approved by the County and any permitting agency or agencies with jurisdiction. Any replanting within the buffer shall be with flora native to the Braden River area of Manatee County.

Each biennial report shall include the results of the mitigation monitoring. The report shall also include information on what Conservation Areas\* and Preservation Areas\* have been impacted and the steps taken to mitigate the impacts and the results of the mitigation monitoring.



**TABLE 3**

**COOPER CREEK CENTER  
MINIMUM WETLAND\*, PRESERVATION, AND CONSERVATION AREA\*  
MITIGATION RATIOS**

AREAS	MITIGATION RATIOS*	
	HERBACEOUS	FORESTED
TBRPC Preservation & Conservation Area*	2:1	3:1
Wetlands*	2:1♦	4:1♦

If an area falls under two categories, then the most restrictive mitigation ratio shall apply.

♦ May be reduced in accordance with the Manatee County Land Development Code and Comprehensive Plan.

• Ratio is Mitigated Wetland\*: Disturbed Wetlands\*. Transplantation may be used for mitigation, if approved by the BUILDING AND DEVELOPMENT SERVICES DEPARTMENT and SWFWMD. Mitigation ratios shall be as approved by those agencies. For the purposes of this section, transplantation shall be considered creation, not enhancement.

\* Mitigation ratios for Wetland\* and Conservation Areas\* may include enhancement as mitigation technique. Enhancement for impacts to TBRPC Conservation Areas\* shall be provided at a minimum ratio of 6:1.

D.(7) 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. The stormwater management system within the Evers Reservoir watershed shall treat stormwater to Outstanding Florida Waters standard. Stormwater treatment shall be provided by biological filtration where required by the Master Drainage Plan as referenced as "Exhibit I".

D.(8) The Developer\* shall not seek permits for, or otherwise implement, any point source discharges of pollutants into the Braden River or its tributaries. Stormwater is not point source discharge as defined today, and no re-definition of point source discharges shall create a requirement that existing storm water discharges be prohibited under this section.

**FLOODPLAINS**

E.(1) All habitable portions of structures shall be constructed above the 100-year floodplain, and in accordance with local, state, and federal requirements.

E.(2) Any encroachment of the 100-year floodplain or floodway shall be mitigated in accordance with FEMA and Manatee County standards.

E.(3) No discharges to groundwater shall be permitted on-site.

### ECONOMICS

- F.(1) The Cooper Creek Center development shall promote entrepreneurship and small and minority-owned business start-up, and encourage non-discriminatory employment opportunities, pursuant to Policies 21.2, State Comprehensive Plan and 2.7.2, FRSRPP, respectively.

### WILDLIFE HABITAT AND VEGETATION

- G.(1) In the event that any species listed in Rule 68A-27.003 through 68A-27.005, FAC, are observed frequenting the site for nesting, feeding, or breeding, proper protection or mitigation measures shall be employed immediately in cooperation with the Florida Fish and Wildlife Conservation Commission (FWCC), the Manatee County Building and Development Services Department, and the Florida Department of Community Affairs. This shall include, at a minimum, a wildlife management plan which contains information on impacts to listed species, site maintenance, fire frequency, Wetland\* management, and boundary protection. Any such plan not adopted as part of the original Development Order shall require an amendment to the Development Order.

### ARCHAEOLOGICAL AND HISTORICAL RESOURCES

- H.(1) Any historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Department of State Division of Historical Resources (DHR) and treatment of such resources shall be determined in cooperation with the DHR, and Manatee County. Treatment of such resources must be completed before resource-disturbing activities are allowed to continue. A description of the project's compliance with these conditions shall be included in the subsequent biennial reports, to be submitted for review to DHR, in addition to TBRPC and Manatee County.

### WASTEWATER

- I.(1) Sewer lift stations shall be designed and equipped in accordance with Manatee County's Public Works Department guidelines with several means of back-up, to provide assurance against equipment failure and discharge to the environment. These shall include:
- a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box.
  - b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability.
  - c. Wet wells to contain sewage line surcharges or overflows.
  - d. Emergency by-pass pumpouts for tank trucks.
  - e. 100 percent redundancy in lift station pumping equipment.

- I.(2) Wastewater services to be provided by Manatee County. The quantity reserved shall be pursuant to the CLOS.
- I.(3) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (91-39).
- I.(4) The Developer\* shall not utilize on-site wastewater treatment.

#### WATER

- J.(1) The Developer\* shall require the installation of water conservation fixtures. Water saving devices shall be installed in accordance with the Florida Water Conservation Act (Section 553.14, Florida Statutes). The Developer\* shall require the use of native vegetation and Xeriscape techniques, to be used in landscaping to the greatest extent possible.
- J.(2) The Developer\* shall use only non-potable water to meet non-potable demands. For purposes of this Development Order, "non-potable" water is defined as water emanating from any source other than a public water utility. No reclaimed water shall be used within the Evers Reservoir watershed provided that if spray effluent is permitted by Manatee County and other agencies having jurisdiction, no amendment to the Development Order shall be required to allow the Developer\* to use spray effluent.
- J.(3) The Developer\* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources.

#### SOLID/HAZARDOUS WASTE

- K.(1) The Developer\* shall provide to all Cooper Creek Center businesses information that:
  - a. Indicates the types of wastes and materials that are considered to be hazardous and are to be stored or disposed of only in the specially-designated containers or areas;
  - b. Concerns the availability of existing companies that will accept wastes for recycle, reuse, exchange, and treatment; and
  - c. Advises of applicable statutes and regulations regarding hazardous wastes and materials.
- K.(2) The Developer\* shall notify all commercial tenants of their responsibility to comply with all the applicable sections of Title III (Community Right-to-Know Law) of the Superfund Amendment and Reauthorization Act (SARA).

## ENERGY

- L.(1) All Cooper Creek Center tenants, business, residents, etc., shall be notified in writing by the Developer\* upon occupancy, that the following related practices are encouraged:
- a. Use energy alternatives, such as solar energy, resource recovery, waste heat recovery, and co-generation, where economically feasible;
  - b. Obtain energy audits provided by energy companies or other qualified agencies;
  - c. Install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;
  - d. Use landscaping and building orientation to reduce heat gain, where feasible, for all Cooper Creek Center construction;
  - e. Promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
  - f. Reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;
  - g. Institute and utilize recycling programs; and
  - h. Utilize energy efficient packaging or recyclable materials.
- L.(2) The Developer\* should designate an energy officer to establish energy policies, monitor energy use, and encourage conservation for project businesses. This information shall be included in the first annual report. Completed.

## RECREATION AND OPEN SPACE

- M.(1) All recreation and open space areas not dedicated to the County or other state agencies shall be maintained by the Developer\*.
- M.(2) A decrease in open space acreage shall require a substantial deviation determination conducted pursuant to Subsection 380.06(19), Florida Statutes.

**PUBLIC SAFETY**

- N.(1) Sheriff and emergency medical services will be provided by Manatee County. The Developer\* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for police and emergency medical services or any combination thereof. The Developer\* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, as allowed by the Land Development Code, if applicable. An agreement shall be approved prior to the next Final Site Plan approval. Provided, however, no approval shall be delayed if the applicant submits an agreement, and it is withheld because of the County's inability or failure to determine needs or pro-rata share determination for a period exceeding 2 months after its submittal. In no event, shall the developer's payment or pro-rata share exceed impact fee amount.
- N.(2) The Cooper Creek Center development shall be designed and constructed to meet or exceed specifications of the State Fire Code - Rule 4A-3.012, FAC or be in compliance with Manatee County Comprehensive Plan and Land Development Code Requirements.

