

School Adequate Public Facilities Program and Funding Review Committee

Agenda
Meeting #4
April 24, 2013
6:00 pm

- Review and Approval of the Meeting Minutes of March 27th
- Results from the April 10 Public Outreach Meeting
- Status of the School Allocation Program: *Continued*
 - Outstanding Allocations and Expiration Dates
 - Review of the Potential Future Impact from Development
 - School APF Eligibility List, approved Winter Cycle
- BOE Staff Presentation of Requested Information
 - Enrollment Projections
 - Use and Occupancy Permit History
 - School Needs Analysis (Step Charts)
 - School Maps
- School Allocations for St. Charles (Including representatives from St. Charles)
 - Explanation of St. Charles APF Mitigation by Proffering School Sites
 - Commitment of School Allocations based on Mutual Agreements
 - Historic Use of School Allocations by St. Charles

**This agenda is tentative and is subject to adjustment at the discretion of the Committee.*

Adequate Public Facilities Provision for Schools in the St. Charles PUD

Historically, St. Charles has provided school sites as a form of mitigation for the impact on school capacity. Most recently St. Charles provided the school sites for Neal Elementary School and St. Charles High School. For the development of the remaining Villages of Piney Reach and Wooded Glen, St. Charles Community, LLC has committed to providing schools as noted on the approved Master Plan and as stated below:

“23. The number, type, size, development condition and location of school sites shall be negotiated with Charles County Public Schools. St. Charles Community, LLC will provide school sites phased consistently with the demand indicated from the student yield rates by school level and housing type. Prior to the approval of each preliminary subdivision plan, St. Charles will provide evidence to Charles County that Charles County Public Schools (CCPS) has determined that the location and size of the school sites being proffered are sufficient based on CCPS.”

The granting of annual school allocations began effectively in January of 2006. According to the Memorandum of Understanding dated July 25, 2005 St. Charles Community, LLC and the County *“determined that the number of school allocations necessary to sustain the continued development of the St. Charles PUD shall be 300 units per year during the period of time commencing with the issuance of the bonds and the continuing until such bonds are repaid in full. These 300 units will be used as a current baseline assumption of the number of units per year as a measure of probable minimum sustained viability when the County and SCC [St. Charles Community, LLC] meet on or after January 1, 2006 as provided in paragraph 7.b of the Amended Docket 90 Order.”*

Since 2006 the St. Charles PUD has used the allocations as shown below. Note that the number of allocations has stayed below the 300 allocations granted annually by the County Commissioners.

Year	2006	2007	2008	2009	2010	2011	2012
Number of Allocations Used	278	252	268	117	65	147	244

Updated 4/24/13

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fee-in-lieu contributions to off-street public parking, road grid network development, transit facilities, or streetscape improvements. **[Added 4-23-2010 by Bill No. 2010-02]**

- E. The determination of the rating of a road under Subsection C above shall consider the effects of existing traffic, traffic projected to be generated from developments in the area or vicinity or immediate area or facility as designated by the Zoning Officer for which final plats and plans have been approved, increases in through traffic and all traffic projected to be generated from the proposed development for a specified design year.
- F. Prior to the submission of a preliminary subdivision plan or an application for a zoning permit, the applicant shall submit a preliminary traffic analysis which indicates the development's anticipated trip generation rates, a list of existing roads and intersections that will be impacted by traffic to and from the development and a design year based upon anticipated completion of the proposed project. The Zoning Officer shall review the preliminary analysis to determine if it satisfies the standards adopted by the County Commissioners for proposed development and shall add or delete roads or intersections necessary to evaluate the impact of the development.

§ 297-258. Schools.

- A. This section applies to all residential developments except certain residential developments known as retirement housing complexes and certain residential developments in the following planned development zones: the Planned Residential Development Zone (PRD); the Planned Unit Development Zone (PUD); the Mixed-Use Development Zone (MX); the Planned Manufactured Home Park (PMH); The Waterfront Planned Community (WPC); or the Transit-Oriented Development Zone (TOD), as defined in the Charles County Zoning Ordinance. In order to qualify for these exemptions, the developments within these zones shall be restricted by deed to the residency of at least one individual 55 years of age or older and exclude permanent occupancy by anyone under the age of 21 and that also have further deed restrictions which shall include each of the following: **[Amended 9-24-2001 by Ord. No. 01-80; 6-17-2003 by Bill No. 2003-04; 10-3-2005 by Bill No. 2005-18⁵⁹]**
- (1) No dwelling unit may be occupied by any individual under the age of 21 for more than 30 days in any six-month period.
 - (2) Each dwelling unit shall be occupied following its sale or lease by at least one individual 55 years of age or older. Individuals aged 21 or older may reside in the development as

