

ORDINANCE NO.: 2007-16

1
2
3 AN ORDINANCE AMENDING CHAPTER 23 OF THE HERNANDO
4 COUNTY CODE OF ORDINANCES RELATING TO PLANNING;
5 ADDING DIVISION 6 TO ARTICLE III THEREIN; CREATING A
6 SHORT TITLE KNOWN AS "IMPACT FEE SURCHARGE AND
7 PLANNING OVERLAY ORDINANCE FOR THE GREATER I-75/SR 50
8 PLANNED DEVELOPMENT DISTRICT AREA"; PROVIDING FOR
9 APPLICABILITY; ESTABLISHING THE BOUNDARIES OF THE
10 OVERLAY DISTRICT AS IDENTICAL WITH CURRENT I-75/SR 50
11 PLANNED DEVELOPMENT DISTRICT (PDD); ESTABLISHING AN
12 EXPANDED OVERLAY DISTRICT FOR PURPOSES OF ROAD
13 IMPROVEMENTS; PROVIDING INTENT AND PURPOSE; PROVIDING
14 FINDINGS OF FACT; PROVIDING RULES OF CONSTRUCTION;
15 PROVIDING DEFINITIONS; PROVIDING FOR IMPOSITION OF
16 CERTAIN IMPACT FEE SURCHARGES FOR PROPERTIES WITHIN
17 THE OVERLAY DISTRICT; PROVIDING FOR IMPOSITION OF
18 ROADS IMPACT FEE SURCHARGES FOR PROPERTIES WITHIN THE
19 EXPANDED OVERLAY DISTRICT; PROVIDING FOR COMPUTATION;
20 PROVIDING FOR ESTABLISHMENT OF IMPACT FEE SURCHARGE
21 TRUST FUND ACCOUNTS; PROVIDING FOR USE OF FUNDS;
22 PROVIDING FOR REFUND OF FEES PAID; PROVIDING FOR
23 EXEMPTIONS AND CREDITS; PROVIDING FOR INCENTIVES TO
24 ENCOURAGE DEVELOPERS TO ADVANCE UP-FRONT FUNDS,
25 DONATE LAND AND/OR PIPELINE IMPROVEMENTS; PROVIDING
26 FOR ADDITIONAL REGULATIONS REGARDING PLANNING AND
27 OVERSIGHT WITHIN THE I-75/SR 50 PDD; PROVIDING FOR
28 ENFORCEMENT; PROVIDING FOR APPEAL; PROVIDING FOR
29 BIENNIUM REVIEW; PROVIDING FOR SEVERABILITY; PROVIDING
30 FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN
31 EFFECTIVE DATE.

32
33 WHEREAS, in 1985, the Florida Legislature adopted the Local Government
34 Comprehensive Planning and Land Development Regulation Act as set forth in §§ 163.3161
35 through 163.3215, Florida Statutes (the "Act"); and,
36

37 WHEREAS, on June 7, 1989, the Board of County Commissioners ("Board") adopted
38 Ordinance 89-9 which adopted the Hernando County Comprehensive Plan, as such Plan or
39 portions thereof have been subsequently amended (the "Comprehensive Plan"); and,
40

41 WHEREAS, the county's initial Comprehensive Plan included a Future Land Use Map
42 ("FLUM") and related text which established and mapped various future land use categories such
43 as rural, residential, commercial, industrial, mining, recreation, etc; and,
44

45 WHEREAS, in connection with the county's adoption of the initial Comprehensive Plan,
46 the Board designated that certain area lying south of SR 50, north of Hernando/Pasco county line,
47 east of Lockhart Road and west of the abandoned CSX railroad right-of-way (currently used as

FILED
2007 SEP 24 PM 5:51
TAMPA
HARRIS COUNTY
FLORIDA

1 the Withlacoochee Trail) as the I-75/SR 50 Planned Development District (“I-75/SR 50 PDD”)
2 as delineated on the FLUM; and,
3

4 **WHEREAS**, the I-75/SR 50 PDD contains approximately 5,021 acres, the majority of
5 which is currently undeveloped at the time of adoption of this ordinance; and,
6

7 **WHEREAS**, Comprehensive Plan Policy 1.07B(1) allowed a number of different land
8 use categories to be developed within the specially created I-75/SR 50 PDD category including:
9 (1) commercial; (2) industrial; (3) residential including multi-family; (4) recreation and (5)
10 public facilities; and,
11

12 **WHEREAS**, those persons owning property within the I-75/SR 50 PDD specially
13 benefit from the mixed-use category previously assigned to this area under the Comprehensive
14 Plan; and,
15

16 **WHEREAS**, up until the time of adoption of this ordinance, there has been minimal need
17 for the County to expand or create new roads, parks, schools and other park capital facilities
18 within or in proximity of the I-75/SR 50 PDD; and,
19