**GENERAL CONDITIONS**

- O.(1) The Developer\* shall be required to adhere to any and all commitments made in Section 6 incorporated herein, unless that commitment is superseded by a Development Order Condition in which case the Development Order Condition shall prevail.
- O.(2) The Developer\* shall submit biennial DRI reports in accordance with Section 380.06(18), Florida Statutes, to Manatee County, the Tampa Bay Regional Planning Council, the State Land Planning Agency, and other agencies, as may be appropriate, on or before the 9<sup>th</sup> of January of all even-numbered years starting in 2012, 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 Manatee County Building and Development Services 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 Director decide that 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, waiver, or change of any conditions, or any terms or conditions of this Development Order. The annual report shall contain the following:
- a. Any changes in the plan of development, or in the representation contained in the ADA\*, or in the phasing for the reporting period and for the next period;
  - b. A summary comparison of development activity proposed and actually conducted for the 2 years;

- c. 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 this DRI site since the amended Development Order was issued;
  - 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, the TBRPC, or the Department of Community Affairs 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 reporting period;
  - 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 statement that all persons have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes; and
  - j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer\* pursuant to Subsection 380.06(15)(f), Florida Statutes.
  - k. Reports or information pursuant to stipulations D(2), D(3), D(6), F(1), H(1),and L.(2) .
- O.(3) Any changes in the Development from the parameters set forth in the Application\* and this Development Order shall be governed by Subsection 380.06(19), Florida Statutes.
- O.(4) The Manatee County Building and Development Services 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 Biennial 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.

- O.(5) The Developer\* has elected, pursuant to Section 380.06(5)(c), Florida Statutes, to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the time the Development Order was issued on September 30, 1997. Accordingly, to the extent the provisions of Section 380.06(5)(c), Florida Statutes, affect the determination as to which rules are applicable to the Development, said election shall apply, notwithstanding any provision in this Development Order to the contrary.
- O.(6) This Development Order shall expire December 30, 2016. Buildout shall be completed by December 30, 2015. Unless otherwise specified in this Development Order, all conditions herein shall be complied with on or before the expiration date of this Development Order.
- O.(7) This Ordinance shall constitute a Development Order issued in accordance with Chapter 380, Florida Statutes.
- O.(8) In the event of a Development Order appeal or other legal challenge of the Development Order by the DCA or TBRPC, the Developer shall pay all costs and fees of County Staff and attorneys the County is required to expend related to said appeal or legal challenge at the rate of the processing fee for the Development Order under the current Building and Development Services Department fee schedules. Payment of all billings by the Developer related to such fees and costs shall be made within 45 days of the submittal of an invoice. Payment to County staff and County attorneys shall be at the rate of the processing fee for the Development Order under the current Building and Development Services Department fee schedule, and payment shall be remitted within forty-five days of submittal of an invoice.

#### **SECTION 6. DEVELOPER\* COMMITMENTS**

Developer\* commitments set forth in the attached "Exhibit F" shall be honored by the Developer\*, except as they may be superseded by specific terms of this Development Order.

#### **SECTION 7. LEGAL DESCRIPTION**

Development of Cooper Creek Center shall be restricted to the 604.68 acre tract of land described by the legal description included as "Exhibit A" attached to and made a part of this Development Order.

#### **SECTION 8. COMMENCEMENT OF DEVELOPMENT**

Physical development of the project not previously permitted shall commence within three (3) years of approval of this Development Order unless the time period for commencement is extended by the Board of County Commissioners; however, no Development Approval\* shall occur until the expiration of the appropriate appeal for this Development Order. If any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on testimony presented at that hearing, rescind or 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\* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of Vertical Development\* as part of an ongoing effort to prepare improved land or buildings for sale, lease, or use. Physical development has been initiated.

**SECTION 9. RESTRICTIONS ON DOWN-ZONING**

Prior to December 30, 2015, the County may not down-zone or reduce the intensity or unit density permitted by this order, unless the County can demonstrate that:

- A. Substantial changes in the conditions underlying the approval of the order have occurred; or
- B. The order was based upon substantially inaccurate information provided by the Developer\*; or
- C. 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 the purposes of this 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 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 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 herein to comply with Paragraph 380.06(15)(c)3, Florida Statutes.

**SECTION 10. BINDING ORDER UPON DEVELOPER\***

This order shall be binding upon the Developer\* and Owners\*.

**SECTION 11. COMPLIANCE WITH CODES, ORDINANCES**

All development undertaken pursuant to this 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 12. RENDITION**

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



**SECTION 13. NOTICE OF RECORDING**

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

**SECTION 14. SEVERABILITY**

It is the intent of this development order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this development order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such provisions or portions shall be deemed null and void but all remaining provisions and portions of this development order shall remain in full force and effect.

**SECTION 15. EFFECTIVE DATE**

This Ordinance shall become effective upon filing of a certified copy with the Department of State and rendered to the parties specified in Section 380.07(2), Florida Statutes, which ever occurs later; 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 appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 11-16 during the pendency of any appeal.

**SECTION 16. RECONCILE INTO ONE DOCUMENT**

This Development Order represents a codification of the existing approvals for the project integrating those changes proposed in this Notice of Proposed Change and approved by the Board of County Commissioners into a single Development Order for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

**SECTION 17. REPEAL OF PRIOR ORDINANCE**

**Ordinance No. 09-35 adopted by the Board of County Commissioners on May 19, 2009 and corrected as Ordinance 11-07 February 10, 2011 is hereby repealed and of no further force or effect.**

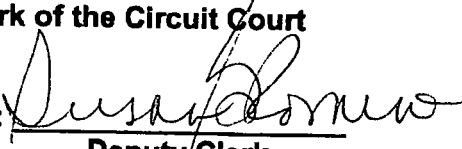
**ADOPTED AND APPROVED with a quorum present and voting by the Board of County Commissioners of Manatee County, Florida this the 24<sup>th</sup> day of May, 2011.**



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

**BY:**   
**Carol Whitmore, Chairman**

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

**BY:**   
**Deputy/Clerk**

**EXHIBITS A, B, F, and G, ARE ATTACHED**

**EXHIBIT C IS NOT ATTACHED BUT IS ON FILE AT THE CLERK'S OFFICE AS AN ATTACHMENT TO THE PREVIOUSLY APPROVED ORDINANCE 99-40, APPROVED ON SEPTEMBER 7, 1999**

**EXHIBITS D AND I ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS ATTACHMENTS TO THE PREVIOUSLY APPROVED ORDINANCE 97-23, APPROVED ON NOVEMBER 4, 1997.**

"EXHIBIT A"

LEGAL DESCRIPTION COOPER CREEK CENTER

FROM THE S.W. CORNER OF SECTION 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, BEING ON THE NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD, RUN S 89°24'05" E (WITH BEARINGS REFERRED TO GRID NORTH OF THE WEST ZONE OF THE FLORIDA STATE PLAN COORDINATE SYSTEM), ALONG THE SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 303.59 FEET TO THE POINT OF BEGINNING; THENCE N 00°20'30" W, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 36, A DISTANCE OF 5343.35 FEET; THENCE N 02°45'45" E, PARALLEL WITH AND 303.55 FEET EASTERLY OF THE WEST LINE OF SECTION 26, TOWNSHIP 35 SOUTH, RANGE 18 EAST, A DISTANCE OF 2674.17 FEET TO THE NORTH LINE OF THE S.W. 1/4 OF SAID SECTION 25; THENCE S 89°10'54" E, ALONG SAID NORTH LINE, A DISTANCE OF 2335.77 FEET TO THE WESTERLY RIGHT OF WAY LINE OF S.R. 93 (I-75, SECTION 13075-2402); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE (AND INTERSECTION RIGHT OF WAY) THE FOLLOWING EIGHT COURSES: VIZ: S 13°40'31" E, A DISTANCE OF 6145.63 FEET; AND S 09°40'31" E, A DISTANCE OF 518.74 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3180.04 FEET; AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°30'18", A DISTANCE OF 638.55 FEET; AND S 04°37'06" W, A DISTANCE OF 450.00 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 216.0 FEET; AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°40'21", A DISTANCE OF 315.44 FEET, TO THE P.T. OF SAID CURVE; AND S 88°17'27" W, A DISTANCE OF 628.42 FEET; AND N 89°25'07" W, A DISTANCE OF 298.24 FEET ; AND S 00°34'53" W, A DISTANCE OF 2.00 FEET, TO THE ABOVE DESCRIBED NORTH RIGHT OF WAY LINE OF COUNTY LINE ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE THE FOLLOWING EIGHT COURSES: VIZ: N 89°25'07" W, A DISTANCE OF 440.34 FEET; AND N 89°24'06" W, A DISTANCE OF 7.33 FEET, TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5865.58 FEET; AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 828.89 FEET, TO THE P.T. OF SAID CURVE; AND S 82°30'06" W, A DISTANCE OF 549.31 FEET; AND S 00°35'54" W, A DISTANCE OF 33.33 FEET; AND S 82°30'06" W, A DISTANCE OF 12.41 FEET, TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5626.58 FEET, AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'48", A DISTANCE OF 795.11 FEET, TO THE P.T. OF SAID CURVE; AND N 89°24'05" W, A DISTANCE OF 220.21 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 25 & 36, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS OF WAY, AND RESTRICTIONS OF RECORD.