59 Editor's Note: The transition provision of the ordinance provide:

“The adoption of this bill shall not invalidate any preliminary plan for an age-restricted residential development that was approved by the Planning Commission prior to the date of adoption of this bill, provided that a final plat for said development shall be recorded not later than one year from the effective date of this bill.”

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long as they occupy a dwelling unit with an individual aged 55 years or older, and will be allowed to remain in the dwelling unit following the death, divorce or incapacity of the individual aged 55 years or older as long as the number of residences occupied by such households does not exceed 20% of the total occupied dwelling units within the development. No new individuals aged 21 to 54 can move into the dwelling unit after the death, divorce or incapacitation of the individual aged 55 years or older.

- (3) In order to insure continuous compliance with the age restrictions, each contract of sale or lease agreement for the varying housing types within the development will require certification of the household composition, i.e., the name and birth date of each resident. Each household shall re-certify its composition (i.e., the name and birth date of each resident) on an annual basis. The entity with management responsibilities or the homeowners' association for the development shall submit, on an annual basis, to the Director of Planning and Growth Management a letter certifying and documenting the composition (i.e. The name and birth date of each resident) and compliance of each household in the development.
 - (4) The entity with management responsibilities or the homeowners' association for the development shall be required to enforce the covenants and shall be prohibited from electing to waive its enforcement rights and obligations.
 - (5) The Charles County Commissioners shall be designated as a beneficiary of the covenants based upon their agreement to exempt the development from the obligation to pay the fair share school construction excise tax or an impact fee for school capacity and for the sole purpose of empowering Charles County with the right to enforce the covenants. This designation shall not obligate Charles County to enforce the covenants. The damages incurred by Charles County in the event of the entity with management responsibilities or the homeowners' association's failure to enforce the covenants described in § 297-258A will include, but not be limited to, the amount of the fair share school construction excise tax or impact fee that would have been assessed for the entire development if the development had not been exempt from the fair share school construction excise tax or impact fee.
 - (6) Once the age-restricted housing development has been approved for exemption from the County's School Allocation Policy and the school construction excise tax, the Department of Planning and Growth Management shall notify the Charles County Board of Education of said exemption.
- B. No final plat for a residential subdivision or development services permit for a residential site plan shall be approved until school capacity allocation has been granted by the Director of Planning and Growth Management. School capacity will be deemed adequate upon the granting of a school capacity allocation. It is the intent of this chapter that the capacity of public schools shall not be adversely affected by residential development.

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- C. The annual School Capacity Allocation Committee, composed of the Charles County Commissioners and the Charles County Board of Education, and/or their designated representatives, will meet to decide on the appropriate allocations for the upcoming year. This Committee will consider the following factors, as well as any other information deemed pertinent, in establishing the allocatable school capacity for the upcoming year:
- (1) Current enrollments.
 - (2) Projected enrollments.
 - (3) Current capacities of individual schools.
 - (4) (Reserved)⁶⁰
 - (5) Capacity to be provided by any current capital improvement program (CIP) projects. **[Amended 6-18-2008 by Bill No. 2008-08]**
 - (6) Additional capacity provided by the use of relocatable classrooms within the Board of Education's relocatable classroom policy guidelines.
 - (7) Current district boundaries for school attendance and redistricting opportunities within the Board of Education's policy guidelines.
 - (8) Residential development and growth within the incorporated towns which will impact the enrollments at county schools.
 - (9) Number of lots from minor subdivisions recorded in previous year.⁶¹
- D. When determining the amount of allocatable school capacity, allocation may be made only if school capacity currently exists or is programmed to exist under the then applicable capital improvement projects program as specified in the adopted Adequate Public Facilities Manual. **[Amended 6-18-2008 by Bill No. 2008-08]**
- E. Allocation amounts may not exceed the amount of capacity available in the allocatable school capacity currently in effect. These allocation amounts shall be determined by the County Commissioners using the factors listed in Subsection C above as guidance. **[Amended 6-18-2008 by Bill No. 2008-08]**

⁶⁰ Editor's Note: Former Subsection C(4), County-wide capacity at each level of school, was repealed 6-18-2008 by Bill No. 2008-08.

