



1           WHEREAS, the Board has further expressed concern over existing plans  
2 for the future development of the Corridor; and

3           WHEREAS, in light of the Board's concerns and the significance of the  
4 Corridor to Charlotte County, the Board directed the County's planning staff to  
5 prepare a zoning district overlay that provides for optimal redevelopment and  
6 development of the Corridor (the "**Overlay Code**"); and

7           WHEREAS, the Overlay Code has been prepared by the County's  
8 planning staff; and

9           WHEREAS, the County's Planning and Zoning Board has approved the  
10 revision of the Overlay Code in concept; and

11           WHEREAS, the Board has determined that the Overlay Code will promote  
12 the aesthetics and visual environment of the Corridor, enhance property values,  
13 create a more attractive economic and business climate and is in the best  
14 interests of Charlotte County and its citizens.

15           WHEREAS, the Board adopted the Overlay Code on November 9, 2004,  
16 and now has determined that it is in the best interests of Charlotte County and its  
17 citizens to revise the Overlay Code.

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

20

21           Section 1.   Subsection 3-9-52 of the Code of Laws and  
22 Ordinances of Charlotte County, Florida; (the "**County Code**") is hereby  
23 amended to create a new Subsection 3-9-52 which shall provide as follows:

1 **Sec. 3-9-52. U.S. 41 Zoning District Overlay.**

2 (a) *Short Title.* The short title of this Section 3-9-52 shall be the U.S. 41  
3 Zoning District Overlay Code (the “**Overlay Code**”).

4 (b) *Boundary.* The area affected by this Overlay Code shall be the  
5 U.S. 41 commercial corridor which is generally located west of US 41 from the  
6 Sarasota County Line to Gardner Drive and on the east side of US 41 from the  
7 Sarasota County Line to Hancock Avenue, excluding the Murdock Village  
8 Redevelopment Area and Murdock Development of Regional Impact (the  
9 “*Corridor*”). The location of the boundary of the Corridor is delineated in Exhibit  
10 “A” attached hereto which by this reference is adopted into and declared to be a  
11 part of this Sec. 3-9-52.

12 (c) *Applicability.* The Overlay Code shall apply to development and/or  
13 redevelopment of commercial, ~~and~~ office, and residential uses within the Corridor  
14 and all other matters referenced in the Overlay Code. The terms development  
15 and/or redevelopment shall be construed liberally and shall include any plat,  
16 special exception, variance, development review committee approval, site plan  
17 approval, building or sign permit, or any other official action of Charlotte County  
18 that has the effect of permitting development and/or redevelopment or any  
19 application for any of the preceding. The Overlay Code apply shall apply to the  
20 preceding matters notwithstanding the application of another provision(s) of the  
21 County Code to said matter(s). In the event of a conflict between another  
22 provision of the County Code and the Overlay Code, the terms of the Overlay  
23 Code shall supersede and control.

1           (d) *Intent.* The Overlay Code is designed to enhance the Corridor and  
2 is critical to the promotion of an appealing and attractive image of the County for  
3 the benefit of its residents and visitors. Towards this end, the intent of the  
4 Overlay Code is to:

5           (1) Promote the development and redevelopment of commercial  
6 and office uses in order to ensure a lasting and favorable visual impression along  
7 and within the Corridor, enhance the Corridor's overall appearance and improve  
8 its functional operation.

9           (2) Reinforce Charlotte County's Comprehensive Plan by  
10 modifying specific permitted and prohibited uses of underlying zoning districts  
11 and establishing new standards for development.

12           (3) Protect the properties that adjoin the Corridor from adverse  
13 impacts of intensive activity within and along the Corridor.

14           (4) Invigorate the economic and social vitality of the Corridor.

15           (5) Protect the unique character of the existing single-family  
16 residential communities located behind the Corridor.

17           (6) Provide for a compatible mixture of residential, neighborhood  
18 business, and commercial and office uses to serve Charlotte County's residents  
19 and visitors.

20           (7) Improve the character of and prevent the permanent decline  
21 of property within the Corridor by controlling nuisances and ensuring that land  
22 uses which may contribute to the degradation of the community and possible  
23 criminal activity will not be located near residential areas.