20 **WHEREAS**, the Hernando County School District (“HCSD”) has indicated its desire to
21 acquire up to two (2) potential school sites, totaling approximately 75 acres, within the I-75/SR
22 50 PDD; and,
23

24 **WHEREAS**, Goal 1.07 of the County’s Comprehensive Plan mandates the
25 Comprehensive Planning of certain areas within the County in which mixed land uses are
26 envisioned and more planning control is determined to be necessary to best utilize a limited
27 resource; and,
28

29 **WHEREAS**, Objective 1.07B of the County’s Comprehensive Plan mandates the
30 efficient utilization of the mixed land uses (*i.e.* commercial, industrial, residential) in the I-75/SR
31 50 PDD Area, through master planning, roadway network, infrastructure and public facilities,
32 and aesthetics prior to or concurrent with development occurring; and,
33

34 **WHEREAS**, in 2007, a detailed analysis of the public infrastructure and facilities needs
35 of the I-75/SR 50 PDD was prepared, specifically as to roads, schools, parks, utilities, and other
36 public facilities (“Needs Analysis”) which has been reviewed by county and incorporated herein
37 by reference as supporting data and analysis; and,
38

39 **WHEREAS**, the Needs Analysis also identified those properties bordering on the north
40 side of SR 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those
41 properties bordering on the north and south sides of SR 50 between Lockhart Road and Spring
42 Lake Highway (the “Additional Benefitted Properties”) as directly benefitting by the planned area
43 road network; and,
44

1 **WHEREAS**, an area plan was formulated regarding the development of the I-75/SR 50
2 PDD Area (the "I-75/SR 50 PDD Area Plan") based on the data and estimates contained in the
3 Needs Analysis and the desire of the HCSD to acquire the two school sites identified therein
4 without any financial outlay; and,

5
6 **WHEREAS**, by earlier vote this 12th day of September 2007, the BOCC approved the I-
7 75/SR 50 PDD Area Plan; and,

8
9 **WHEREAS**, the Board finds that due to the lack of existing public facilities within or
10 proximate to the I-75/SR 50 PDD, there are greater financial costs associated with creating new
11 public infrastructure and facilities necessary to serve the anticipated population and development
12 within the I-75/SR 50 PDD and to serve the transportation needs of the Additional Benefitted
13 Properties; and,

14
15 **WHEREAS**, it is the policy of the Board that all new development bears its full share of
16 the actual costs to provide new public facilities and infrastructure, *i.e.* roads, parks, schools,
17 utilities and other public capital improvements for the anticipated population and development,
18 and that these costs are fairly and proportionately shared among all Property Owners within the I-
19 75/SR 50 PDD and among the Additional Benefitted Properties; and,

20
21 **WHEREAS**, the County requires an additional and reliable source of funding for the
22 anticipated public infrastructure and facilities needed to accommodate the density and intensity
23 of new development that is planned to occur within the I-75/SR 50 PDD, and along the SR 50
24 corridor as pertaining to the Additional Benefitted Properties, and which source of funding may
25 be fairly apportioned among all Property Owners at time of development; and,

26
27 **WHEREAS**, the establishment of an impact fee surcharge and planning overlay for the I-
28 75/SR50 PDD, and for the Additional Benefitted Properties as to road improvements, is the
29 fairest and most practicable method of insuring that there will be adequate public infrastructure
30 and facilities in place prior to or concurrent with development to serve the new development
31 anticipated to occur within this area.

32
33 **NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY**
34 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

35
36 **SECTION 1. Amending Chapter 23 (Planning), Article III (Impact Fees) by adding**
37 **Division 6 (Impact Fee Surcharge and Planning Overlay for the I-75/SR 50 Planned**
38 **Development District).** Chapter 23 (Planning), Article III (Impact Fees) is hereby amended to
39 read as follows, with any underlined language added and any struck-through language deleted:

40
41 **Sec. 23-148. Short title; authority; applicability; intent; purpose.**

42
43 (a) *Short title.* This division shall be known and may be cited as the "Impact Fee
44 Surcharge and Planning Overlay Ordinance for the Greater I-75/SR50 Planned Development
45 District Area."

1 (b) Authority. The board of county commissioners of Hernando County has the
2 authority to adopt this division pursuant to article VIII, section 1(f), of the Constitution of the
3 State of Florida and Chapters 125 and 163 of the Florida Statutes.

4
5 (c) Applicability. This division in its entirety shall apply to that area lying south of
6 SR 50, north of Hernando/Pasco county line, east of Lockhart Road and west of the abandoned
7 CSX railroad right-of-way (currently used as the Withlacoochee Trail) and referred to as the I-
8 75/SR 50 Planned Development District ("I-75/SR 50 PDD") as delineated on the Future Land
9 Use Map (FLUM) of the Comprehensive Plan existing as of the adoption date of this ordinance,
10 together with any land that is thereafter added to the I-75/SR 50 PDD through the
11 Comprehensive Plan and FLUM amendment process. In addition, this division shall apply to the
12 Additional Benefitted Properties (as defined below) only as to imposition of the roads impact fee
13 surcharges and the payment, exemption and credit provisions related thereto.