⁶¹ Editor's Note: Former subsection C(10), Core capacities of each school facility, which immediately followed this subsection, was repealed 6-18-2008 by Bill No. 2008-08.

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- F. The granting of school capacity allocations shall be in accordance with the policies and procedures established in the Adequate Public Facilities Manual adopted by the County Commissioners. **[Amended 6-18-2008 by Bill No. 2008-08]**
- G. The fair share school construction excise tax adopted by Ordinance 02-97 shall not apply to those projects exempted under Subsection A of this section. **[Added 6-17-2003 by Bill No. 2003-04; amended 10-3-2005 by Bill No. 2005-18]**

§ 297-259. Sewerage system.

(reserved for future inclusion.)

§ 297-260. Water supply system.

No final plat for a residential subdivision or site plan for commercial or industrial development requiring a ground water appropriation permit it shall be approved until such permit is issued by the Water Resources Administration of the State Department of Natural Resources. It is the intent of this chapter that water supplies serving existing residential, commercial and industrial users shall not be adversely affected by the water use of new development.

§ 297-261. Fire suppression for rural areas. [Added 9-2-2002 by Ord. No. 02-79]

- A. To address the fire suppression needs of the rural areas, this section will meet the following objectives:
 - (1) Establish a reliable and effective fire protection program in the rural areas to address the impact of new development on fire suppression capabilities.
 - (2) Develop alternatives which will accomplish adequate fire suppression in the rural areas with the cooperation of fire companies which serve these areas.
 - (3) Improve water supply for fire suppression in rural, nonhydrant areas.
- B. This section applies to areas that are classified as properties having a W6 water service category, as defined by the Comprehensive Water and Sewer Plan. This section will apply to the creation of more than five buildable lots after the this section and being part of a major subdivision. No preliminary plan of such a residential shall be approved unless the following criteria have been met:
 - (1) An existing water source with all-weather access is available within four round-trip miles driving distance. "All-weather access" is defined as a location that provides access to water every day of the year, that is capable of supporting the weight of a

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ARTICLE XXX

Development Rights and Responsibilities Agreements [Added 10-4-2004 by Ord. No. 04-04]

§ 297-497. Purpose.

The purpose of this article is to provide an additional technique for land development consistent with the Comprehensive Plan as authorized by the Annotated Code of Maryland. It is the purpose of this article to enhance development flexibility, innovation and quality while ensuring protection of the public interest, health, safety and welfare.

§ 297-498. Authority.

The County Commissioners' desire to exercise the authority granted by Section 13.01 of Article 66B, Annotated Code of Maryland, to authorize development rights and responsibilities agreements generally.

§ 297-499. Applicability.

Any person having a legal or equitable interest in real property in Charles County may petition the County Commissioners to enter into an agreement.

§ 297-500. Contents of development rights and responsibilities agreement.

A. At a minimum, a development rights and responsibilities agreement shall contain the following:

- (1) A lawyer's certification that the petitioner has either a legal or equitable interest in the property;
- (2) A legal description of the property subject to the agreement;
- (3) The names of all parties having an equitable or legal interest in the property, including lienholders;
- (4) The duration of the agreement, including any proposed phasing plans for the development;
- (5) The permissible uses of the real property;
- (6) The density or intensity of use of the real property;
- (7) The maximum height and size of structures to be located on the real property;

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- (8) Architectural elevation sketches;
 - (9) A description of the plan approvals and permits required or already approved for the development of the property;
 - (10) A statement that the proposed development is consistent with applicable development regulations and the Comprehensive Plan;
 - (11) A description of the conditions, terms, restrictions or other requirements determined by the County Commissioners or their designees to be necessary to ensure the public health, safety, or welfare;
 - (12) To the extent applicable, provisions for:
 - (a) Dedication or reservation of a portion of the real property for public or private uses;
 - (b) Protection of sensitive areas;
 - (c) Preservation and restoration of historic structures; and
 - (d) Construction or financing of public facilities.
 - (13) Provisions to the effect that the petitioner shall be responsible for attorney's fees, costs, and expenses incurred by the County Commissioners in the event an agreement is abandoned or breached by the petitioner.
- B. An agreement may fix the period in and terms by which development and construction may commence and be completed, as well as provide for other matters consistent with this title, including but not limited to phasing schedules and grandfather provisions.