1                   (8)     Design and place different land uses, buildings, streets, and  
2 other amenities (such as sidewalks and street lights) within the Corridor to  
3 ensure that the public’s health, welfare, and safety are protected.

4                   (e)     *Permitted and Prohibited Uses.* Permitted and prohibited uses are  
5 based upon existing land use classifications in the Charlotte County, Florida  
6 Comprehensive Plan (“Comprehensive Plan”) and existing zoning districts within  
7 the County Code.

8                   (1)     The following permitted and prohibited uses apply to the  
9 U.S. 41 Overlay Mixed Use, Commercial Corridor, Commercial Center, Low  
10 Intensity Industrial and Public Lands and Facilities Future Land Use Map (FLUM)  
11 designations in the Comprehensive Plan.

12                   (A)     The following permitted and prohibited uses and  
13 structures shall apply to lots that are fronting U.S. 41 and to those that are not  
14 fronting U.S. 41 but were zoned for commercial or industrial use as of the date of  
15 the adoption of the Overlay Code on November 9, 2004.

16                   (i)     Commercial General. The Overlay Code shall  
17 not affect permitted principal uses and structures, permitted accessory uses and  
18 structures, prohibited uses and structures within Sec. 3-9-42 (a) through (d) of  
19 the Commercial General (CG) zoning district. Development in the CG zoning  
20 district pursuant to special exceptions that were approved prior to the effective  
21 date of the Overlay Code will be allowed to proceed. However, no further special  
22 exception requests will be considered nor granted as of the date of adoption of  
23 the Overlay Code.

1 (ii) Planned Development. The Overlay Code shall  
2 not affect permitted principal uses and structures, permitted accessory uses and  
3 structures, prohibited uses and structures within an approved plan adopted  
4 pursuant to Sec. 3-9-49 of the Planned Development (PD) zoning district.

5 (iii) Office, Medical, and Institutional. The Overlay  
6 Code shall not affect permitted principal uses and structures, permitted  
7 accessory uses and structures, prohibited uses and structures and special  
8 exceptions within Sec. 3-9-39 of the Office, Medical, and Institutional (OMI)  
9 zoning district. If a rezoning to OMI should occur after the adoption date of this  
10 ordinance, the following uses are allowed as permitted principal uses: Subsection  
11 3-9-39(a), (b)(1 through 17), and (c).

12 (iv) Commercial Intensive and Industrial Light. The  
13 Overlay Code shall not affect permitted principal uses and structures, permitted  
14 accessory uses and structures and prohibited uses and structures in the existing  
15 Commercial Intensive (CI), Sec. 3-9-43, and Industrial Light (IL), Sec. 3-9-47,  
16 zoning districts. Development in the CI and IL zoning districts pursuant to special  
17 exceptions that were approved prior to the effective date of the Overlay Code will  
18 be allowed to proceed. However, no further special exception requests will be  
19 considered nor granted as of the date of adoption of the Overlay Code.

20 (B) Businesses that face and are adjacent to U.S. 41 will  
21 be allowed to expand onto an adjoining rear lot(s) only if the rear-lot(s) is  
22 designated with a Commercial Corridor or U.S. 41 Overlay Mixed Use FLUM,  
23 CG, OMI, and PD are the preferred zoning districts. Subsequent to such

1 expansion, residential roads located adjacent to the expanded business shall not  
2 be utilized for ingress to or egress from said business unless an overriding need  
3 can be demonstrated. A minimum type D (Sec. 3-5-393) with a wall shall be  
4 required alongside any rear or side property line that borders residential zoning  
5 or uses. The following standards shall apply to development of a rear lot.  
6 Standards for front lot(s) shall follow Subsection (1)(A), inclusive.

7 (i) *Principal permitted uses.* Uses and structures  
8 in CG, Subsection 3-9-42 (a), (b)(1), (2), (3), (4), (5), (6), (8), (11), (12), (13),  
9 (14), (15), (16), (17), (18), (20), (21), (23), (25), (26), (29), (30), (31), and (c) are  
10 allowed as permitted principal uses. Uses and structures in OMI, Subsection 3-  
11 9-39 (a), (b)(1 through 17), and (c) are allowed as permitted principal uses. A mix  
12 of commercial and residential uses or multi-family residential is allowed only in a  
13 PD zoning district, Sec.3-9-49. Residential uses are only allowed through  
14 approval of Transfer of Density Units (Article XX Sec. 3-5-431 to 3-5-457  
15 Charlotte County Code.

