

Effective Date July 10, 1998

ORDINANCE
NUMBER 98 0470A0

AN ORDINANCE OF THE CHARLOTTE COUNTY BOARD OF COUNTY COMMISSIONERS, RELATING TO THE ESTABLISHMENT OF THE HERITAGE OAK PARK COMMUNITY DEVELOPMENT DISTRICT; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW PERTAINING TO THE PETITION TO ESTABLISH THE HERITAGE OAK PARK COMMUNITY DEVELOPMENT DISTRICT FILED PURSUANT TO CHAPTER 190, FLORIDA STATUTES; ESTABLISHING THE HERITAGE OAK PARK COMMUNITY DEVELOPMENT DISTRICT; NAMING THE DISTRICT; DESCRIBING THE BOUNDARIES OF THE DISTRICT; NAMING THE FIVE PERSONS DESIGNATED TO BE THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a Petition to establish the Heritage Oak Park Community Development District pursuant to Chapter 190, Florida Statutes, was submitted to the Charlotte County Board of County Commissioners (the "Board") by Ramar, Ltd., a Florida limited partnership, on May 21, 1998; and

WHEREAS, the proposed Heritage Oak Park Community Development District (the "District") comprises approximately 104 acres, all located within Charlotte County, thus vesting jurisdiction with the Board the decision whether to create this Community Development District pursuant to Chapter 190, Florida Statutes; and

WHEREAS, notice has been given through an advertisement in the Sarasota Herald-Tribune, Charlotte County Edition ("Charlotte A.M.") once a week for at least four consecutive weeks prior to the hearing conducted by the Board on the Petition to establish the District; and

WHEREAS, the Board did conduct a public hearing to consider the Petition to establish the District on July 7, 1998, and

WHEREAS, the Board, at the July 7, 1998, duly noticed public hearing on the Petition to establish the District, heard and considered the testimony thereat and the reports, recommendations, exhibits, and other documentary evidence introduced at that public hearing; and

WHEREAS, the Board has made findings of facts and conclusions of law hereinafter set forth with regard to the Petition to establish the District; and

WHEREAS, the Board, having considered all of the foregoing and been fully advised and informed of the premises, has determined that it is in the best interest of the citizens of Charlotte County to approve the Petition to establish the District;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

Section 1. The Board of County Commissioners of Charlotte County hereby makes the following FINDINGS OF FACT:

1. Ramar, Ltd., submitted a Petition to establish the District pursuant to Chapter 190, Florida Statutes, to Charlotte County on May 21, 1998.
2. The Petition contains all of the information required by Chapter 190, Florida Statutes.
3. Notice of the public hearing to consider the Petition to establish the District containing the time and place for the hearing, describing the area to be included in the District, including a map showing the area to be covered by the District, was published

In the Sarasota Herald-Tribune, Charlotte County Edition ("Charlotte A.M.") on June 9, 16, 23 and 30, 1998.

4. The property that will comprise the District is less than 1,000 acres and located entirely within the boundaries of Charlotte County, Florida.
5. The Board held a public hearing on the Petition to establish the District on July 7, 1998.
6. The Board has reviewed the Petition to establish the District and found all the statements therein to be true and correct.
7. The creation of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the Charlotte County Comprehensive Plan.
8. The approximately 104 acres of the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional, interrelated community.
9. The detailed economic impact statement of the proposed District establishes that the revenue bonds and assessment bonds proposed to be used to provide the capital to build the District's infrastructure are the best alternative available for delivering the proposed community development services and facilities to the area that will be served by the District.
10. The District proposes to construct certain infrastructure which may include, but are not limited to, the following: surface water management system; potable water distribution system; sewer and wastewater collection system; non-potable water distribution and irrigation system; streets, sidewalks, and lighting; parks and facilities for indoor and outdoor recreational, cultural and educational uses; fire prevention and control

facilities; security, including, but not limited to, guardhouses, fences and gates, and electronic intrusion-detection systems. Provided, however, that the authority of the District hereunder is subject to the limitations set forth under Section 4 herein. The proposed services and facilities are compatible with the services provided by Charlotte County.