§ 297-501. Referral to Planning Commission.

Upon receipt of a petition, the County Commissioners shall refer the petition to the Planning Commission, which may conduct a public hearing, for a determination on whether the proposed agreement is consistent with the comprehensive plan. The County Commissioners may not enter into an agreement until the Planning Commission determines whether the proposed agreement is consistent with the Comprehensive Plan. The Commissioners may, however, choose not to accept the Planning Commission recommendation.

§ 297-502. Public hearing by County Commissioners.

Before an agreement may be executed by the County Commissioners, the Commissioners shall

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hold a public hearing on the agreement. Notice of the hearing shall be as provided in Article 66B, Section 4.04 of the Annotated Code of Maryland.

§ 297-503. Amendment of agreements.

- A. Subject to Subsection B of this section and after a public hearing, the parties to an agreement may amend the agreement by mutual consent.
- B. The parties may not amend an agreement unless the Planning Commission determines the proposed amendment is consistent with the Comprehensive Plan.

§ 297-504. Termination of agreements; suspension.

- A. The parties to an agreement may terminate the agreement by mutual consent.
- B. After a public hearing, the County Commissioners may suspend or terminate an agreement if the Commissioners determine that suspension or termination is essential to ensure the public health, safety, or welfare.

§ 297-505. Applicable laws, regulations and policies.

- A. Except as provided in Subsection B of this section, the laws, rules, regulations, and policies governing the use, density, or intensity of the real property subject to the agreement shall be the laws, rules, regulations, and policies in force at the time the parties execute the agreement.
- B. If the County Commissioners determine that compliance with laws, rules, regulations, and policies enacted or adopted after the effective date of the agreement is essential to ensure the health, safety, or welfare of residents of all or part of the County, an agreement shall not prevent the Commissioners from requiring a person to comply with those laws, rules, regulations, and policies, after 30 days' notice to the landowner and a public hearing.

§§ 297-506 through 297-507. (Reserved)

Charles County Government Standard Operating Policy and Procedure

Title:	Development Rights & Responsibilities Agreements	SOP #: PGM.5.001
Division:	Planning and Growth Management	Effective Date: 6/6/2005
		Revision Date: 7/23/10
		Page 1 of 9
Purpose:	To establish a prompt formal process for the submission, review, and approval of Developers Rights and Responsibilities agreements prepared and submitted to Charles County Government by qualified parties in accordance with the applicable provisions of Bill No. 2004-04, Development Rights and Responsibilities Agreements, adopted October 4, 2004, as amended.	
References:		
Policy:		
Procedure:	<p>1.0 Introduction:</p> <p>These policies and procedures have been prepared to establish a prompt formal process for the submission, review, and approval of Developers Rights and Responsibilities agreements prepared and submitted to Charles County Government by qualified parties in accordance with the applicable provisions of Bill No. 2004-04, Development Rights and Responsibilities Agreements, adopted October 4, 2004, as amended. For the purposes of calculating time in these policies, the term “days” shall refer to Calendar Days, unless otherwise specified.</p> <p>2.0 Nature and Scope:</p> <p>The submission of a Development Rights and Responsibilities Agreement is <i>not</i> required as part of any development and review and approval process administered by Charles County Government. It is a <i>voluntary act</i> initiated by an eligible party as a means to more clearly establish and formalize the requirements that must be satisfied for the development of land in Charles County. A Development Rights and Responsibilities Agreement <i>may</i> specify the manner through which a requirement of the Code of Charles County will be satisfied, but it <i>shall not</i> be used to circumvent, nullify, contradict, or otherwise relieve an applicant from compliance with a requirement of the Code of Charles County or any other applicable requirement of State or Federal law.</p> <p>3.0 Application Requirements:</p> <p>Formal submission of a Development Rights and Responsibilities Agreement shall be addressed to the County Commissioners of Charles County, MD via the Director of Planning and Growth Management and</p>	

delivered to the Permits Center on the Second Floor of the Charles County Government Building and shall contain all of the following required submissions:

A. A transmittal letter addressed to the County Commissioners via the Director of Planning and Growth Management petitioning the Commissioners to enter into a Development Rights and Responsibilities Agreement, summarizing the nature and scope of the proposed agreement (the points of negotiation contained in the agreement), the current review status of the applicant's proposed development plans for the subject property, the applicant's statement of need for the proposed Development Rights and Responsibilities Agreement, and affirmation of the applicant's intent to comply with all applicable local, State, and Federal laws.