16 (C) Commercial and multi-family residential uses not  
17 associated with an existing business can develop on a rear lot(s) but only if the  
18 rear lot(s) is located within a Commercial Corridor or U.S. 41 Overlay Mixed Use  
19 FLUM, CG, OMI, and PD are the preferred zoning districts.

20 (i) *Principal permitted uses.* Uses and structures  
21 in CG, Subsection 3-9-42 (a),(b)(1), (2), (3), (4), (5), (6), (8), (11), (12), (14), (15),  
22 (16), (17), (18), (20), (21), (23), (25), (26), (29), (30), (31), and (c) are allowed as  
23 permitted principal uses. Uses and structures in OMI, Subsection 3-9-39 (a),

1 (b)(1 through 17), and (c) are allowed as permitted principal uses. A mix of  
2 commercial and residential uses or multi-family residential is allowed only in a PD  
3 zoning district, Sec.3-9-49. Residential uses are only allowed through approval of  
4 Transfer of Density Units (Article XX Sec.3-5-431 to 3-5-457 Charlotte County  
5 Code).

6 (ii) *Signs*: Signs shall be in accordance with Sec.  
7 3-9-95, Charlotte County Code, and this code. Provisions of this article shall take  
8 precedence. Signs must contribute to the sense of design and place of the  
9 development through the use of graphics, color, material and placement.

10 (1) Only monument signs and wall signs  
11 shall be allowed. There shall be a maximum of one monument sign per right-of-  
12 way frontage and it shall be located at the project entrance (s).

13 (2) The maximum size of the monument  
14 sign shall not exceed fifty (50) square feet. The maximum wall signs shall not  
15 exceed four (4) square feet.

16 (3) Signs shall not be internally lighted.  
17 Ground lights shall be screened from view with shrubs.

18 (4) The monument sign structure shall be  
19 constructed of the same material as the predominant material of the principal  
20 building.

21 (5) The monument sign and wall sign shall  
22 be constructed of the same color as the predominant color of the principal  
23 building.

1 (6) Wall signs shall not cover architectural  
2 features or details and not extend beyond the roof line or outer edges of the  
3 building.

4 (7) Windows shall not be used for  
5 advertising purposes. Windows may permanently display the proprietor's name,  
6 business name, and property address for identification purposes only. Signs  
7 placed inside of a window with the intent of being seen from the outside are  
8 prohibited.

9 (iii) Parking: Businesses are required to provide  
10 employee and customer parking according to section 3-9-90 of the County Code.  
11 Parking within right-of-ways is prohibited. Buffering along front lot lines of a  
12 parking area will be a minimum type B buffer (Sec.3-5-393) with a wall, except for  
13 site triangles at ingress and egress entrances.

14 (iv) A building that locates on the rear lot(s) must  
15 be designed so as to emulate a residential structure.

16 (v) A minimum type B (Sec. 3-5-393) with a wall  
17 shall be required along any side property line that borders residential zoning or  
18 uses.

19 (2) Development within the Low or Medium Density Residential  
20 FLUM designations shall comply with Sections 3-9-32 (RSF-3.5) or 3-9-33 (RMF-  
21 10) of the County Code, as applicable.

22 (3) The following standards shall apply to the U.S. 41 Overlay  
23 Mixed Use FLUM designation in the Comprehensive Plan.

1 (A) Commercial development shall comply with  
2 Subsection 3-9-52 (e)(1)(A) through (C), inclusive.

3 (B) Residential Development.

4 (1) Only multi-family residential uses are allowed.

5 (2) Minimum multi-family density is five units per  
6 acre, maximum multi-family density is 15 units per acre.

7 (3) The development standards shall comply with  
8 Subsection 3-9-52 (f).