CONTAINING 604.68 ACRES, MORE OR LESS.

**"EXHIBIT F"**

**DEVELOPER COMMITMENTS**

1. The home sites shall be clustered around the sites/ natural features. (ADA Pg 12-1)
2. Infrastructure including water, sewer and electricity, along with roadway paving, shall be in place prior to certificate of occupancy. (ADA, Pg 32-2)
3. There shall be a minimum of three percent of the original coniferous remaining after development. (Pg 12-4, S.R.)
4. Standard fugitive particulate abatement procedures shall be used to control dust prior to construction of the various phases of Cooper Creek Center. (Pg. 13-5, S.R.)
5. Manatee County Air Pollution Rules take effect at the time of construction approval and shall apply throughout the balance of construction of Cooper Creek Center. (Pg. 13-5, S.R.)
6. Temporary erosion control measures shall be employed during project construction to minimize wind and water erosion. Temporary measures may include hay bales, silt screens, grassing, mulching, floating or staked silt barriers, sandbagging, or other appropriate methods described in the FDOT Standard Specifications for Road and Bridge Construction. Dust control measures such as watering, or the use of calcium chloride shall be employed as needed. (ADA, 14-2; SR11, pg A1-10)
7. Flood elevations shall generally not be altered by the development; however, the acreages within the flood hazard zones will change due to dredge and fill activities which shall occur as part of the construction of the stormwater management system and site grading plan. (Pg. 17-1, S.R.)
8. The 25-year flood elevations of Cooper Creek shall be shifted approximately 0.5 feet higher within the project by the construction of a new bridge across Cooper Creek and encroachment down to the 10-year floodplain of Cooper Creek. (Pg. 17-1, S.R.)
9. The 100-year flood elevation shall not be increased off-site due to the additional flow capacity provided by the new auxiliary floodway to be constructed in the uplands along the northwest side of Cooper Creek. (Pg. 17-1, S.R.)
10. There shall be no significant net change in surface and groundwater at buildout. The stormwater treatment ponds shall be instrumental in replenishing the groundwater storage. (SR, pg. C1-8)
11. Clearing of existing vegetation shall be selective, emphasizing conservation of valuable existing plant materials and wetlands. (ADA, pg 12-5)

12. The applicant agrees to cooperate with the Division of Archives and Manatee County in deciding the ultimate disposition of any archaeological or historical resources found during construction. (Pg. 19-1, S.R.)
13. The project shall comply with the requirement of Chapter 62.4, 62.25, 40D-4, 41D-40, and 40D-400, FAC, concerning water quality of stormwater discharge. (SRIII, pg. 6)
14. The wastewater collection system outside the public rights-of-way shall be maintained by the owner of the property. (Pg. 21-1, S.R.)
15. Water users in the industrial park shall have individual meters in order to encourage water conservation. (Pg. 21-2, S.R.)
16. The detention areas of the proposed drainage system shall be designed to contain the runoff from a 25-year, 24-hour storm event for post-development conditions. (ADA, Pg. 22-1)
17. The project design shall consider various methods of energy efficiency and incorporate energy-conserving materials, lighting and equipment. (ADA, 25-3)
18. The proposed facilities and open space shall be owned, operated, and maintained by the Developer, its successors and assigns. (SRIV, pg. 17)
19. Permanent erosion control features, such as permanent landscaping, shall be incorporated into the project at the earliest practical time. (ADA, Pg. 14-2)
20. When practical, conveyance within the drainage system shall incorporate isolated Wetland systems and shallow grassy swales to provide for additional treatment assimilation of nutrients, and additional percolation and evaporation; and utilize shallow grassy swales for conveyance. (ADA, 15-10)
21. Alterations to the floodplain and floodway of Cooper Creek shall allow portions of the floodplain and floodway to be utilized for development or stormwater management without reducing the conveyance of Cooper Creek or causing an increase in the 100-year flood stage. (Pg. 17-6, ADA)
22. A new crossing between powerline bridge and I-75 bridge may be constructed having a flow cross section at stage 18.0 feet msl at least equal to the existing box culvert crossing under University parkway. This crossing shall be either a bridge or a triple box culvert with the center barrel 2.0 feet lower than the outer barrels to provide for passage of animals along the Cooper Creek corridor. (Pg. 22-14, ADA)
23. Natural trail or other passive recreational elements may be constructed in Subbasin A outside the banks of the creek but within the floodway. These elements shall be design not to reduce the conveyance of Cooper Creek and its floodway. (Pg. 22-14, ADA)

24. The fire flow required shall be based upon the proposed type of construction at the current recommendation of the National Board of Fire Underwriters at the time of construction. (Pg. 23-4, ADA

25. The developer shall satisfy county and SWFWMD regulations regarding encroachments on the floodplain of Cooper Creek. (PBS&J/TBRPC meeting June 25, 1985)
26. No upland development is planned within the 25-year floodplain of the Braden River, Sub basins D, E, F and G. (Pg. 17-8, S.R.)
27. Four wildlife corridor areas located along the tributaries within the project shall be protected from any future development other than recreation and stormwater retention, through the use of easements and restrictive covenants. (P. 18-1, S.R. and Pg. 18-5, ADA)







Tampa Bay Regional Planning Council

Chair  
Vice Mayor William D. Dodson

Vice-Chair  
Commissioner Larry Rustle

Secretary/Treasurer  
Mayor Robert Manning

Executive Director  
Manny Pumariega

April 15, 2011

Mr. Tom McCollum  
ZNS Engineering  
Post Office Box 9448  
Bradenton, FL 34206

**Subject: DRI #103 - Cooper Creek/Access Point, Notice of Proposed Change, Manatee County**


Dear Mr. McCollum:

The staff of the Tampa Bay Regional Planning Council has completed our review of the above-referenced NOPC application submitted in accordance with Section 380.06(19), F.S. Enclosed is a copy of the draft *Cooper Creek NOPC Report*. This Report will appear on the Agenda for the May 9, 2011 Council meeting.

Additionally attached are the comments received from the Florida Department of Transportation.

If you should have any questions about the Report, please do not hesitate to contact me at extension 29.

