

TASK 2 – Technical Memorandum Number 1: Existing Controlling Regulatory Parameters

TRANSMITTED VIA EMAIL TO jie.shao@charlottefl.com

Date: October 7, 2008
To: Jie Shao, Planner III, Charlotte County Growth Management Department
From: Mary Anne G. Bowie, FAICP
Re: US 17 (Duncan Road) Corridor Planning Study
TASK No. 2: Technical Memo 1: Existing Controlling Regulatory Parameters

Introduction

This technical memorandum provides a summary review and analysis of the existing comprehensive plan, zoning, planning, and land development controlling regulations that have particular relevance to the US 17 Corridor Planning Study Area. Comprehensive Plan policies have also been reviewed and analyzed for applicability. Most of the regulations summarized or quoted within this analysis and other regulations controlling growth can be found within Part III, “Land Development and Growth Management,” of the Code of Ordinances of Charlotte County. The complete language of these Chapters and the Comprehensive Plan is available at www.charlottefl.com. Other regulations considered include ordinances not yet codified and applicable regional regulations regarding stormwater management.

Analysis of Regulatory Challenges

One of the most critical concepts of effective land use planning must be that every decision needs to be supportive of the culture of the users of the land. In the US 17 Corridor, we have regulations in place that may be obstacles rather than supportive of desired activities. It is the intention of this study to provide spaces for the community that will have validity in terms of supporting cultural wholeness, spaces for creativity and connection that will be environmentally and culturally sensitive. As the planning process has proceeded, there are eight key planning issues that have emerged as ones that the community would promote in the US 17 Corridor Study Area. These concepts will be supported by specific policies within the Plan.

The latest planning theory that is emerging world wide is to create sustainable development. As concept, sustainable development is providing for the needs of the present without impacting the needs of the future. As practice, sustainable development is being implemented through the principles of New Urbanism, Smart Growth, Green Development, Places for Public Spaces, Design with Nature, Village Development, Healthy City concepts, and encouragement of infill and mixed use, multi-modal

transportation and other great principles. Many of these concepts are being combined in brand new developments and in new plans across Florida and the United States. When applied to raw land, i.e. land never platted or previously impacted by buildings, it is not difficult to apply these principles. However, in a situation where the community has been partially platted and inhabited by the buildings for some time, such as the US 17 Corridor Study Area, wholesale application of such principles is not possible.

The regulatory challenge is this: How do we create a great plan for the US 17 Corridor Study Area given the planning, zoning and land development regulations that are currently in place? In the final plan, policies will be recommended that will impact both mapped and written controlling regulations. The following analysis highlights some of the areas where existing regulations challenge, prohibit, control or encourage the ultimate US 17 Corridor Study Area Plan. It is organized as follows:

1. Landscaping along US 17 to create a sense of place
2. Creating village areas with diversity of housing types, redevelopment and infill and building on the sustainable principles of Babcock Ranch
3. Multi-use paths throughout the area
4. Water access for individuals and boats
5. Building new green jobs and green industrial buildings and landfills
6. Promoting Ecotourism
7. Low impact development (LID)
8. Providing a variety of land uses with appropriate density to support current and future resident
9. Providing Appropriate Density with regard to the Transfer of Development Rights Ordinance

1. Landscaping along US 17 to create a sense of place

Existing zoning along the US 17 Corridor is based on existing use that has occurred over time, so there is no consistent landscape buffer area or landscape treatment present. For that historical existing development, there are no regulations, landscaping plan or program in place to create landscaping along US 17 to create a sense of place. There are, however, existing commercial design standards that already do influence new development.

There are a variety of Healthy Street solutions that could be adopted for the US 17 Corridor Study Area. These will be explored and presented as policies. Additionally, exploration of reverse frontage roads as suggested policy may be recommended to create wider areas along US 17 where landscaping could occur.

The existing commercial design standards apply to all commercial general (CG), commercial intensive (CI), commercial tourist (CT) and commercial highway (CH) zoning districts in the US 17 Corridor Planning Study Area. The standards were established to ensure an attractive visual image of Charlotte County which will in turn attract new businesses and residents. The standards also provide for a degree of flexibility of design in order to avoid a visual homogeneity which could have a negative impact on individual commercial developments and the county.

The standards apply to new development, new stand alone buildings, and the redevelopment of existing buildings that increase gross floor area by more than fifty (50) percent. In addition, if more than fifty (50) percent of the assessed valuation of the commercial structure has been destroyed, this article applies to the redevelopment of that structure.

The commercial design standards note that “buildings shall always be oriented so that the main entrances and windows face the corridor street that serves the subject property. Main entrances of corner lots shall be oriented on the facade facing the corridor street with the higher functional classification. For corner lots at intersections of streets with the same functional classification, the building shall be oriented so that the main entrances do not face residential districts. Buildings on corner lots may also be oriented so that their main entrance faces the intersection of the two (2) streets with the highest functional classification.”

2. Creating village areas with diversity of uses, housing types, redevelopment and infill

In most all places along the US 17 Corridor, residential zoning and uses are separated from commercial uses. Residential uses that occur near each other are the same. There is no incentive to create redevelopment and infill uses. The amounts and types of the zoned areas do not lead to encouragement of Village developments.

On larger lots, accessory dwelling units should be encouraged and consideration should be given to reducing the dwelling unit density of an accessory dwelling unit. Additionally, any cottage industries or home occupations that are actually in place and employing people beyond family members should be legalized. Oftentimes, it is on the large lots within a community where most of the land clearing equipment is housed, invisible to the economic base of the community. Similarly, across the nation, there are thousands of home based businesses that are in place that are lost in the economic base of the local jurisdiction. To encourage these uses will be to take a quantum leap forward in encouraging the culture of our communities.

The permitted uses in most zoning categories are meant to restrict, rather than to encourage uses. For instance, in an area where there are many small platted residential lots where there are very few people

living, it would be appropriate to all many different types of residences to be built, such as townhouses, or duplexes or zero lot line homes. This would encourage developers and individuals to more creatively use their properties and would encourage infill. Without residential “rooftops” and adequate area zoned for commercial, the market driving commercial development will not be present.

It is appropriate to allow office, medical and commercial zoning nearby residential areas so that more convenient, walk-able experiences are possible. Currently most people must drive many miles to reach neighborhood shopping opportunities. There need to be more commercial and industrial zoned uses; that way the market forces will be able to create financially feasible projects that will support the community’s shopping and service needs.