9 (4) Residential development must meet the  
10 requirements of Article XX, Sec. 3-5-431 to Sec. 3-5-457 regarding Transfers of  
11 Density Units.

12 (5) A minimum type B buffer (Sec. 3-5-393) with a  
13 wall shall be required alongside any side property line that borders single-family  
14 residential zoning or uses.

15 (C) A mix of commercial and residential uses or multi-  
16 family residential is allowed only a PD zoning district, Sec.3-9-49. Residential  
17 uses are only allowed through approval of Transfer of Density Units (Article XX  
18 Sec.3-5-431 to 3-5-457 Charlotte County Code).

19 (4) Rezoning to Commercial Intensive, Commercial Highway,  
20 Commercial Neighborhood, Commercial Office Park, Commercial Tourist,  
21 Industrial Light, Industrial Office Park, and Industrial General are prohibited.

22 (5) The twenty-five (25) foot PD setback requirement will be  
23 waived for development in the Overlay. The minimum setback shall follow the

1 development standards of this code; however, greater setbacks may be required  
2 when the site plan is reviewed.

3 (6) The existing single-family residences shall be considered  
4 legally conforming uses as the date of the adoption of the Overlay Code.

5 (f) *Development Standards.*

6 (1) Properties immediately adjacent to U.S. 41, not served by an  
7 access road and that are located within Commercial General (CG) or Office,  
8 Medical and Institutional (OMI) zoning districts shall comply with the development  
9 standards that apply to the zoning district within which the properties are located.

10 (2) Properties within Planned Development (PD), Commercial  
11 Intensive (CI) and Industrial Light (IL) zoning districts shall comply with the  
12 development standards that apply to the zoning district within which the  
13 properties are located irrespective of whether the property is served by an  
14 access road.

15 (3) With the exception of properties referenced in Subsections  
16 3-9-52(f) (1) and (2) above, all properties within the overlay shall comply with the  
17 following development standards.

18 (A) Front lots facing U.S. 41 with no expansion to rear lots:

19 Minimum lot requirement:

20 Area, square feet . . . . . 7,500

21 Width, feet . . . . . 50

22 Minimum yard requirements:

23 Front yard, feet . . . . . 0

1	Side yard:	
2	Interior . . . . .	None
3	Abutting a road, feet . . . . .	20
4	Rear yard:	
5	Abutting a lot, feet . . . . .	10
6	Abutting a road, feet. . . . .	20
7	Abutting an alleyway, feet. . . . .	15
8	Side and rear yard, abutting water, feet . . . . .	20
9	Maximum lot coverage, percent . . . . .	60
10	Maximum height of structures, feet . . . . .	60
11	Floor Area Ratio . . . . .	1.2
12	(B) Front lot(s) facing U.S. 41 with expansion to rear lot	
13	(expansions shall be considered a unified development):	
14	(i) Front and Rear lot(s) unified standards	
15	Maximum lot coverage for commercial and residential uses in total,	
16	percent . . . . .	60
17	(Development on the front lot(s) may expand to cover 100% of that lot(s)	
18	but total coverage for the unified development cannot exceed 60%.)	
19	Floor Area Ratio for commercial and residential uses in total . . . . .	1.2
20	(ii) Front lot(s) standards	
21	Minimum lot requirement:	
22	Area, square feet . . . . .	7,500
23	Width, feet: . . . . .	50

1	Minimum yard requirements:	
2	Front yard, feet . . . . .	0
3	Side yard:	
4	Interior . . . . .	None
5	Abutting a road, feet . . . . .	20
6	Rear yard:	
7	Abutting a lot (not part of the unified development), feet	10
8	Abutting a road, feet. . . . .	20
9	Abutting an alleyway, feet. . . . .	15
10	Side and rear yard, abutting water, feet . . . . .	20
11	Maximum height of structures, feet . . . . .	60
12	(iii) Rear lot(s) standards	
13	Minimum lot requirement:	
14	Area, square feet: . . . . .	10,000
15	Width, feet: . . . . .	80
16	Minimum yard requirements:	
17	Abutting an alleyway, feet . . . . .	15
18	No alleyway, feet . . . . .	0
19	Abutting a lot(s) zoned or used for Single-family residential, feet	20
20	Abutting lot(s) zoned or used for commercial, feet . . . . .	0
21	Abutting a road or water, feet . . . . .	20
22	Maximum height of structures, feet	38
23	(C) Rear lot(s) development, with no expansion from the front.	