Sincerely,

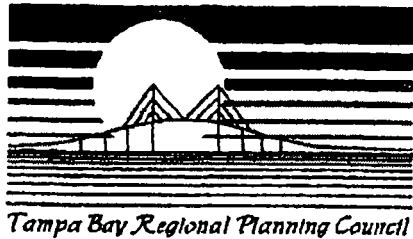
  
John M. Meyer  
DRI Coordinator

cc: Mr. Paul Blacketter, Benderson Dev't Co.  
Mr. Tim Kluver, Benderson Dev't Co.  
Ms. Betsy Benac, Benderson Dev't Co.  
Mr. John Osborne, Manatee County  
Ms. Lisa Barrett, Manatee County

Mr. Rax Jung, FDOT District 1  
Mr. Mike Maholtz, Sarasota-Manatee MPO  
Mr. Ed Wolfe, Sarasota County Planning  
Mr. Bernard Piawah, FDCA

**Exhibit G**

4000 Gateway Centre Boulevard, Suite 100 - Pinellas Park, FL 33782  
Phone: 727-570-5151 - Fax: 727-570-5118 - www.tbrpc.org



# NOPC

## Notice of Proposed Change Report

4000 Gateway Centre Boulevard, Suite 100, Pinellas Park, FL 33782  
Phone (727) 570-5151 / FAX (727) 570-5118  
www.tbrpc.org

### DRI #103 - COOPER CREEK MANATEE COUNTY

On March 16, 2011 (dated March 15, 2011), the Applicant submitted a Notice of Proposed Change application requesting modifications to the Development Order. Supplemental information was received on March 23<sup>rd</sup> (e-mail from Mr. Tom McCollum/ZNS Engineering) and April 13<sup>th</sup> (Correspondences from Mr. Adam Gibson/Kimley-Horn & Associates to Mr. John Meyer/TBRPC staff & from Mr. Adam Gibson to Mr. Bob Agrusa/Manatee County staff, each dated April 13, 2011). The following provides a summary of project entitlements and history, a description of the proposal, and the Council recommendation.

#### PROJECT DESCRIPTION

On January 9, 1986, Manatee County granted a Development Order (Resolution R-85-236) to the Wilbur Boyd Corporation for the above-referenced DRI, a 605-acre, mixed-use development located northwest of the University Parkway and I-75 intersection in Manatee County.

The Development Order had been amended ten times, most recently on February 3, 2011 (Ordinance No. 11-07). The amendments have cumulatively: consolidated the formerly approved two phase project into a single phase; extended the buildout date and the Development Order expiration date to December 30, 2013 and December 30, 2014 respectively [inclusive of prior extensions granted by Manatee County in association with revisions to Subsection 380.06(19)(c), F.S. and SB 360]; modified the trade-off mechanism and plan of development; modified list of transportation improvements including two "safety" improvements; recognized new owners/Master Developers; recognized a conversion of 113 residential units for 20,000 sq. ft. Vo-Tech/School space (Parcel K); authorized a potential conversion for 6,000 sq. ft. of additional Vo-Tech/School space (to 26,000 sq. ft.) with corresponding reductions of Commercial (Parcel J) OR Office (Parcel K) uses; increased Commercial space by 29,000 sq. ft.; recognized potential alternative uses for Parcel J; added an Honore Avenue access point; and corresponding changes to the Master Development Plan and corresponding Land Use Table.

The approved plan of development is as follows:

BUILDOUT DATE	RESIDENTIAL (Units)	COMMERCIAL (Sq. Ft.)	OFFICE (Sq. Ft.)	VO-TECH/SCHOOL (Sq. Ft.)	MOTEL (Rooms)
Dec. 30, 2013	767	774,000	140,000	20,000*	250

\* - an additional 6,000 sq. ft. of Vo-Tech/School can be attained with a simultaneous reduction of Commercial (Parcel J) or Office (Parcel K) at a 1:1 ratio.

## PROPOSED CHANGES UNDER THIS NOPC

The Applicant has requested the following modifications to the Development Order:

- establish an additional "right-in/right-out" only access point along University Parkway;
- modify the Project Summary (i.e. Table 1 of the Development Order) to appropriately reflect that only 20,000 sq. ft. of Vo-Tech/School space is/was specifically approved. An additional 6,000 sq. ft. of this use (to 26,000 sq. ft. total) can be obtained through conversion of Commercial and/or Office space; and
- extend the frequency of future monitoring to Biennial (future reports shall be due on January 9<sup>th</sup> of all even-numbered years).

## CONSISTENCY WITH SUBSECTION 380.06(19), FLORIDA STATUTES

Subsections 380.06(18) and 380.06(19)(2)2.d., F.S. identify the provisions applicable to this proposal. These citations read as follows respectively:

*"Development orders that require annual reports may be amended to require biennial reports at the option of the local government."*

*"changes in the configuration of internal roads that do not affect external access points" is not a Substantial Deviation. However, by contrast, the additionally proposed external access point is presumed to create a Substantial Deviation.*

*"Except for the change authorized by subsubparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence."* [underlined to express emphasis]

## DISCUSSION

The following statements serve as representations made by, or on behalf of, the applicant or are statements or recommendations made by Tampa Bay Regional Planning Council staff. These references/recommendations were relied upon by the Tampa Bay Regional Planning Council to determine that no further information would be required in conjunction with the current proposal:

1. The Applicant has acknowledged that the Table 1 of the Development Order shall be modified *"to clarify that the 6,000 sq. ft. of the 26,000 sq. ft. of School is included within the approved total land use category and is not in addition to the totals provided in the Commercial and Office categories."* In summary, Table 1 shall be revised to reflect 20,000 sq. ft. of Vo-Tech/School use, as expressed above, with the ability to convert for an additional 6,000 sq. ft. thereof in exchange for Commercial and/or Office uses. (March 15, 2011 correspondence/Page 2/NOPC Response #5)
2. The proposed/revised Map H, attached to this Report as *Exhibit 2*, *"clearly notes that the additional access (requested) is Right In/Right Out only."* (March 23, 2011 e-mail from Tom McCollum)

3. *The (proposed) right-turn in/right-turn out only driveway will provide access to the commercial/retail and hotel establishments located along Tourist Center Drive (internal to the project) and be located along University Parkway, approximately 450' west of the Cooper Creek Boulevard/University Parkway intersection. The driveway will also include a deceleration lane entering the site and an acceleration lane existing the site onto University Parkway. The right-turn in/right-turn out only driveway (would) provide several benefits to the surrounding roadway network, which are described below: (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. John Meyer)*
- *reduce the amount of traffic through the University Parkway/Cooper Creek Boulevard intersection. Patrons exiting the commercial/retail and hotel establishments along Tourist Center Drive who travel west along University Parkway (would) no longer have to make a southbound right-turn from Cooper Creek Boulevard to University Parkway;*
  - *reduce the amount of traffic through the Cooper Creek Boulevard/Tourist Center Drive intersection. Patrons exiting the commercial/retail and hotel establishments along Tourist Center Drive who travel west along University Parkway (would) no longer have to make an eastbound right-turn from Tourist Center Drive to Cooper Creek Boulevard. In addition, patrons entering the commercial/retail and hotel establishments along Tourist Center Drive from University Parkway (would) no longer have to make a northbound left-turn from Cooper Creek Boulevard to Tourist Center Drive;*
  - *reduce queuing of traffic and improve safety at the Tourist Center Drive/Cooper Creek Boulevard intersection. During the heaviest intervals of traffic during the day, the southbound left-turn vehicle queues at the University Parkway/Cooper Creek Boulevard intersection sometimes spill back into the Cooper Creek Boulevard/Tourist Center Drive intersection. This causes congestion and queues to occur for the eastbound right-turn vehicles and the northbound left-turn vehicles;*
  - *delivery trucks (would) have an alternate route to access the commercial/retail and hotel establishments, which (would) reduce congestion at the Cooper Creek Boulevard/Tourist Center Drive intersection; and*
  - *(would) extend the "life expectancy" of the existing lane geometry at the University Parkway/Cooper Creek Boulevard and Cooper Creek Boulevard/Tourist Center Drive intersections.*
4. *The estimated volume redistribution shown on Figure 1 has the potential to reduce the southbound right-turn volume at the University Parkway/Cooper Creek Boulevard intersection [external project driveway] by approximately 20% of the existing p.m. peak-hour traffic volume. Based upon the existing traffic count data, the southbound right-turn volume is expected to decrease from 240 vehicles to approximately 195 vehicles... The volume redistribution shown on Figure 1 also shows the potential to reduce the amount of existing entering (northbound left) and exiting (eastbound right) volume at the Cooper Creek Boulevard/Tourist Center Drive intersection [internal to the project] between 45% - 50% during the p.m. peak hour. (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. Bob Agrusa)*
5. Council staff routinely evaluates timeliness of Annual Report submittals and regular findings of consistency with the Development Order when determining whether to support a potential extension in the frequency of monitoring from Annual to Biennial. In this particular instance, the Developer has provided relatively timely Annual Report submittals and has always been determined to be compliant with the Development Order Conditions. With the prior knowledge of this NOPC application and in particular this request to extend the frequency of monitoring, the RY 2010-11 Cooper Creek Annual Report has not been submitted. It is therefore appropriate that the first installment of the Cooper Creek Biennial Report (for RYs 2010-12) be submitted on (or before) January 9, 2012 and each even-numbered year thereafter.