The Babcock Ranch overlay district can provide a starting place for gleaming village and other sustainable development principles for the US 17 Study Area. What is missing in the Babcock Ranch geographic area are the Peace River and Shell Creek Rivers and tributaries.

3. Multi-use paths throughout the area

There are no multi-use paths throughout the area and no regulations that require connection among properties for wildlife connectivity and/or bicycle and pedestrian paths. At this time there are no joint use agreements with the Railroad or the power company for bicycle/pedestrian paths adjacent to the rails on railroad or power company owned right of way and no agreements for nature trails throughout the area. Within the Surface Water Overlay Zone and within the government owned wetland and waterfront properties, there are also no plans for multi-use paths.

One powerful recommendation for the US 17 Corridor Study area would be to create a long term multi-use plan for nature trails and combined bicycle and pedestrian paths. These paths could be presented in an overall multi-use path plan that could be established by Charlotte County and implemented over many years through a coordinated public-private effort.

Some of the implementation strategies might include the following:

1. Provide incentives for property owners who donate property or donate easements;
2. Obtain scenic highway grants for US 17;
3. Encourage establishment of a local non-profit to be the advocate for preservation and encouragement of alternative transportation and wild life corridors;
4. Develop appropriate regulations to govern pedestrian and bicycle path placemen within the US17 Corridor Study Area and
5. Explore amendments to the existing sidewalk ordinance to create linkages to other multi-use paths.

The existing Pedestrian access and walkways treatment required in Charlotte County is found in the commercial design standards where it is noted that the intent of this section is to provide convenient and safe access to commercial establishments for both pedestrians as well as vehicles, thereby encouraging modes of transportation other than the automobile.

Pedestrian access ways must be provided from the building entry(s) to surrounding streets, external sidewalks, and out parcels. The minimum ratio for pedestrian walkways will be one (1) pedestrian way for every public point of vehicular ingress or egress to a project, excluding those for service or delivery vehicles.

Crosswalks shall also be provided from parking lots or areas to the building's front and rear entrances. Pedestrian access ways and crosswalks shall be made distinct from other areas by using a variation in paving, landscaping or some other method.

All pedestrian access ways shall be a minimum of five (5) feet wide and shall comply with the Americans with Disabilities Act.

4. Water access for individuals and boats

In the US 17 Corridor Study Area, there are three public access areas identified in Chapter 3 of the Comprehensive Plan. They include the following public boat ramps: Darst Avenue Boat Ramp with one lane and six parking spaces; Riverside Park with one lane and five parking spaces; and a traditional use area, the Peace River Fish Camp, is also identified as an area where public use occurs. This is inadequate water access for individuals and boats in this sixteen square mile study area.

The regulations for Boat Houses, Docks, and Waterfront Property Regulations, including definitions for Industrial Marina, Resort Marina and Sports Marina, and where these marinas can be located is found throughout Charlotte County's regulations.

A marina is defined as a watercraft harbor complex used primarily for boat moorage and/or storage, but which may also provide associated accessory facilities and services, including but not limited to the sale of fuel, lubricants, provisions and boats.

An industrial marina is a marine-oriented establishment engaged in the construction, manufacture, sale, maintenance, repair, docking and storage of commercial boats, barges, watercraft and accessories, to include engines, motors, winches, mechanical equipment, supplies, the sale of fuel, lubricants and provisions; and the receiving, processing, storage and distribution of seafood products; and living aboard as provided in this chapter.

A resort marina is a sheltered water or harbor area with docking facilities for sports and pleasure boats and, upon such approval as may be required, docking facilities for living aboard. Accessory uses may also include the sale of fuel and lubricants, provisions, bait and tackle; service buildings with laundry facilities, showers, toilets, lavatories and recreational facilities may be included.

A sports marina is a commercial establishment engaged in the sale, maintenance, repair, docking and storage, wet or dry, of boats and watercraft used for pleasure or sports purposes, and accessories, including motors, trailers, equipment and supplies. The sale of fuel and lubricants, provisions, bait and tackle shall be permitted, and upon such approval as may be required, docking facilities for living aboard.

Regulations regarding Boat Docks, Boat Houses and Boat Lifts are presented in Section 3-9-70 of Article III, “Special Regulations,” in Chapter 3-9, “Zoning” of the Code of Law and Ordinances of Charlotte County:

In Section 3-9-98, waterfront regulations, note that any existing beachfront or waterfront lot of record as of January 1, 1998, not less than fifty (50) feet wide and not less than fifteen thousand (15,000) square feet in area in any district permitting multiple-family, two-family or single-family residential uses may be divided into two (2) lots, each of which shall have not less than the minimum lot area required for the district in which the lot is located. There shall be permitted one (1) driveway easement not less than ten (10) feet in width along either side lot line of the total parcel, which driveway shall connect to a public road. Side yards not less than five (5) feet from the driveway easement shall be required for all buildings. Rear yards and front yards may be perpendicular to the driveway easement as required for the district in which the property is located.

The regulations governing Houseboats and Boats Used for Living Purposes are presented in Section 3-9-80 of Article III and note that living aboard boats and houseboats is prohibited in any district except within a marina approved by the board of county commissioners in accordance with this section.

As the Comprehensive Plan notes, as Charlotte County’s population continues to grow so too will the need for additional public water access through marinas, boat ramps, fishing piers and traditional use areas. As development increases, the amount of vacant, waterfront property suitable for providing public access to the County’s coastal and estuarine waters will decline. It is clear that the amount of existing access is not suitable for the amount of shoreline present, and it is not adequate to meet the needs of the future population. Every time a property is developed, the County loses an opportunity for public waterfront access; therefore public waterfront access needs to be incorporated into waterfront development.

Page 3-140 of the Comprehensive Plan discusses that Charlotte County undertook a comprehensive Marine, Land and Water Use Siting Study in order to ensure that waterfront access remains available. This county-wide marine, land and water use siting study was undertaken in 1991 and is entitled

“Planning for Public Boating Access: A Geographic Information Systems Approach to Evaluate Site Suitability for Future Marinas, Ramps and Docks.”