1	Minimum lot requirement:	
2	Area, square feet . . . . .	10,000
3	Width, feet . . . . .	80
4	Minimum yard requirements:	
5	Front yard, feet . . . . .	25
6	Side yard:	
7	Abutting lot(s) zoned or used for commercial, feet . . . . .	0
8	Abutting lot(s) zoned or used for Single-family residential, feet	20
9	Abutting a road or water, feet . . . . .	20
10	Rear yard:	
11	Abutting a lot, feet . . . . .	10
12	Abutting a road, feet. . . . .	20
13	Abutting an alleyway. . . . .	15
14	Maximum lot coverage, percent. . . . .	60
15	Maximum height of structures, feet	38
16	Floor Area Ratio. . . . .	1.2

17 (g) *Parking.* If the County has provided or will provide public  
18 parking, businesses which develop or redevelop on a lot facing U.S. 41 or which  
19 are expanding to a rear lot are not required to provide customer parking;  
20 however, the business shall provide employee parking on-site which must be  
21 placed on the rear of the lot(s). Otherwise, businesses shall be required to  
22 provide employee and customer parking according to section 3-9-90 of the  
23 County Code, as the same may be amended from time to time.

1           (1) Within the U.S. 41 Overlay Mixed Use FLUM, Off-street  
2 parking of the residential development shall be in accordance with section 3-9-  
3 90.

4           (h) *Commercial Design Standards.* All commercial and office  
5 development and redevelopment shall be in accordance with the commercial  
6 design standards set forth in Sections 3-5-501 through 3-5-516 of the County  
7 Code, as the same may be amended, except that metal paneled buildings are  
8 not permitted. Metal buildings constructed prior to the effective date of the  
9 Overlay Code shall be allowed to remain as a non-conforming use as provided in  
10 Section 3-9-10 of the County Code. Commercial buildings that are developed on  
11 rear lots and which are not part of a unified expansion from a front lot must  
12 emulate a residential structure.

13           (i) *Solid Waste.* Dumpsters, compactors and recycling dumpsters  
14 shall be in accordance with Article VI, Sections 1-12-113 through 1-12-119, of the  
15 County Code, as the same may be amended. Refuse collection and equipment  
16 or refuse storage areas shall be located at the rear of the property. These areas  
17 shall maintain a minimum setback of ten feet from any lot line.

18           (j) *Landscaping.* Except as provided in Subsection 3-9-52(e)(1)(B) and  
19 3-9-52(e)(3)(A) above, landscape buffers and screening shall be required within  
20 the Corridor in accordance with the provisions of Article XVIII, Sections 3-5-391  
21 through 3-5-408 of the County Code.

22           (k) *Signs.* Signs in the Corridor shall be governed by Section 3-9-95 of  
23 the County Code, as the same may be amended from time to time.

1           (l)     *Outdoor lighting.* Outdoor lighting in rear lot(s) must be shielded or  
2 directed in such a way that the light does not shine beyond the boundaries of the  
3 subject property. Pole or standing lights will be no higher than ten (10) feet.

4           Section 2. Conflict with Other Ordinances. The provisions of this article  
5 shall supersede any provisions of existing ordinances in conflict herewith to the  
6 extent of said conflict.

7           Section 3. Severability. In the event that any portion of this article is for  
8 any reason held invalid or unconstitutional by any court of competent jurisdiction,  
9 such portion shall be deemed a separate, distinct and independent provision, and  
10 such holding shall not affect the validity of the remaining portions of this article.

11          Section 4. Effective Date. This Ordinance shall take effect upon filing in  
12 the office of the Secretary of State.

1 PASSED AND DULY ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005.

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BOARD OF COUNTY COMMISSIONERS OF  
CHARLOTTE COUNTY, FLORIDA

By: \_\_\_\_\_  
Sara J. Devos, Chair

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

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Janette S. Knowlton, County Attorney