**RECOMMENDED ACTION**

Indicate to Manatee County and the Florida Department of Community Affairs that the proposal is presumed to create a Substantial Deviation, as defined above. However, it is the opinion of this agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representations stated in the Discussion above within the amendatory language, as may be appropriate.



EXHIBIT 1

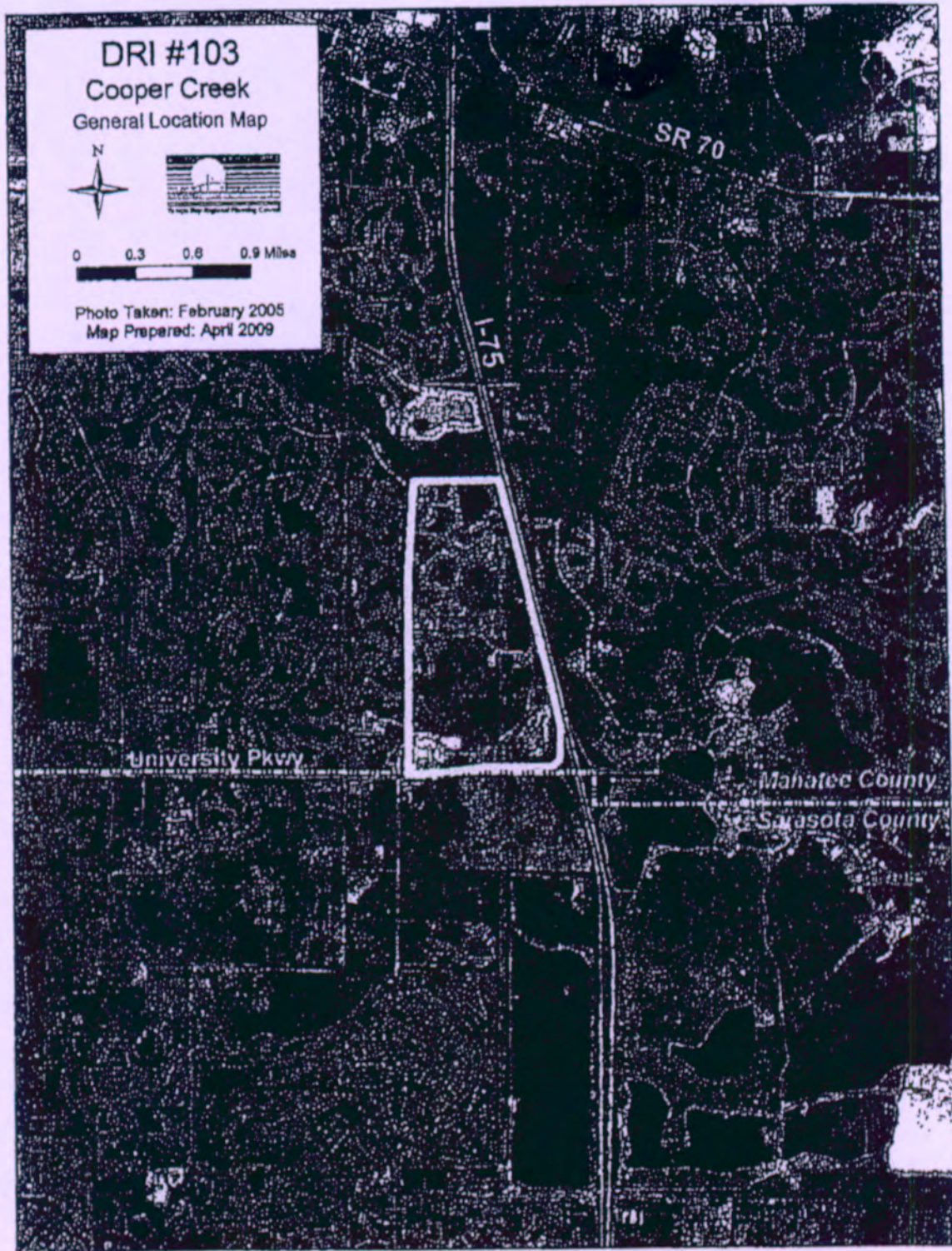


Exhibit G







**Florida Department of Transportation**

**RICK SCOTT  
GOVERNOR**

801 North Broadway Avenue  
Bartow, FL 33830

**OFFICE OF THE  
SECRETARY**

April 14, 2011

Mr. John Meyer  
DRI Coordinator  
Tampa Bay Regional Planning Council  
4000 Gateway Centre Boulevard, Suite 100  
Pinellas Park, FL 33782

**Re: Cooper Creek Center Development of Regional impact (DRI) # 103 - Notice of Proposed Change (NOPC) – FDOT Review Comments**

Dear Mr. Meyer:

The Florida Department of Transportation, District One, has reviewed the Cooper Creek Center DRI # 103 NOPC dated March 15, 2011 and offers the following comments.

The site is generally located north of University Parkway and west of I-75 in Manatee County, Florida. The DRI is currently approved for 776 dwelling units, 774,000 square feet of commercial, 140,000 square feet of office, 250 motel rooms, and a 26,000 square feet school with a build-out of December 31, 2013.

Based on the submitted application, the NOPC requests the following:

1. A new access (right-in right-out) along University Parkway.
2. Revision to Map H illustrating access (right-in right-out) along University Parkway.
3. Extending build-out and expiration dates in compliance with Senate Bill (SB) 1752; to 2015 and 2016 respectively.
4. Modifying the Project Summary Table 1 to clarify that 6,000 square foot of the 26,000 square ft. of School is included within the approved total land use category and is not in addition to the totals provided in the Commercial and Office Categories.
5. Provide biennial reports instead of annual reports.

**Exhibit G**

Mr. John Meyer  
Cooper Creek Center DRI + DRJ # 103 - Notice of Proposed Change (NOPC) - FDOT Review Comments  
4/14/2011, Page 2 of 2

**The Department has no comments on the NOPC.**

If you have any questions please feel free to contact me at (863) 519-2562 or [rax.jung@dot.state.fl.us](mailto:rax.jung@dot.state.fl.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Rax Jung", with a long horizontal flourish extending to the right.

Rax Jung, PhD., P.E.  
Sr. Technical Analysis Coordinator  
FDOT District One  
Intermodal Systems Development

**Exhibit "G"**

[www.dot.state.fl.us](http://www.dot.state.fl.us)



Tampa Bay Regional Planning Council

PL 11/11/11  
MAY 17 2011  
DEPARTMENT

*Chair*  
Vice Mayor William D. Dodson

*Vice-Chair*  
Commissioner Larry Bustle

*Secretary/Treasurer*  
Mayor Robert Mingos

*Executive Director*  
Maury Pomariega

May 9, 2011

The Honorable Carol Whitmore, Chair  
Manatee County Board of County Commissioners  
P. O. Box 1000  
Bradenton, FL 34206

**Subject: DRI #103 - Cooper Creek, Notice of Proposed Change Report, Manatee County**

Dear Madam Chair:

The enclosed agenda item regarding the above-referenced matter was considered and approved by the Tampa Bay Regional Planning Council at its May 9, 2011 meeting.