This study resulted in a parcel-by-parcel analysis of all of Charlotte County’s salt-water accessible parcels. The study identified appropriate locations for docks and marinas based on anticipated boating demand through the year 2010, and provided an overview of marine access issues, including the need and availability of private residential dockage. The study also included a boating demand projection. During the course of the study, 30,560 lots were surveyed on an individual basis for both landside and waterside (environmental) constraints. Landside constraints include availability of water and sewer service, parcel size, whether the lot is vacant or currently used for a ramp or marina, and whether the parcel is served by a road capable of dealing with the level of traffic generated by either a boat ramp or marina. Waterside or environmental constraints include the presence or absence of sea grass beds, mangroves, wetlands, and whether the parcel is served by a channel which can be maintained at a navigable depth.

This study was presented to the Board of County Commissioners but never adopted. It is being revisited through the cooperation of the Parks, Recreation and Cultural Resources Department, the Environmental & Extension Services Department, and Community Development with input from numerous advisory committees.

The study assessed five broad zones, Zone 4 being the area within the US-17 Corridor Study Area. Zone 4 includes Peace River upstream from the US 41 bridge to the DeSoto County boundary.

Page 30 of the study announces that there are 12,070 boat docks (in 1992) in Charlotte County. Over 99 percent are situated on residential (88 percent), commercial (8 percent) and vacant (4 percent) lots. In Zone 4 about 10 percent of the parcels have docks.

The recommendations of this study include the following:

- Incorporate the Preferred Water-Dependant Uses on the Future Land Use Map as two Marine Access Overlay Districts (MAOD1 for the most intensive use and MAOD2 for less intensive use);
- Develop a method for applying a use-value assessment to marina and other public access facilities in order to provide an economic incentive which ensures that the properties will remain in a use which provides public access;
- Enter into agreements with the owners of vacant MAOD1 and MAOD2 properties in order to provide economic incentives which discourage the use of these properties in ways which do not provide for public access;
- Maintain the land-side elements of the Boating Resource GIS and incorporate them into the County’s future planning and permitting processes. These records would help determine whether the level of service standards established through the Comprehensive Plan are being met, and

whether the facilities are meeting the needs of the boating public, particularly with regard to location;

- Upgrade the water-side components of the Boating Resource GIS – boats, water depth, sea grass, and mangrove – in order to assess the County’s waterway management needs. The trend towards proportionally greater numbers of deeper draft boats will make waterway management issues, such as maintenance dredging, more critical in the future, and will place increasing pressure on existing land-side facilities and bay water resources. A county-wide waterway assessment should be undertaken in order to determine existing channel conditions and boat access needs;
- Direct future land and water marine use to locations where potential impacts on the environment will be minimal.

In 1981, Charlotte County had 7,735 registered boats; by 1991, that number increased by 79.4% (compared to the State-wide increase of 42.4%) to 13,876. In 2005 the number of registered boaters was 22,548. Dr. Frederick Bell of Florida State University’s Department of Economics projected that, by the year 2010, the number of registered pleasure craft in Charlotte County will exceed 43,000, an increase of approximately 310%.

Private marinas providing boat ramps, parking, and dry storage slips are increasingly being redeveloped for other uses. This trend continues throughout the state, and continues to place additional pressure on public boat ramp facilities and infrastructure.

As Charlotte County continues to grow, so too will the need to provide additional public access for its beach-going, boating, and fishing populations.

5. Building new green jobs and green industrial buildings

There is very limited heavy industrial land use and zoning currently allowed in the US 17 Study Area. Even in areas that do allow industrial use, there are no requirements to develop industrial buildings with accepted green building and green site development principles.

Incorporating green building and green site development principles is a necessary step towards a sustainable future. Green refers to that which offers environmental, economic and health and community benefits. Green building and site development connect our physical built environment with our ultimate goal of living any energy efficient, resource conservative and healthy lifestyle on this planet.

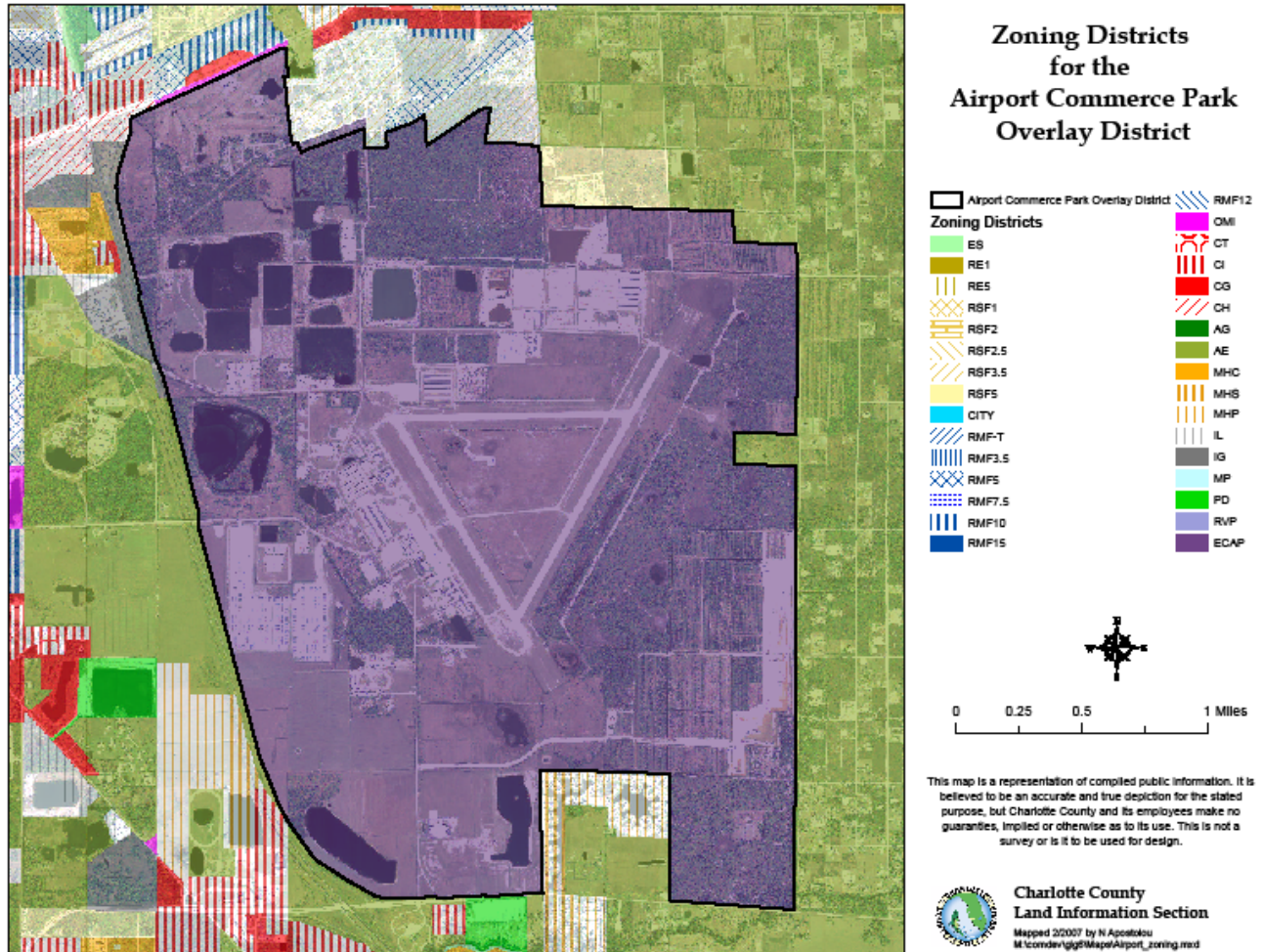
Some examples of new green industry might include: a solar panel manufacturing plant, a rubber tire recycling plant that refabricates the material into new products, a plastic recycling plant that creates plastic lumber, a green home panel manufacturing plant for modular housing, a green incubator for new technologies and construction companies that use healthy products.