B. The required application processing fee.

C. A formal draft (unexecuted) Development Rights and Responsibilities Agreement and supporting attachments containing all of the following items as specified in Bill # 2004-04. If the subject development has received Preliminary Plan approval by the Planning Commission, items 5-8 below will not be required.

- 1) A Lawyer's Certification that the petitioner has either a legal or equitable interest in the subject property(ies);
- 2) A complete legal description of the property(ies) subject to the agreement;
- 3) The names of all parties having an equitable or legal interest in the subject property(ies), including any and all lien holders;
- 4) The duration of the agreement, including any proposed phasing plans for the development;
- 5) The proposed permissible uses of the real property(ies), as specified by the Charles County Zoning Ordinance, including identification of proposed land uses that are permitted with conditions or by special exception in accordance with the applicable zoning;
- 6) The density or intensity of use of the real property(ies), including a statement of intent to purchase or utilize TDRs (or verification that TDRs have been purchased, as the case may be) for any proposed increase in density over the maximum allowed by the applicable zoning;

7) The maximum height and size of structures to be located on the real property(ies);

8) Architectural elevation sketches;

9) A description of the plan approvals and permits required or already approved for the development of the property(ies);

10) A statement that the proposed development is consistent with the applicable development regulations and the comprehensive plan;

11) A description of the conditions, terms, restrictions or other requirements determined by the County Commissioner or their designees to be necessary to ensure the public health, safety, or welfare;

12) To the extent applicable, provisions for:

a. Dedication or reservation of a portion of the real property(ies) for public or private uses;

b. Protection of sensitive areas;

c. Preservation or restoration of historic structures;

d. Construction or financing of public facilities;

13) Provisions to the effect that the petitioner shall be responsible for attorney's fees, costs, and expenses incurred by the County Commissioners in the event an agreement is abandoned or breached by the petitioner, and

14) If applicable or desired by the petitioner, the terms by which development and construction may commence and be completed, including, but not limited to, specific construction start and completion dates, development phasing schedules, and grandfather provisions.

15) The Petitioner's Proposed Terms of Agreement or Proffer, as Introduced and Summarized in the Accompanying Transmittal Letter Required in Subparagraph "A" above.

4.0 Initial Application Processing and Review Procedures:

4.1 *Submission processing:* The Permit Specialist who receives an application for a Development Rights and Responsibilities Agreement shall complete the following tasks on the date that the application is submitted:

A. Assign a file number to the application and record it on all submitted documents in the lower right-hand corner.

B. Place a received date stamp on the transmittal letter and the first page of the Development Rights and Responsibilities Agreement document.

C. Enter the application information (assigned file number, applicant name, and date received into the AS400 Permit System for the subject lot(s) of record.

D. Complete a cash receipt transmittal for the application fee coded as DRRA and transfer the receipt and check to the Treasurer's Office for processing. Provide a copy of the validated receipt to the applicant. Attach another copy of the validated receipt to the application packet.

E. Deliver the application packet to the PGM Administrative Associate for placement in the PGM Director's reading file or directly to the PGM Director's DRRA review designee. Unless otherwise specified by the PGM Director, the PGM Director's designee for all DRRA matters shall be the lead staff person within the Resource and Infrastructure Management Division (RIM) for DRRA reviews (also known as the DRRA Staff Reviewer).

4.2 *Verification of Completion:* The Director of Planning and Growth Management or his designee shall confirm that the submission is complete and transmit it to the County Attorney's office for preliminary legal review within two (2) business days from the date of submission.

4.3 *Initial Legal Review:* Once the County Attorney's office has completed its preliminary legal review, the Director of Planning and Growth Management or his designee shall request that the Clerk to the Commissioners schedule the proposed agreement for initial review by the County Commissioners at a work session within sixty (60) days from the date of application.