11. The property comprising the proposed District is all contained within a single contiguous parcel located within the Murdock Center DRI, making the area amenable to separate special-district government, pursuant to Chapter 190, Florida Statutes.

Section 2. The Board of County Commissioners of Charlotte County hereby makes the following CONCLUSIONS OF LAW:

After having considered the Petition to establish the District, the recommendations of the County's own professional staff, the testimony received at the July 7, 1998, public hearing and based on the above Findings of Fact, the Board hereby concludes that:

1. The Board is the exclusive entity with the power to establish the District pursuant to Section 190.005(2)(e), Florida Statutes.
2. The creation of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the Charlotte County Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional, inter-related community.
4. The proposed District is the best alternative available for delivering the community development services and facilities to the area that will be served by the District.

5. The proposed and potential community development services, including, without limitation, the surface water management system; potable water distribution system; sewer and wastewater collection system; non-potable water distribution and irrigation system; streets, sidewalks, and lighting; parks and facilities for indoor and outdoor recreational, cultural and educational uses; fire prevention and control facilities; security, including, but not limited to, guardhouses, fences and gates, and electronic intrusion-detection systems, will be compatible with the capacity and uses of existing local and regional community development services and facilities.

6. The area to be served by the District is amenable to separate, special-district government, pursuant to Section 190, Florida Statutes.

Section 3. The Board of County of Charlotte County hereby enters the following ORDER:

1. The Petition to establish the District is hereby ordered approved.

2. The District shall be known as Heritage Oak Park Community Development District.

3. The District is generally bounded by Quesada Avenue, Peachland Boulevard, the Lion Heart Waterway and the Crestview Waterway. The exact legal description of the District is contained in Exhibit "A".

4. The five persons designated to be the initial members of the Board of Supervisors are as follows: Robert A. Morris, III, Robert A. Morris, Jr., Pamela Morris, Philip J. Palmer and Kathleen Palmer.

5. The District is created for the purposes set forth in Chapter 190, Florida Statutes.

6. In addition to the special powers contained in Section 190.012(1), Florida Statutes, the District shall also have the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for and within the District:

(a) parks and facilities for indoor and outdoor recreational, cultural, and educational uses, and

(b) fire prevention and control, including water mains and plugs, and

(c) security, including but not limited to, guardhouses, fences and gates, and electronic intrusion-detection systems; and

(d) provided, however, that the authority of the District hereunder is subject to the limitations set forth under Section 4 herein.

Section 4. As a stipulation associated with passage hereof, the District expressly agrees to and is bound as follows:

1. The District expressly agrees that it shall not vacate, condemn or encroach into any Charlotte County easements associated with the Crestview and Lion Heart Waterways, nor shall it vacate, condemn or encroach into any portion of said waterways without the prior written consent of Charlotte County.

2. Nothing within this Ordinance shall be construed to limit the authority of the Board of County Commissioners' ability to create special districts, including the area within the District.

3. As recited in Section 190.002(3), Florida Statutes, the establishment of the District is not a development order, and that as to the development of property within the District, as to Charlotte County, "all applicable planning and permitting laws, rules,

regulations and policies control the development of the land to be serviced by the District." The District agrees that adoption of this Ordinance does not affect or diminish the authority of the County with regard to the approval of development activities, including but not limited to the stormwater management system and site plan approval as respective phases of the Heritage Oak Park project are submitted for review.

4. The District shall not implement a mosquito control or solid waste collection program.

5. The District will not request a franchise to operate a water and sewer system, nor shall it attempt to start in any other fashion its own utility within the District. The District further agrees that completed water and sewer lines within the District shall be conveyed to Charlotte County Utilities along with easements for maintenance thereof, in accordance with requirements of Charlotte County in force and effect and as amended thereafter by Charlotte County.

6. All infrastructure and other improvements within the District, including but not limited to roads, utility lines, and drainage features, as well as residential buildings and other structures, will comply with all applicable codes or regulations of the County in force and effect and as amended thereafter by Charlotte County.

Section 5. In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Ordinance which shall remain in full force and effect.

Section 6. This Ordinance shall take effect upon its filing in the Office of the Secretary of State, State of Florida.