It is most likely that the majority of industrial uses that will provide new green jobs in the US 17 Corridor Study Area will be located within the Enterprise Charlotte Airport Park (ECAP) overlay area. The ECAP Zoning District was designed to create a mixed use zoning district which enhances and promotes economic development within its boundaries as well as within the county, and which provides for quality and consistency in design and development while still maintaining flexibility in design and development standards. Categories of use permitted in the ECAP area include Commercial/Retail, Industrial, Distribution, Office/Government/Institutional, Aviation and Related Industries and Agriculture.

Permitted Uses in the ECAP Zoning District

CG	I	D	O/G/I	A	AG
convenience and variety stores; drug and sundry shops; bakeries and coffee shops; restaurants; gift shops and stationary stores; florists, jewelers, and art shops; photocopying shops; sporting goods shops; health and fitness clubs; garden shops; Laundromats and dry cleaning facilities; child and adult day care facilities; barbershops or beauty salons; car washes; grocery stores; hotels, motels, and conference centers; automobile rental agencies, not including camper, trailer, moving trucks or other such vehicle rentals; home hardware stores; apparel and appliance sale and repair stores; auto	building trades contractors; class 1 and 2 laboratories; heavy machinery and equipment sales, service, and rental; lumber and building supply establishments; farm equipment supply establishments; light manufacturing, processing, and assembly (including food processing and packaging); carpentry, cabinet, and machine shops; printing, lithographing, and similar establishments; service establishments catering to industry, telephone exchanges,	mass transit terminals and yards; warehousing; storage & distribution centers; wholesale businesses; bulk storage of other than flammable liquids; and any other use which by reasonable implication would be similar to one of the other uses listed in this	post offices; professional services; business services; banks & other financial institutions; vocational, trade, and business schools; colleges and universities; essential and emergency services; telephone call centers; radio and television stations; hospitals; medical and dental clinics; governmental uses; and any other use which by reasonable implication would be similar to one of the other	aircraft hangars and other aviation related uses requiring access to the runways, tarmac, or other air operation areas which fit the definition of an airport service function area, as provided in this section 3-9-51; and any other use which by reasonable implication would be similar to one of the other uses listed in this	public and private game preserves, fish and wildlife management areas, hatcheries and refuges, parks and open spaces; water conservation areas, reservoirs and control structures, drainage systems and water wells; limited educational facilities such as canoeing, hiking and nature study, and outdoor education; boating, swimming, fishing, diving, water skiing, surfboarding, wading and similar activities; boat docks and boat lifts; seawalls, bulkheads, riprap and similar structures; navigational markers and signal devices; public utility lines; raising of cattle, sheep, swine, or other animals associated with or kept in support of agricultural operations, provided no swine shall be kept within one thousand (1,000) feet of a non-agricultural use; raising of poultry; raising of dairy herds and production and processing of dairy products; breeding, training and boarding of animals associated with or kept in

<p>and truck parts sales and service; gas stations; airport terminals; class 3 laboratories. Commercial/retail developments containing one hundred thousand (100,000) or more square feet may be granted as a conditional use by way of special exception as provided in subsection 3-9-51(e)(2).</p>	<p>business machine services; and any other use which by reasonable implication would be similar to one of the other uses listed in this category.</p>	<p>category</p>	<p>uses listed in this category</p>	<p>category.</p>	<p>support of agricultural operations; barns, workshops and other structures incident to agricultural uses; harvesting, cultivation, processing and sale of crops grown on premises, including silviculture, aquaculture and commercial citriculture, and harvesting of timber regardless of such harvesting of timber's location on either uplands or wetlands; and any other use which by reasonable implication would be similar to one of the other uses listed in this category.</p>
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Sanitary landfills, but not including junkyards and automobile wrecking yards, are a special exception that may be approved within the AE zoning district, located east of US-17 in the study area.

Article V, “Solid Waste Management Facility Siting,” in Chapter 1-12 of the Code of Law and Ordinances of Charlotte County presents the siting ordinances for landfills. Section 1-12-107 discusses the approval process for a solid waste management facility. All such facilities must be located within the planned development zoning district, and within the agricultural or public/semi-public facilities future land use map designations for privately owned facilities, or within the public/semi-public facilities future land use map designation for publicly owned facilities.

A solid waste management facility shall be approved only when the BCC is satisfied that the proposed facility is appropriately sited and necessary as determined through review of various factors, standards, requirements, analysis and facility operations plan.

6. Promoting Ecotourism

Existing zoning districts do not encourage bed and breakfast uses, hotels, motels, cottage-like fish camp developments, or commercial developments that would support the eco-tourism trade.

Destination weddings, travel vacations, exploring nature are all important parts of the economy that can generate significant new jobs in the US 17 Corridor Study Area. The important action to take is to create a regulatory climate that will allow and encourage ecotourism uses.

There are certain Regulations regarding location and definition of Recreational Areas found in Section 3-9-2.