Please contact the Council staff if further information concerning this item is needed.

Sincerely,

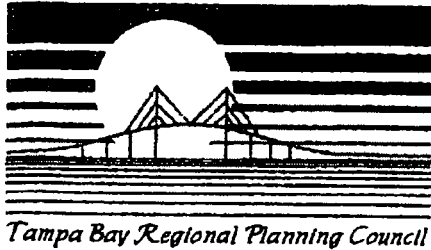
William D. Dodson  
Chair

WDD/bj

Enclosure

cc: Mr. Tim Kluver, Benderson Development Company, LLC  
Mr. Thomas C. McCollum, AICP, ZNS Engineering  
Mr. John Osborne, AICP, Manatee County Planning  
Ms. Lisa Barrett, Manatee County Planning  
Mr. Bernard Piawah, FDCA

4000 Gateway Centre Boulevard, Suite 100 · Pinellas Park, FL 33782  
Phone: 727-570-5151 · Fax: 727-570-5118 · www.tbrpc.org



# NOPC

**Notice of Proposed Change Report**  
4000 Gateway Centre Boulevard, Suite 100, Pinellas Park, FL 33782  
Phone (727) 570-5151 / FAX (727) 570-5118  
www.tbrpc.org

## DRI #103 - COOPER CREEK MANATEE COUNTY

On March 16, 2011 (dated March 15, 2011), the Applicant submitted a Notice of Proposed Change application requesting modifications to the Development Order. Supplemental information was received on March 23<sup>rd</sup> (e-mail from Mr. Tom McCollum/ZNS Engineering) and April 13<sup>th</sup> (Correspondences from Mr. Adam Gibson/Kimley-Horn & Associates to Mr. John Meyer/TBRPC staff & from Mr. Adam Gibson to Mr. Bob Agrusa/Manatee County staff, each dated April 13, 2011). The following provides a summary of project entitlements and history, a description of the proposal, and the Council recommendation.

### PROJECT DESCRIPTION

On January 9, 1986, Manatee County granted a Development Order (Resolution R-85-236) to the Wilbur Boyd Corporation for the above-referenced DRI, a 605-acre, mixed-use development located northwest of the University Parkway and I-75 intersection in Manatee County.

The Development Order had been amended ten times, most recently on February 3, 2011 (Ordinance No. 11-07). The amendments have cumulatively: consolidated the formerly approved two phase project into a single phase; extended the buildout date and the Development Order expiration date to December 30, 2013 and December 30, 2014, respectively [inclusive of prior extensions granted by Manatee County in association with revisions to Subsection 380.06(19)(c), F.S. and SB 360]; modified the trade-off mechanism and plan of development; modified list of transportation improvements including two "safety" improvements; recognized new owners/Master Developers; recognized a conversion of 113 residential units for 20,000 sq. ft. Vo-Tech/School space (Parcel K); authorized a potential conversion for 6,000 sq. ft. of additional Vo-Tech/School space (to 26,000 sq. ft.) with corresponding reductions of Commercial (Parcel J) OR Office (Parcel K) uses; increased Commercial space by 29,000 sq. ft.; recognized potential alternative uses for Parcel J; added an Honore Avenue access point; and corresponding changes to the Master Development Plan and corresponding Land Use Table.

The approved plan of development is as follows:

BUILDOUT DATE	RESIDENTIAL (Units)	COMMERCIAL (Sq. Ft.)	OFFICE (Sq. Ft.)	VO-TECH/SCHOOL (Sq. Ft.)	MOTEL (Rooms)
Dec. 30, 2013	767	774,000	140,000	20,000*	250

\* - an additional 6,000 sq. ft. of Vo-Tech/School can be attained with a simultaneous reduction of Commercial (Parcel J) or Office (Parcel K) at a 1:1 ratio.

## **PROPOSED CHANGES UNDER THIS NOPC**

The Applicant has requested the following modifications to the Development Order:

- establish an additional "right-in/right-out" only access point along University Parkway;
- modify the Project Summary (i.e. Table 1 of the Development Order) to appropriately reflect that only 20,000 sq. ft. of Vo-Tech/School space is/was specifically approved. An additional 6,000 sq. ft. of this use (to 26,000 sq. ft. total) can be obtained through conversion of Commercial and/or Office space; and
- extend the frequency of future monitoring to Biennial (future reports shall be due on January 9<sup>th</sup> of all even-numbered years).

## **CONSISTENCY WITH SUBSECTION 380.06(19), FLORIDA STATUTES**

Subsections 380.06(18) and 380.06(19)(2)2.d., F.S. identify the provisions applicable to this proposal. These citations read as follows respectively:

*"Development orders that require annual reports may be amended to require biennial reports at the option of the local government."*

*"changes in the configuration of internal roads that do not affect external access points" is not a Substantial Deviation. However, by contrast, the additionally proposed external access point is presumed to create a Substantial Deviation.*

*"Except for the change authorized by subsubparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence."*  
[underlined to express emphasis]

## **DISCUSSION**

The following statements serve as representations made by, or on behalf of, the applicant or are statements or recommendations made by Tampa Bay Regional Planning Council staff. These references/recommendations were relied upon by the Tampa Bay Regional Planning Council to determine that no further information would be required in conjunction with the current proposal:

1. The Applicant has acknowledged that the Table 1 of the Development Order shall be modified *"to clarify that the 6,000 sq. ft. of the 26,000 sq. ft. of School is included within the approved total land use category and is not in addition to the totals provided in the Commercial and Office categories."* In summary, Table 1 shall be revised to reflect 20,000 sq. ft. of Vo-Tech/School use, as expressed above, with the ability to convert for an additional 6,000 sq. ft. thereof in exchange for Commercial and/or Office uses. (March 15, 2011 correspondence/Page 2/NOPC Response #5)
2. The proposed/revised Map H, attached to this Report as *Exhibit 2*, *"clearly notes that the additional access (requested) is Right In/Right Out only."* (March 23, 2011 e-mail from Tom McCollum)