PASSED AND DULY ADOPTED this 7th day of July, 1998.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By Matthew D. DeBoer
Matthew D. DeBoer, Chairman

ATTEST:
Barbara T. Scott, Clerk of Circuit
Court and Ex-officio Clerk to the
Board of County Commissioners

By Barbara T. Scott
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Renee Francis Lee
Renee Francis Lee, County Attorney
C&K.

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EXHIBIT "A - 1"

Part of the Northeast 1/4 of Section 8, Township 40 South, Range 22 East, Charlotte County, Florida, more particularly described as follows:

Commencing at the point of intersection of the North line of Quesada Avenue with the centerline of the Lionheart Waterway shown on the record plat of the FIRST REPLAT IN PORT CHARLOTTE SUBDIVISION, SECTION NINETY-SIX, per plat thereof, recorded in Plat Book 15, Page 52, Public Records of Charlotte County, Florida; thence North $00^{\circ}29'10''$ West along the centerline of said Lionheart Waterway a distance of 20.00 feet to a point 60.00 feet North of the South line of the Northeast 1/4 of said Section 8; thence North $89^{\circ}57'16''$ West along the North line of aforesaid Quesada Avenue parallel with the South line of said Northeast 1/4 a distance of 50.00 feet to the Point of Beginning; thence North $89^{\circ}57'16''$ West along the North line of said Quesada Avenue a distance of 201.76 feet; thence North $67^{\circ}27'16''$ West a distance of 104.52 feet; thence North $89^{\circ}57'16''$ West along the North line of said Quesada Avenue parallel with aforesaid South line of the Northeast 1/4 a distance of 1,505.07 feet to a point lying 275.00 feet East of the West line of the Northeast 1/4 of said Section 8, with said West line being the centerline of the Crestview Waterway (150 feet wide); thence North $00^{\circ}17'27''$ West parallel with the West line of said Northeast 1/4 a distance of 435.00 feet; thence North $89^{\circ}57'16''$ West a distance of 200.00 feet to the East line of aforesaid Crestview Waterway, thence North $00^{\circ}17'27''$ West along said East line parallel with and 75.00 feet distant from the West line of said Northeast 1/4 of Section 8 a distance of 1,537.61 feet to a point on the South line of Peachland Boulevard (Official Record Book 1127, Page 448); thence along the South line of said Peachland Boulevard the following 3 courses: thence North $69^{\circ}00'45''$ East a distance of 1,075.16 feet to the point of curvature of a curve to the right having a radius of 1,910.00 feet and a central angle of $21^{\circ}05'43''$; thence along the arc of said curve an arc length of 703.23 feet to the point of tangency of said curve; thence South $89^{\circ}53'32''$ East a distance of 300.43 feet to a point on the West line of aforesaid Lionheart Waterway (100 feet wide); thence South $00^{\circ}29'10''$ East along said West line a distance of 2,525.50 feet to the Point of Beginning.

Less and except those lands described in Exhibit "A-2" attached hereto.

EXHIBIT "A-2"

SURVEYOR'S DESCRIPTION (PARCEL "A"):

Part of the Northeast Quarter of Section 8, Township 40 South, Range 22 East, Charlotte County, Florida more particularly described as follows:

Commencing at the Point of Intersection of the North Line of Quesada Avenue with the center line of the Lion Heart Waterway as shown on the Record Plat of the First Replat in Part Charlotte Subdivision, Section Ninety-Six as recorded in Plat Book 15, Pages 52A thru 52F, of the Public Records of said Charlotte County, Florida; thence North 00°29'10" West, along the center line of said Lion Heart Waterway, a distance of 20.00 feet to a point 60.00 feet North of the South Line of the Northeast Quarter of said Section 8; thence North 89°57'16" West, along the North Line of aforesaid Quesada Avenue parallel with the South Line of said Northeast Quarter, a distance of 30.00 feet to the intersection point of the west right-of-way line of Lion Heart Waterway, and the north line of aforesaid Quesada Avenue; thence continue North 89°57'16" West, along the North Line of said Quesada Avenue, a distance of 201.76 feet; thence North 67°27'15" West, along the North Line of said Quesada Avenue a distance of 104.52 feet; thence North 89°57'16" West, along the North Line of said Quesada Avenue parallel with aforesaid South Line of the Northeast Quarter, a distance of 997.86 feet; thence North 26°26'52" West, a distance of 90.51 feet; thence North 20°06'17" West, a distance of 143.77 feet; thence North 39°27'15" West, a distance of 66.34 feet; thence North 21°31'12" West, a distance of 47.89 feet; thence North 00°42'04" West, a distance of 69.18 feet; thence North 24°17'00" West, a distance of 45.99 feet; thence North 35°47'18" West, a distance of 144.68 feet to the Point of Beginning of Parcel "A";