The following regulations are given in Article III “Parks and Recreation Facility Use Regulations,” in Chapter 1-11 “Parks and Recreation” of the Charlotte County Code of Law and Ordinance:

Section 1-11-36 states that this article shall apply to every passive park, recreation facility, fishing pier, boat ramp, and other county-owned property devoted to public recreation.

Section 1-11-39 states that overnight camping and overnight parking are prohibited except as specifically approved by the board of county commissioners for projects or events conducted otherwise in accordance with this article.

Section 1-11-40 states that County recreational facilities shall be closed to public use and access from 9:00 p.m. until 6:00 a.m. except as provided in section 1-11-41.

Section 1-11-41 states that the following listed areas, structures and facilities are excepted from the hours of use regulations set out in section 1-11-40:

1. Lighted athletic facilities, such as playing fields, baseball, basketball or football fields, horse arenas, and similar facilities, during any period when the lights are on;
2. Lighted tennis courts during any period when the lights are on;
3. County facilities such as the youth board building or the port;
4. Fishing piers and boat ramps;
5. The designated connecting roadways or walkways giving access to the foregoing facilities described in (a) through (d); and
6. Park areas not included in the sign-posted areas.

Section 1-11-42 states that the director of public works, with the advice of the department of parks and recreation shall, for the purpose of ensuring lawful, safe, and peaceful use of public recreational facilities, install traffic control improvements, signs, speed limits, and speed bumps. The department of parks and recreation shall post each park with signs which will visually indicate which portion of the park falls under the operating hours of 9:00 p.m. to 6:00 a.m.

Section 1-11-43 states that the director of the department of parks and recreation shall charge an admission or user fee at those facilities and in those amounts specified from time to time by resolution of the board of county commissioners. Revenues from there shall be dedicated to county recreational facilities.

Shell Creek and Prairie Creek Existing Overlay Ordinance

Prairie Creek rises in east central DeSoto County, draining a basin of approximately 233 square miles that covers portions of both Charlotte and DeSoto Counties. Shell Creek rises in north central Charlotte County and drains a basin of approximately 373 square miles (Black, Crow and Eidsness, 1976). Shell and Prairie Creeks, shown on Map 3.7, included within this section, are both classified as Class I Outstanding Florida Waters from the reservoir to their headwaters.

Though they follow separate channels until their confluence just east of the Peace River, Shell and Prairie Creeks are jointly included in the Existing Shell Creek and Prairie Creek Overlay Ordinance because together they have supplied potable water for the City of Punta Gorda since 1965 following the construction of a dam across Shell Creek.

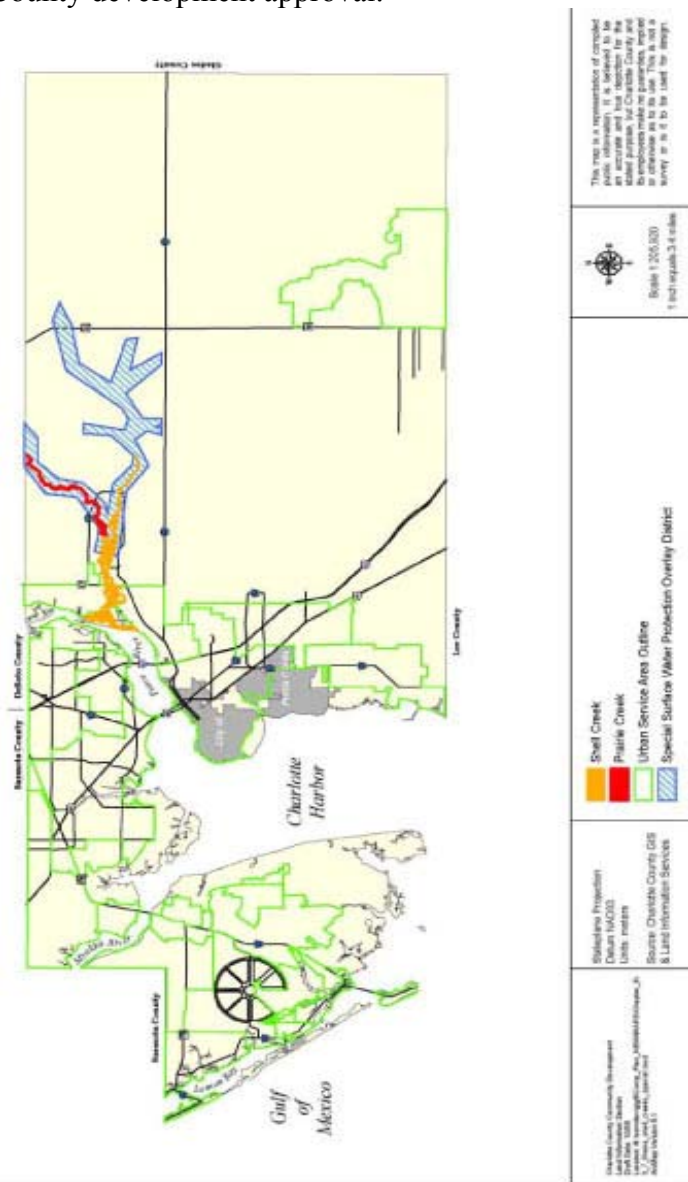
Page 3-8, “Local Legislation,” in the Introduction of Chapter 3, “Natural Resources and Coastal Planning Element,” of the Charlotte County Comprehensive Plan, introduces the Special Surface Water Protection Overlay District:

“The Special Surface Water Protection Overlay District was created through the adoption of Ordinance 89-53 and subsequently amended by Ordinance 92-25. This special designation is applied to the lands surrounding Shell Creek and Prairie Creek; those have been deemed as having special economic, ecological and recreational significance. The intent is to establish a level of development control for such areas in order to minimize the disruption of natural hydro periods, flows and water quality.”

Pages 3-28 through 3-30 of Section C “Water Resources,” in Part II “Inventory and Analysis” of Chapter 3, “Natural Resources and Coastal Planning Element,” of the Charlotte County Comprehensive Plan presents the details of Prairie and Shell Creeks:

Notwithstanding the current water quality, increased urban development occurring in the area of Prairie and Shell Creeks may pose a threat to the generally good water quality of these creeks if not managed properly. The growing use of septic tanks constitutes one such threat, as does increasing use of fertilizers, pesticides, and other anthropogenic impacts associated with urbanization. To help protect the City's drinking water, the County created the Special Surface Water Protection Overlay District (SSWPOD) around these creeks as an overlay to the Future Land Use Map which is illustrated by the previous Map 3.7. As provided by the SSWPOD's Implementing ordinance which was adopted in 1989, all land use activities within any portion of the SSWPOD, including agricultural, must be reviewed and approved prior to issuance of County development approval.