4.4 *Initial County Commissioner Review:* Once the County Commissioners have authorized the formal review of a proposed Development Rights and Responsibilities Agreement, the Director of

Planning and Growth Management or his designee shall initiate a formal staff review. During the initial review work session, the County Commissioners may determine and find that a comprehensive plan consistency review and determination by the planning staff and Planning Commission is not necessary, *if and only if* the subject development has received preliminary plan approval *and* that the terms of the proposed agreement would result in no material changes to the preliminary plan and any conditions of approval imposed by the Planning Commission. Once such a determination and finding has been made by the County Commissioners, the formal staff report prepared in accordance with section 5.3 below shall be transmitted directly to the County Commissioners and the procedural requirement for a Comprehensive Plan consistency determination by Planning Commission outlined in Section 6.0 below shall not be required.

5.0 Formal Review Procedures:

5.1 *Staff Review Distribution:* The Director of Planning and Growth Management or his designee shall distribute copies of the proposed agreement to those departments and divisions within the County (and any applicable outside local or State agencies) having programmatic jurisdiction over the issues of negotiation outlined in the agreement. At a minimum, one (1) copy of the agreement, along with a list of the staff and agency representatives to whom the agreement was distributed, shall be transmitted to the Planning Director or his Designee, who shall cause the agreement to be scheduled for a work session before the Planning Commission. Unless otherwise specified by the Chief of Resource and Infrastructure Management (Chief of RIM), the Designee for all DRRA matters shall be the lead staff person within the RIM Division for DRRA reviews (also known as the DRRA Staff Reviewer).

5.2 *Staff Review:* The reviewing staff will review the provisions of the agreement for compliance with the applicable regulatory requirements; assess consistency of the proposed agreement with the Charles County Comprehensive Plan, and determine that the petitioner's proffers will adequately address or mitigate the proposed development's potential impacts under the applicable codes, guidelines, and regulations of the County. Within ten (10) days from the day that the proposed agreement is distributed for formal staff review, the staff or outside agency representative shall complete the required review and transmit written comments and findings to the Chief of RIM by memorandum. If formal written comments and findings are not received by the Chief of RIM within ten (10) days of the date that the proposed agreement was distributed for review, the Chief of RIM shall presume that the proposed agreement is satisfactory as it applies to the specific regulatory jurisdiction of the commenting staff or agency.

5.3 *Chief of RIM Coordination:* The Chief of RIM or his designee will coordinate and oversee the formal staff review process to ensure that comments and findings are submitted within the prescribed review period in Section 5.2 above. Upon completion of that review period, the Chief of RIM or his designee will prepare a formal staff report to the Planning Commission discussing the comments, findings, and recommendations submitted during the formal staff review. Said report should be completed not less than six (6) days prior to the date of the scheduled Planning Commission work session on the proposed agreement, with copies distributed to the Planning Commission members, the petitioner, the Director of Planning and Growth Management, and the County Attorney. The Planning Director also shall cause the proposed agreement to be placed on Planning Commission agenda for a work session at the next available or convenient meeting date that is not less than twenty one (21), nor more than sixty (60) days *after* the date that the agreement was distributed for formal staff review.

6.0 *Planning Commission:* Once the Planning Commission has issued its recommendation to the County Commissioners that the proposed agreement is or is not consistent with the Charles County Comprehensive Plan, the Planning Director or his designee shall transmit, by memorandum, copies of the report to the County Administrator's Office, the County Attorney, the Director of Planning and Growth Management, and the Petitioner, along with a request to schedule the proposed agreement for a final public hearing before the County Commissioners.

7.0 *County Commissioner Public Hearing:*

Not more than forty-five (45) days from the date of the Planning Commission's finding report, the County Commissioners will conduct a public hearing on the proposed Development Rights and Responsibilities Agreement. Official notice of the public hearing date, time, and location shall be published in at least one (1) newspaper of general circulation in the County once each week for two (2) consecutive weeks, with the first publication of notice at least fourteen (14) days prior to the public hearing date. Said notice shall include the name of the petitioner, a description of the location of the property(ies) that would be subject to the proposed agreement, and a summary of the items to be negotiated by the agreement. At the public hearing, the County Commissioners shall hear testimony from the petitioner regarding the proposed agreement, a report from the Staff relating to the agreement, advisory comments from the County Attorney, and testimony from concerned citizens. The County Commissioners may leave the record open for the submission of written public comments on the proposed agreement for a period of time prescribed at the hearing.

The County Commissioners may take formal action to approve or deny the petition upon completion of the required public hearing, or may conduct subsequent work sessions to further negotiate the terms of agreement after the formal public comment period has lapsed. Prior to final action on a proposed Development Rights and Responsibilities Agreement, the County Commissioners may negotiate and amend the terms of the agreement.