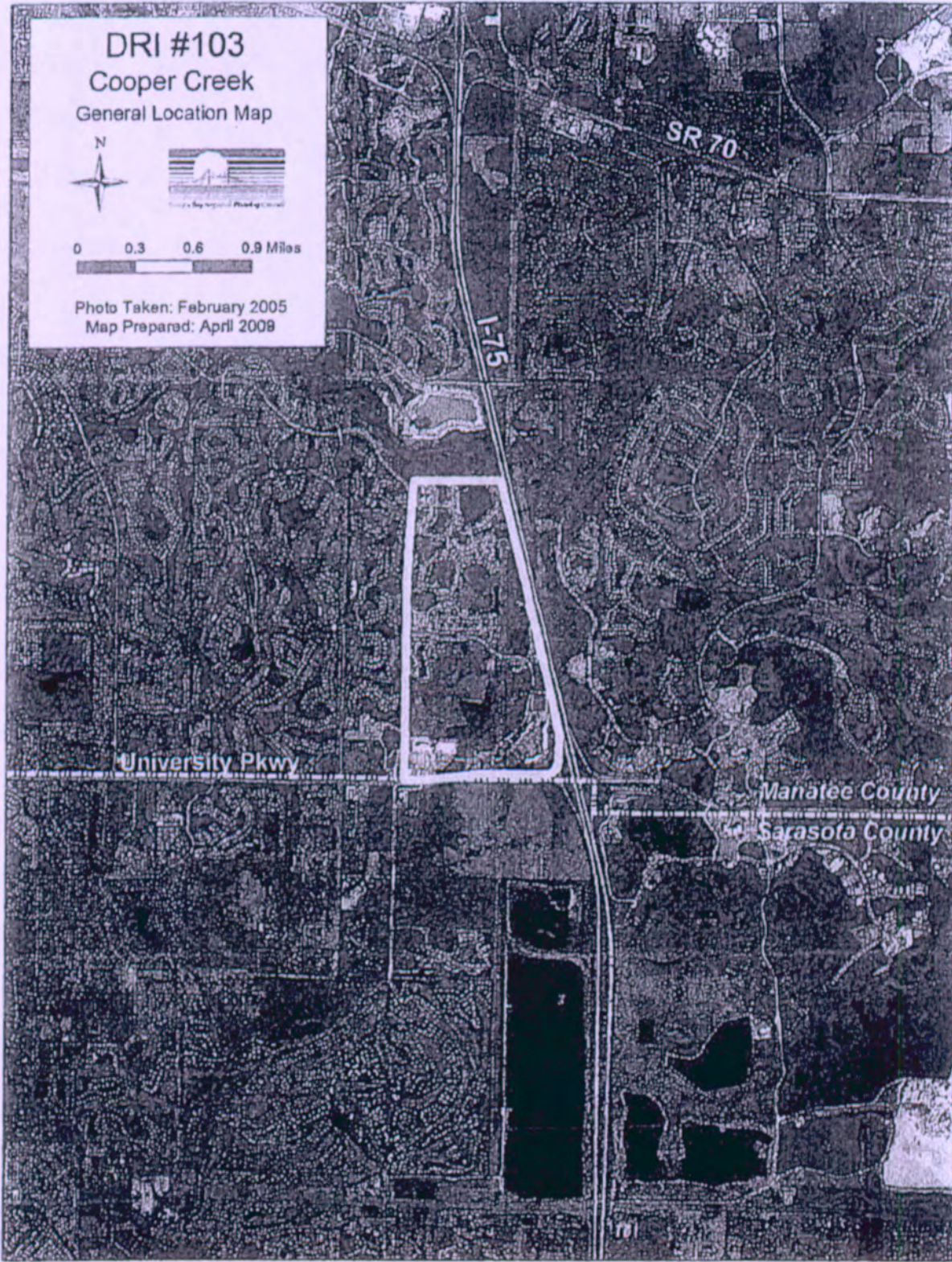
3. *The (proposed) right-turn in/right-turn out only driveway will provide access to the commercial/retail and hotel establishments located along Tourist Center Drive (internal to the project) and be located along University Parkway, approximately 450' west of the Cooper Creek Boulevard/University Parkway intersection. The driveway will also include a deceleration lane entering the site and an acceleration lane existing the site onto University Parkway. The right-turn in/right-turn out only driveway (would) provide several benefits to the surrounding roadway network, which are described below: (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. John Meyer)*
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  - *reduce queuing of traffic and improve safety at the Tourist Center Drive/Cooper Creek Boulevard intersection. During the heaviest intervals of traffic during the day, the southbound left-turn vehicle queues at the University Parkway/Cooper Creek Boulevard intersection sometimes spill back into the Cooper Creek Boulevard/Tourist Center Drive intersection. This causes congestion and queues to occur for the eastbound right-turn vehicles and the northbound left-turn vehicles;*
  - *delivery trucks (would) have an alternate route to access the commercial/retail and hotel establishments, which (would) reduce congestion at the Cooper Creek Boulevard/Tourist Center Drive intersection; and*
  - *(would) extend the "life expectancy" of the existing lane geometry at the University Parkway/Cooper Creek Boulevard and Cooper Creek Boulevard/Tourist Center Drive intersections.*
4. *The estimated volume redistribution shown on Figure 1 has the potential to reduce the southbound right-turn volume at the University Parkway/Cooper Creek Boulevard intersection [external project driveway] by approximately 20% of the existing p.m. peak-hour traffic volume. Based upon the existing traffic count data, the southbound right-turn volume is expected to decrease from 240 vehicles to approximately 195 vehicles... The volume redistribution shown on Figure 1 also shows the potential to reduce the amount of existing entering (northbound left) and exiting (eastbound right) volume at the Cooper Creek Boulevard/Tourist Center Drive intersection [internal to the project] between 45% - 50% during the p.m. peak hour. (April 13, 2011 correspondence from Mr. Adam Gibson to Mr. Bob Agrusa)*
5. Council staff routinely evaluates timeliness of Annual Report submittals and regular findings of consistency with the Development Order when determining whether to support a potential extension in the frequency of monitoring from Annual to Biennial. In this particular instance, the Developer has provided relatively timely Annual Report submittals and has always been determined to be compliant with the Development Order Conditions. With the prior knowledge of this NOPC application and in particular this request to extend the frequency of monitoring, the RY 2010-11 Cooper Creek Annual Report has not been submitted. It is therefore appropriate that the first installment of the Cooper Creek Biennial Report (for RYs 2010-12) be submitted on (or before) January 9, 2012 and each even-numbered year thereafter.

### **RECOMMENDED ACTION**

Indicate to Manatee County and the Florida Department of Community Affairs that the proposal is presumed to create a Substantial Deviation, as defined above. However, it is the opinion of this agency that no unmitigated regional impacts would be expected upon inclusion of the recommendations/representations stated in the Discussion above within the amendatory language, as may be appropriate.