thence North 89°58'27" West, a distance of 321.01 feet; thence North 00°42'22" East, a distance of 138.13 feet; thence North 79°30'51" East, a distance of 130.59 feet; thence North 00°00'00" East, a distance of 26.13 feet; thence South 79°23'16" East, a distance of 48.82 feet; thence South 38°48'49" East, a distance of 229.93 feet to the Point of Beginning.

Parcel contains 0.94 acres, more or less.

SURVEYOR'S DESCRIPTION (PARCEL "B"):

Part of the Northeast Quarter of Section 3, Township 40 South, Range 22 East, Charlotte County, Florida more particularly described as follows:

Commencing at the Point of Intersection of the North Line of Quesada Avenue with the center line of the Lion Heart Waterway as shown on the Record Plat of the First Replat in Part Charlotte Subdivision, Section Ninety-Six as recorded in Plat Book 15, Pages 52A thru 52F, of the Public Records of Charlotte County, Florida; thence North 00°29'10" West, along the center line of said Lion Heart Waterway, a distance of 20.00 feet to a point 60.00 feet North of the South Line of the Northeast Quarter of said Section 8; thence North 89°57'16" West, along the North Line of Quesada Avenue parallel with the South Line of said Northeast Quarter, a distance of 30.00 feet to the intersection point of the west right-of-way line of Lion Heart Waterway; thence continue North 89°57'16" West, along the North Line of said Quesada Avenue, a distance of 201.76 feet; thence North 67°27'15" West, along the North Line of said Quesada Avenue, a distance of 104.52 feet; thence North 89°57'16" West, along the North Line of said Quesada Avenue parallel with aforesaid South Line of the Northeast Quarter, a distance of 965.38 feet to the Point of Beginning of Parcel "B";

thence continue North 89°57'16" West, along the North line of said Quesada Avenue, a distance of 32.48 feet; thence North 26°26'52" West, a distance of 90.51 feet; thence North 20°06'17" West, a distance of 143.77 feet; thence North 39°27'15" West, a distance of 66.34 feet; thence North 21°31'12" West, a distance of 47.89 feet; thence North 00°42'04" West, a distance of 69.18 feet; thence North 24°17'00" West, a distance of 45.99 feet; thence North 35°47'18" West, a distance of 144.68 feet; thence North 38°48'49" West, a distance of 229.93 feet; thence North 79°23'16" West, a distance of 48.82 feet; thence North 51°21'45" West, a distance of 41.85 feet; thence North 34°45'02" West, a distance of 96.87 feet; thence North 69°38'48" East, a distance of 63.68 feet; thence South 04°48'15" East, a distance of 46.55 feet; thence South 71°27'01" East, a distance of 95.98 feet; thence South 52°38'02" East, a distance of 35.39 feet; thence South 09°26'25" East, a distance of 87.51 feet; thence South 32°50'38" East, a distance of 84.75 feet; thence South 21°56'39" East, a distance of 129.16 feet; thence South 37°11'29" East, a distance of 79.10 feet; thence South 52°30'25" East, a distance of 36.58 feet; thence South 41°50'45" East, a distance of 37.75 feet; thence South 17°04'24" East, a distance of 29.04 feet; thence South 02°57'48" East, a distance of 80.92 feet; thence South 10°30'31" East, a distance of 55.78 feet; thence South 19°48'34" East, a distance of 131.12 feet; thence South 26°29'20" East, a distance of 90.11 feet; thence South 18°18'09" East, a distance of 19.81 feet to the intersection of the North line of aforesaid Quesada Avenue and to the Point of Beginning.

Parcel contains 1.16 acres, more or less.

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