8.0 *Final Approval and Execution:*

A. Once the County Commissioners approve a proposed or amended Development Rights and Responsibilities Agreement, it shall be transmitted by the Chief of RIM or his designee to the County Attorney or his designee for final revisions (if necessary), accompanied by a draft letter to the applicant's attorney (for the County Attorney's signature) requesting the required number of signed originals of the final DRRA. Once the signed final copies of the DRRA have been received, the County Attorney or his designee shall review the signed DRRA to ensure that it is in proper legal form for execution by the County Commissioners. The County Commissioners, the County Attorney or his designee shall record the executed DRRA in the county land records and transmit copies of the executed agreement to the Petitioner, and the Chief of RIM, Director of PGM and the Director of Fiscal and Administrative Services and the Chief of Accounting.

B. Within three (3) business days of the date of receipt, the Chief of RIM or his designee will cause the execution date and terms of the agreement to be entered into the AS400 Permit System for the subject lot(s) of record.

C. Within three (3) business days of the date of receipt, the Chief of RIM or his designee will transmit copies of the executed agreement to each Division or Department of the County and/or outside agencies that participated in the formal staff review of the agreement, and will cause a copy of the agreement to be filed in the appropriate review file(s) for the proposed development.

D. When the DRRA establishes a payment schedule for APF mitigation, the Chief of Accounting will maintain a payment schedule and invoice the developer 30 days in advance of the due date. The invoice will reference the specific DRRA requirement and a copy will be sent to the Director of PGM.

9.0 *Amendments to a Recorded DRRA:*

Subsequent amendments to the approved and recorded DRRA will be processed in the same manner as set forth herein for the initial

submission of a DRRA request. The applicant shall pay the DRRA fee for resubmission set forth in the fees and charges schedule adopted by the County Commissioners.

10.0 *Compliance Monitoring:*

A. The DRRA staff reviewer shall continually monitor compliance with the terms and conditions of all recorded DRRA agreements. The DRRA staff reviewer shall determine compliance with or payment of all proffers in the recorded DRRA.

B. Payment of a required DRRA proffer by an applicant shall be posted to the applicable accounts receivable billing account created by the Accounting Division. Said deposit shall be noted on the receipt.

C. When, in the course of ongoing compliance monitoring review, the DRRA Staff Reviewer determines that a proffer or condition of approval of the DRRA, other than a payment proffer, is scheduled to be completed not less than thirty (30) days from the date of compliance review, the DRRA Staff Reviewer shall prepare and send a courtesy letter to the developer, with a copy to the County Attorney and Chief of Accounting, notifying him/her of the impending compliance deadline and stating that failure to comply with the proffer in accordance with the terms of the DRRA will result in a determination of default and the enforcement of the penalty provisions of the DRRA by the County. If the date of completion for a specific proffer is not firmly established within the DRRA, the aforementioned letter will be sent when the Staff Reviewer has determined that the development project is within the 20 percent performance level for the indicators established in the DRRA. For example, in some cases the performance in a DRRA may be tied to the number of building permits or lots recorded. In the case of developer performance being tied to the recordation of 100 lots, the courtesy letter would be sent out after the 80th lot is recorded.

D. When, in the course of ongoing compliance review which includes contacting the Chief of Accounting to determine if required payments have been made, the DRRA Staff Reviewer has determined that a required proffer or condition of approval in a recorded DRRA has apparently lapsed without performance by the developer, the County Attorney will be notified within 3 business days. The notification of the County Attorney of the apparent default will be in the form of an interoffice memorandum to the County Attorney's Office with attachments of all associated documentation and a formal request to process said default within the terms of the DRRA. Copies of the interoffice memorandum will be sent to the County Administrator, Director of PGM, and Director of Fiscal and Administrative Services and Chief of Accounting.

E. Once the County Attorney has confirmed that a default of the terms of a DRRA has occurred, the County Attorney may exercise the remedies in accordance with the terms of the DRRA and shall notify, within 30 days, the developer, the developer's attorney, and any affected departments and divisions of County Government of the imposition of any stop work orders that must be issued for the subject project or other remedies set forth in the DRRA.

Authorized:	<i>Edith Patterson</i>	Date: <i>9-22-10</i>
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