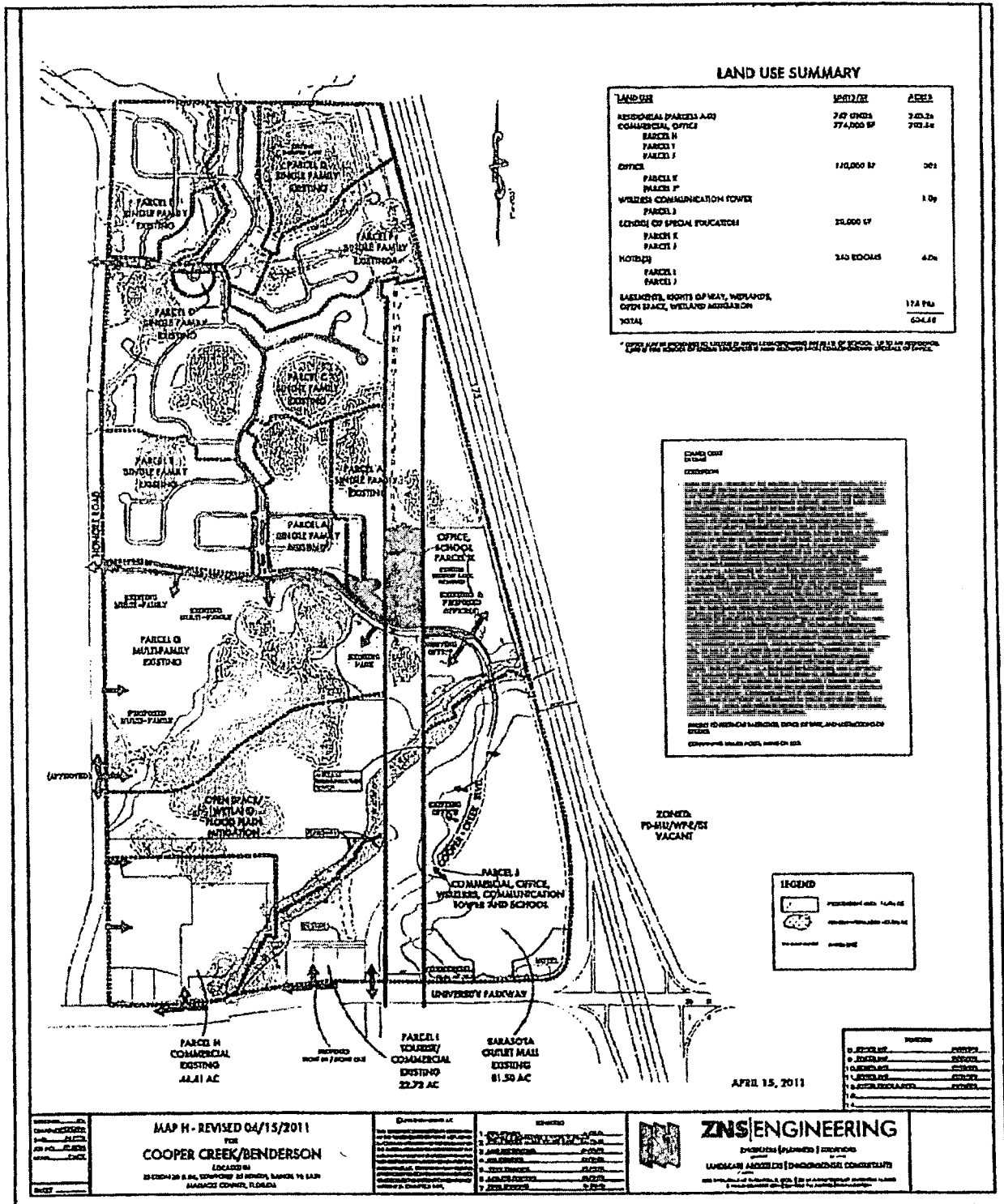


EXHIBIT 1





# EXHIBIT 2



### LAND USE SUMMARY

LAND USE	ACRES	PERCENT
RESIDENTIAL PARCELS AND COMMERCIAL OFFICES	747.0000	74.2%
OFFICE	110,000 SF	30%
WIRELESS COMMUNICATION TOWER		1.0%
SCHOOL	25,000 SF	
HOTELS	240 ROOMS	4.0%
EXISTING RIGHTS OF WAY, WETLANDS, OPEN SPACE, WETLAND RESTORATION		17.8%
<b>TOTAL</b>		<b>100.0%</b>

\* OTHER LAND USES ARE INDICATED BY OTHER SYMBOLS AND ARE NOT INCLUDED IN THIS SUMMARY.

**LAND USE SUMMARY**  
 THIS SUMMARY IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND IS NOT A GUARANTEE OF ACCURACY. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO EVIDENCE OF ANY VIOLATIONS OF ANY APPLICABLE REGULATIONS. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO EVIDENCE OF ANY VIOLATIONS OF ANY APPLICABLE REGULATIONS. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO EVIDENCE OF ANY VIOLATIONS OF ANY APPLICABLE REGULATIONS.

**LEGEND**

[Symbol]	PROPOSED LOT LINES
[Symbol]	EXISTING LOT LINES
[Symbol]	EXISTING BUILDINGS

**REVISIONS**

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	04/15/2011
2	REVISED PER COMMENTS	04/15/2011
3	REVISED PER COMMENTS	04/15/2011
4	REVISED PER COMMENTS	04/15/2011
5	REVISED PER COMMENTS	04/15/2011

APRIL 15, 2011

<p>DATE: 04/15/2011                  DRAWN BY: [Name]                  CHECKED BY: [Name]                  PROJECT: COOPER CREEK/BENDERSON</p>	<p><b>MAP H - REVISED 04/15/2011</b>                  FOR  <b>COOPER CREEK/BENDERSON</b>                  LOCATED IN                  20 22ND ST S.W., TOWNSHIP 22 NORTH, RANGE 16 EAST                  MANASSA COUNTY, FLORIDA</p>	<p><b>ZNS ENGINEERING</b>                  ENGINEERS (FLORIDA) &amp; ARCHITECTS                  1400 N. W. 10TH AVENUE, SUITE 100                  MIAMI, FLORIDA 33136                  TEL: 305.575.1111                  FAX: 305.575.1112                  WWW.ZNS-ENGINEERING.COM</p>
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**Copy of Newspaper Advertising**

**Bradenton Herald**

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Manatee County will conduct a Public Hearing on Tuesday, May 24, 2011, at 9:00 A.M. at the Manatee County Government Administrative Center, 1st Floor Chambers, to consider and act upon the following matters:

**MANATEE COUNTY ORDINANCE 11-07 (DRI #14) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11-07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.

4. Amend General Conditions, Section O.(2), to allow Biennial Reports in conformance with Section 380.06(18), Florida Statutes (as amended).
5. Any other revisions deemed necessary or appropriate during the public hearing process.

6. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(GHR6) - COOPER CREEK CENTER**

An Ordinance of the Board of County Commissioners, Manatee County, Florida, amending Ordinance PDMU-96-01(G)(R-6) and (R7) to amend the Development Order to extend the build out date and expiration dates pursuant to previously approved extensions granted with Senate bill 1752; to allow non-residential buildings constructed in Parcel H, I

and J along University Parkway to have a setback of 30 feet; to amend the landscaped buffer widths along University Parkway and Cooper Creek Parkway; add a new access point to University Parkway; amend the general development plan to implement these changes; amend stipulations to facilitate these changes; and provide an effective date.

Cooper Creek Center is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU WP E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

Interested parties may examine the proposed Ordinance, Resolution and related documents and may obtain assistance regarding this matter from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 2nd Floor, Bradenton, Florida; telephone number (941) 748-4501 x5878; e-mail to: [planning.agenda@mymanatee.org](mailto:planning.agenda@mymanatee.org).

According to Florida Statutes, Section 286.0105, any person desiring to appeal any decision made by the Board of County Commissioners with respect to any matter considered at said Public Hearing will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

**Americans with Disabilities:** The Board of County Commissioners does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Koycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds, or FAX 745-3790.

**THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS**  
Manatee County Building  
and Development Services Department  
Manatee County, Florida  
05/13/2011

**NOTICE OF ZONING CHANGES IN UNINCORPORATED MANATEE COUNTY**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Manatee County will conduct a Public Hearing on Tuesday, May 24, 2011, at 9:00 A.M. at the Manatee County Government Administrative Center, 1st Floor Chambers, to consider and act upon the following matters:

**MANATEE COUNTY ORDINANCE 11 07 (DRI #14) COOPER CREEK CENTER**  
An Ordinance of the Board of County Commissioners of Manatee County, Florida, amending the Development Order for the Cooper Creek Development of Regional Impact, Ordinance 11 07 as amended, (Manatee County DRI #14 a/k/a Tampa Bay Regional Planning Council TBRPC DRI #103); providing for findings of fact; providing for conclusions of law; providing for definitions; providing for amended limitations on and conditions of approval; providing for severability; and providing for an effective date.

The changes to the ordinance include a determination of whether the following proposed modifications to DRI #14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to Section 380.06, Florida Statutes:

1. Update the build out date to December 30, 2015 and expiration date to December 30, 2016 pursuant to previously approved extensions granted with Senate Bill 1752.
2. Modify Project Summary Table to clarify previously approved 6,000 sq. ft. of school use is permitted with a corresponding reduction of commercial or office sq. ft.
3. Amend Map H to permit an additional right in/right out access from University Parkway.

**Sarasota Herald Tribune**

1. Amend General Conditions, Section O.(2), to allow Biennial DRI Reports in conformance with Section 380.06(18), Florida Statute (as amended).

2. Any other revisions deemed necessary or appropriate during the public hearing process.

3. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-07, DRI #14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 Interchange. Present zoning is PDMU-WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

**PDMU-96-01(GHR6) COOPER CREEK CENTER**

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**THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.**

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS**  
Manatee County Building and Development Services Department  
Manatee County, Florida

Unit of print: May 14, 2011



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 15<sup>th</sup> day of

June .20 11  
R.B. SHORE  
Clerk of Circuit Court

By: [Signature] D.C.

FILED FOR RECORD  
R. B. SHORE



2011 JUN -9 PM 4: 17

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

**FLORIDA DEPARTMENT of STATE**

**RICK SCOTT**  
Governor

**DIVISION OF LIBRARY AND INFORMATION SERVICES**

**KURT S. BROWNING**  
Secretary of State

June 6, 2011

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

Attention: Ms. Robin Liberty, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 1, 2011 and certified copies of Manatee County Ordinance No. 11-16, which was filed in this office on June 6, 2011.

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

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/vm

Enclosure

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
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