Map 3.7 Prairie Creek and Shell Creeks "Special Surface Water Protection Overlay"



7. Low impact development (LID)

The existing regulations that govern storm water management are designed to manage water, not to design with nature.

The Environmental Resource Permit (ERP) Program became effective on October 3, 1995 and governs watershed management activities in Florida including design of new development and stormwater management facilities with respect to allowable rates of runoff, stormwater treatment, and impacts to floodplains and wetlands. The ERP Program is administered in Charlotte County primarily by the Southwest Florida Water Management District (SWFWMD) except for a small area in the southern most region of the County which is administered by the South Florida Water Management District (SFWMDC).

Rules of SWFWMD and SFWMDC describe the requirements for construction, alteration, or operation of surface water management systems. Administrative and technical criteria for evaluating all projects are found in the Basis of Review section of the ERP Information Manual.

Current practices for controlling allowable rates of runoff include attenuating stormwater by creating surface impoundment areas such as lakes and ponds (wet system), or the shallower detention areas that must be above the water table (dry system), then releasing the stormwater through a control structure that is designed to release a certain rate of flow less than or equal to the existing runoff rate (pre-development runoff rate) for the property area prior to development.

Stormwater treatment is achieved by directing and capturing the first flush of runoff into these impoundment areas and controlling its release in order to meet state water quality standards. Methods of treatment depend on the type of system (wet or dry) and include: for dry systems, percolation-only into the existing soils, or filtration through a filter medium prior to discharge; and for wet systems, biological assimilation of pollutants with the use of a design pool and planted littoral zones.

Conventional stormwater management generally consists of techniques that result in the creation of an extremely efficient stormwater runoff conveyance system. Every feature of a conventionally developed site is carefully planned to quickly convey runoff to a centrally located management device, usually at the end of a pipe system. Roadways, roofs, gutters, downspouts, driveways, curbs, pipes, drainage swales, parking, and grading are all typically designed to dispose of the runoff in a rapid fashion. The magnitude of hydrologic changes (increase in volume, frequency, and rate of discharge) are amplified as natural storage is lost, the amount of impervious surfaces is increased, the time of concentration is decreased, and runoff travel times are decreased.

In contrast, the principal goal of low-impact development is to ensure maximum protection of the ecological integrity of the receiving waters by maintaining the watershed's hydrologic regime. Low-

impact development allows for the use of simple, cost-effective techniques that focus on site-level hydrologic control to mimic the pre-development site hydrology.

8. Providing a variety of land uses to support current and future residents

The tables below are provided to illustrate some of the permitted uses and special exception uses that may possibly occur in US 17 Corridor Planning Study area. This information is provided for information and discussion as the study continues. Opportunities exist within these requirements to provide a framework suggested for policies that may better guide future development in the US 17 Corridor Planning Study area.

Where properties lie anywhere on a barrier island or within one thousand two hundred (1,200) feet of the water of the Peace River structures must also be constructed in accordance with section 3-9-98.

Permitted Uses in Specific Residential and Preservation Zoning Districts							
	ES MP	AE	RSF	RMF	MH P&S	MHC	PD
Piers, Docks, Wharves, Boat Lifts	Yes				Yes	Yes	Yes
Single Family		Yes	Yes			Yes	Yes
Schools		Yes					Yes
Parks, Recreational Uses		Yes			Yes	Yes	Yes
Educational Tours		Yes					Yes
Duplexes, Multi-family, Cluster Houses, Town Houses, Patio Houses				Yes			Yes
Non Profit Parks and Playgrounds			Yes		Yes	Yes	Yes
Mobile homes; mobile homes occupied as residences used as family day care homes; park recreation facilities, including community room or center, courts for games					Yes	Yes	Yes
Park boat launching areas (MHP only)					Yes		Yes
Non commercial docks (MHS and MHC)					Yes	Yes	Yes
modular homes						Yes	Yes

Permitted Uses in the Office and Commercial Districts in US 17 Corridor Study Area				
OMI	CG	CI	CH	CT
Professional and business offices; hospitals and nursing homes; medical and dental clinics; art galleries, libraries, museums, community centers, publicly owned recreational facilities and theaters for live stage productions; elementary, middle and high schools; laboratories class 3; houses of worship; public parks, playgrounds and buildings; dance, art, music and photographic studios; funeral homes and crematoria; private clubs; animal hospitals; child and adult day care facilities and group home facilities; adult congregate living facilities; helistops in conjunction with hospitals; model homes; multiple family, two family, and single family dwelling units excluding mobile homes.	Hotels, motels and restaurants; professional services; personal services; business services; retail sales and services; parking lots and parking garages; automotive specialty services; automotive parts; resort marinas; sport marinas; garden shops; private clubs; post offices; indoor commercial recreational facilities; vocational, trade, business schools, colleges and universities; banks and other financial institutions; animal hospitals; adult congregate living facilities; package stores for the sale of liquor; houses of worship; model homes; funeral homes and crematoria; Laundromats and dry cleaning facilities; bars, cocktail lounges, nightclubs and taverns greater than 1,000 feet from a church or school; billiard parlors and game arcades; gas pumps; laboratories class 3; child and	All uses and structures permitted in the CG District except adult congregate living facilities; automotive sales and service; boat, trailer and motor sales and services; service stations and truck stops; lumber and building supply establishments; sale and storage of mobile homes, travel trailers and campers; heavy machinery and equipment sales and service; equipment rental; drive-in theaters, golf driving ranges, par-3 golf courses and outdoor commercial recreational facilities; railroad sidings; auditorium and conventional centers; wholesale sales; mass transit terminals and yards; car wash; mini-warehouses or storage facilities; laboratories class 3; automobile rental agencies.	Automotive service stations; motels and hotels; restaurants; gift, novelty and curio shops, sale of fruit and similar uses catering to tourists; convenience stores; houses of worship.	Hotels and motels; multiple-family dwellings; professional and business services; personal services; restaurants, drug and sundry shops, tobacco shops and newsstands, florists, gift shops, confectionary stores and self-service laundries; resort marinas; parking lots, garages and structures; sports marinas; adult congregate living facilities in accordance with section 3-9-63.1; bars, cocktail lounges, nightclubs and taverns greater than 1,000 feet from a church or school; package stores; convenience stores; private clubs; houses of worship in accordance with section 3-9-80.1



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	adult day care facilities; photocopying shops.			
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Permitted Uses allowed by Industrial Districts		
IL	IG	ECAP
<p>All uses and structures permitted in the CI District; wholesaling, warehousing, storage and distribution establishments and similar uses; light manufacturing, processing, including food processing, packaging and fabricating in completely enclosed building; printing, lithographing, publishing and similar establishments; bulk storage yards, but not including bulk storage of flammable liquids; outdoor storage yard or lots, provided such outdoor storage yards or lots shall not be located closer than twenty-five (25) feet to any public street; and provided further that this provision shall not permit wrecking yards (including automobile wrecking yards), junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display or sale of any scrap, salvage or secondhand building materials, junk automotive vehicles, or secondhand automotive vehicle parts.; retail and repair establishments for sale or repair of new and used automobiles, motorcycles, trucks or tractors, mobile homes, boats, automotive vehicles parts and accessories (but not junkyards or automotive vehicle wrecking yards), heavy machinery or equipment, farm equipment, retail establishments for sale of farm supplies, lumber and building supplies, monuments and similar uses; service establishments catering to commerce and industry,</p>	<p>All uses permitted in the IL District; asphalt plants and concrete batch plants; industrial marinas; business machine services and canteen services; storage of flammable liquids, subject to provisions of county and state fire codes</p>	<p>Allows: Commercial Retail Uses; Industrial Uses, Distribution Uses, Office/Governmental/ Institutional Uses, Aviation and related Industries and Agriculture</p> <p>A more detailed description of uses allowed in the ECAP area occurs in Section 5 above.</p>

<p>including linen supplies, freight movers, communication services, employment agencies, sign companies, automotive service, truck stops and similar uses; vocational, technical, trade and industrial schools, and similar uses; medical clinic in connection only with industrial activities; miscellaneous uses such as express offices, telephone exchanges, commercial parking lots and parking garages, motor bus or truck or other transportation terminals and related uses; radio and television stations and transmitters; laboratories, classes 1, 2 and 3, provided central sewer is available; helistops.</p>		
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Specific Uses Allowed by Special Exception

Certain uses within the zoning districts that occur with the US 17 Corridor Study Area are allowed by Special Exception only. These are described below. In all cases the Special exception process must be approved before these uses will be permitted.

<p align="center">Special Exception Uses Allowed in Residential and Preservation Zoning Districts If Special Exception Process is Approved</p>
<p>ES Resorts and sports marinas and commercial fisheries (ES)</p>
<p>MP Structures and uses which relate directly and immediately to permitted uses in upland zoning classifications abutting an MP district, covered boat slip and boat houses, commercial wet storage of boats, houseboats and boats used for living purposes in accordance with section 3-9-80 (MP)</p>
<p>AG and AE Single family residences used as foster care facilities; agricultural-industrial uses; public and private recreation facilities, including country clubs, race tracks, pistol, rifle, skeet, trap shooting and archery ranges and riding stables; sanitary landfills, but not including junkyards, and automobile wrecking yards; plant nurseries with retail sales of garden supplies and equipment; cluster houses and patio houses, provided a site plan is approved; nursing homes; airports; heliports and landing fields; houses of worship; group home facilities; child and adult day care facilities; commercial radio, television and other transmitting or receiving stations; cemeteries, mausoleums, crematoriums and funeral homes located within a cemetery; yacht clubs, country clubs, golf driving ranges and golf courses, including executive or par-3 golf courses, but not including miniature golf courses not associated with a golf course; mobile homes uses as residence; adult congregate living facilities in accordance with section 3-9-63.1; private clubs; colleges and universities; veterinarian clinics and dog clinics</p>
<p>RSF Cluster houses and patio houses, yacht clubs, country clubs, in conjunction with golf courses, and golf courses, including executive or Par 3 golf courses but not including miniature golf courses or practice driving ranges not associated with a golf course. Houses of worship, elementary, middle and high schools, home</p>



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occupations, group home facilities, child and adult day care facilities, adult congregate living facilities, radio and television transmission towers
RE Houses of worship, in accordance with Section 3-9-80.1; home occupations, in accordance with Section 3-9-79; and adult congregate living facilities, in accordance with Section 3-9-63.1 (RE)
RMF Yacht clubs, country clubs, in conjunction with golf courses, and golf courses, including executive or par-3 golf courses but not including miniature golf courses or practice driving ranges not associated with a golf course; houses of worship; elementary, middle and high schools; home occupations; group home facilities, child and adult day care facilities; resort marinas, adult congregate living facilities; nursing homes; rooming and boarding houses
MHP Resort marinas; group home facilities, child and adult day care facilities; open storage areas for mobile homes and recreational equipment, the use of which is limited to park residents. No such areas shall exceed five (5) percent of the total park area; essential services and emergency services; house of worship in accordance with section 3-9-80.1.(MHP)
MHS Houses of worship in accordance with section 3-9-80.1; home occupations; child and adult day care facilities; essential services and emergency services.(MHS)
MHC Houses of worship; home occupations; child and adult day care facilities; adult congregate living facilities (MHC)

Special Exception Uses Allowed in Commercial and Industrial Zoning Districts If Special Exception Process is Approved
OMI Colleges and universities; vocational trade or business schools; sanitariums; detoxification centers; substance abuse centers; and halfway houses when the special exception process is approved.
CG Bars, cocktail lounges, nightclubs and taverns less than 1,000 feet from a church or school; mass transit stations; miniature golf courses; elementary, middle and high schools; outdoor markets; television and radio transmitter towers; window tinting and radio installation within an enclosed building; heliport or helistops; mini-warehouse; automobile rental agencies.
CI Bars, cocktail lounges, nightclubs and taverns within 1,000 feet from a church or school; sale and display in other than completely enclosed building of any merchandise otherwise allowed as permitted use in this district; warehouses or storage facilities for flammable liquids; building trades contractor with storage yard for materials and equipment on premises; television and radio transmitter towers; light manufacturing and assembly in a completely enclosed building; heliports and helistops; outdoor markets; carpentry, cabinet and machine shops; laboratories class 2.
CH Truck stops.
CT Recreational and entertainment uses; automobile, motorcycle and bicycle but not truck or trailer rentals; retail sales and services not otherwise permitted.
IL Bulk storage of flammable liquids and explosives, subject to the provisions of county and state fire codes; industrial marinas; asphalt plants; concrete batch plants; heliports.
IG Automobile wrecking yards and junkyards in other than a completely enclosed building, provided that such yards shall be in accordance with section 3-9-82; any industrial use not specifically permitted or prohibited which is otherwise lawful and which conforms to industrial performance standards; explosive storage, subject to the provisions of county and state fire codes; stockyards and feeding pens; animal slaughterhouses; tanneries and the curing or storage of raw hides; heliports; fertilizer manufacturing.

9. Providing Appropriate Density with regard to the Transfer of Development Rights Ordinance

The Transfer of Density Units ordinance is a revision of the Transfer of Development Rights ordinance (TDR). The TDR ordinance was adopted on August 28, 2001 and was revised and renamed the Transfer of Density Units (TDU) ordinance on November 16, 2004.

The “Transfer of Density Units” ordinance can be found as Article XX in Part III, “Land Development and Growth Management,” of the Code of Ordinances of Charlotte County. The transfer of density units (TDU) is a process in which the rights to develop a given property are severed and reassigned (transferred) to another property; the severance and transfer are recorded and made a part of the permanent records of the jurisdiction within which the transaction takes place.

Article XX states that “residential development rights associated with real property with environmentally sensitive resources, historic or archeological resources, or which contains a bona fide agricultural use, or real property otherwise deemed less suitable for development, may be properly transferred to property better suited for higher density residential development upon satisfaction of the requirements of this article.”

The TDU process set up by Article XX requires a property owner to transfer density from an identified Sending Zone (the property from which a person takes density) to a Receiving Zone (the property to which a person transfers density) when higher density is requested for a property through a change in zoning (also may include a change in the Future Land Use Map designation). The TDU process involves developing a petition for acknowledgement by the Board of County Commissioners that the density has been shifted from an SZ (sending zone) to an RZ (receiving zone). The TDU petition is a complex process that requires approval from the community development director.

One of the first steps in undertaking a TDU is determining the density of an SZ. Within the urban service area, the density of the SZ is the base density. The base density is defined as the following: “Density calculated utilizing the zoning district of the parcel and the method of calculation described according to article 1, section 3-9-2, rules of construction; definitions, Charlotte County Code. If there is an inconsistency between the future land use map designation and the zoning district, the least intensive zoning districts that implements the future land use map designation shall be utilized.” Outside the urban service area the density of the SZ is 1 unit per lot/parcel, if the lot existed before 1992; if the lot existed after 1992, it is the base density.

The proposed SZ must also comply with one of the following criteria: It must contain an environmentally sensitive resource; contain a historic or archeological resource; be located within the coastal high hazard area; be a substandard lot or parcel; be located outside the urban service area and contain a bona fide agricultural use (It must be the intention of the property owner/petitioner to continue agricultural use of the subject property); be located within the suburban area of the USA and the

property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum, and the property is not currently served by water or sewer or within any utility's five-year capital improvements program for extension of water and sewer. (Or, if the property owner is choosing to sever all density, a building permit is not required. This density may only be transferred to an RZ in the infill area of the USA); or be located in the infill area of the USA and the property owner has obtained a building permit to develop a residential use at a density below the base density, or a school, house of worship, park, cemetery or mausoleum. (This density may only be transferred to an RZ in the infill area of the urban service area).

Density on those portions of a proposed SZ that contain an environmentally sensitive resource or which contain an historic or archeological resource must be totally removed. Density can be retained on other areas of the SZ if such retention is deemed consistent with the provisions of this article and the covenant. An SZ may be used for mitigation or for relocation of protected plant or animal species, as such use or relocation may be allowed by federal and state regulations, provided the terms of the covenant are satisfied.

The RZ is similarly regulated. In order for a property to qualify as an RZ, the proposed RZ must comply with all of the following criteria: It must be located within the USA (or if outside the urban service area, be developed as a new community or rural community); It must be either currently designated on the FLUM or proposed to be designated as low density residential, medium density residential, high density residential, mixed use, rural estate residential, neighborhood business residential, commercial tourist, new community, or rural community (in the event that a petitioner submits a plan amendment to extend the urban service area but does not request an accompanying amendment to change the FLUM designation of the lands to be placed inside the USA, the existing FLUM designation will be accepted as an RZ.); It must not contain historic or archeological resources unless such areas can be designated as a preserve through a conservation easement; It must not be located within the coastal high hazard area.

Areas which are not scheduled to receive higher urban densities or infrastructure, such as Rural Service Areas, are logical candidates for "sending zones"; while those areas in which higher densities and infrastructure are to be provided (i.e., urban service areas) are logical "receiving zones".

The relevance of TDU can be found on Page 1-149 in Chapter 1, "Future Land Use Element," of the Charlotte County Comprehensive Plan. It states: The development and implementation of this growth management strategy, in conjunction with the Board of County Commissioner's policy of "no net change" in the County's overall density, has demonstrated that the TDU process is a strong tool for managing growth. Though this is not an official policy, this is akin to saying there is a "closed density system" in Charlotte County and density cannot be created, only transferred.

At this time, if the urban service area is expanded, any development will need to purchase units from sending zones. The Transfer of Development Ordinance provides an obstacle to encouraging development in the US 17 Corridor Study Area.

Because the overall very low residential density in the US 17 Corridor Study Area, certain commercial uses cannot be supported. Without commercial uses and jobs, residents may not want to move to the area. So, the TDR Ordinance creates an obstacle for encouraging growth. To implement the TDR Ordinance, people must purchase units on the open market, creating extra cost to create density. This extra step of purchasing density before development drives up the cost of residential development.

One solution to the Transfer of Development Rights Ordinance might be to grant exemptions from the TDR Ordinance through a County incentive program. For instance, incentives might be given to encourage positive policies that would help people build with low impact design, provide free access to the water, create alternative transportation solutions, build in a Village style, etc. Another solution may be to increase the overall units available in this area by coordinating with the Dept. of Community Affairs with an increased density tied to Village, open space, public space or green development or other appropriate development policies.