14
15 (d) Intent. This division is intended to assist in the implementation of the county
16 Comprehensive Plan and provide a source of funding for anticipated public infrastructure and
17 facilities needed to accommodate the density and intensity of new development that is planned to
18 occur within the I-75/SR 50 PDD and along the SR 50 corridor as pertaining to the Additional
19 Benefitted Properties.

20
21 (e) Purpose. The purpose of this division is to more specifically regulate the
22 development and use of land within the I-75/SR 50 PDD , and the adjoining SR 50 corridor, so as
23 to assure that new development, within this predominately undeveloped area at the time of this
24 ordinance, bears its full share of the actual costs necessary to provide public infrastructure and
25 facilities, *i.e.* roads, parks, schools and other public capital facilities needed for the anticipated
26 resident population and development of this area and that these costs are fairly and proportionately
27 shared among all Property Owners within the I-75/SR 50 PDD, and among the Additional
28 Benefitted Properties, at time of development.

29
30 **Sec. 23-149. Findings.**

31
32 The Board adopts the following findings:

33
34 (a) On June 7, 1989, the Board adopted Ordinance 89-9 which adopted the Hernando
35 County Comprehensive Plan, as such Plan or portions thereof have been subsequently amended
36 (the "Comprehensive Plan").

37
38 (b) The county's initial Comprehensive Plan included a Future Land Use Map
39 ("FLUM") and related text which established and mapped various future land use categories such
40 as rural, residential, commercial, industrial, mining, recreation, etc.

41
42 (c) In connection with the county's adoption of the initial Comprehensive Plan, the
43 Board designated that certain area lying south of SR 50, north of Hernando/Pasco county line, east
44 of Lockhart Road and west of the abandoned CSX railroad right-of-way (currently used as the

1 Withlachocee Trail) as the I-75/SR 50 Planned Development District (“I-75/SR 50 PDD”) as
2 delineated on the FLUM; and,

3
4 (d) The I-75/SR 50 PDD designation within the Comprehensive Plan allows broad
5 mixed-use development commercial, industrial, residential including multi-family, recreation and
6 public facilities land uses.

7
8 (e) Those persons owning property within the I-75/SR 50 PDD specially benefit from
9 the mixed-use category previously assigned to this area under the adopted Comprehensive Plan.

10
11 (f) The I-75/SR 50 PDD contains approximately 5,021 acres, the majority of which is
12 currently undeveloped at the time of adoption of this ordinance.

13
14 (g) Up until the time of adoption of this ordinance, there has been minimal need for
15 the County to expand or create new roads, parks, schools and other park capital facilities within or
16 in proximity of the I-75/SR 50 PDD Area.

17
18 (h) The Hernando County School District (“HCSD”) has indicated its desire to acquire
19 up to two (2) potential school sites, totaling approximately 75 acres, within the I-75/SR 50 PDD,
20 and that the acquisition of these sites be without cost to or future financial outlay by the HCSD.

21
22 (i) Objective 1.07B of the County’s Comprehensive Plan mandates the efficient
23 utilization of the mixed land uses (i.e. commercial, industrial, residential) in the I-75/SR 50 PDD
24 Area, through master planning, roadway network, infrastructure and public facilities, and
25 aesthetics prior to or concurrent with development occurring.

26
27 (j) In 2007, a detailed analysis of the public infrastructure and facilities needs of the I-
28 75/SR 50 PDD was prepared, specifically as to roads, schools, parks, utilities, and other public
29 facilities (“Needs Analysis”) which has been reviewed by staff and incorporated herein by
30 reference as supporting data and analysis.

31
32 (k) The Needs Analysis also identified those properties bordering on the north side of
33 SR 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those properties
34 bordering on the north and south sides of SR 50 between Lockhart Road and Spring Lake
35 Highway (the “Additional Benefitted Properties”) as directly benefitting by the planned area road
36 network.

37
38 (l) The I-75/SR 50 PDD together with the Additional Benefitted Properties
39 collectively comprise the “Greater I-75 SR 50 PDD Area”.

40
41 (m) An area plan was formulated regarding the development of the Greater I-75/SR 50
42 PDD Area (the “I-75/SR 50 PDD Area Plan”) based on the data and estimates contained in the
43 Needs Analysis and the desire of the HCSD to acquire the two school sites identified therein
44 without any financial outlay.

1 (n) Prior to the adoption of this Ordinance, the BOCC approved the I-75/SR 50 PDD
2 Area Plan.

3
4 (o) Due to the lack of existing public infrastructure and facilities within or proximate
5 to the I-75/SR 50 PDD, there are greater financial costs associated with creating new public
6 infrastructure and facilities necessary to serve the anticipated resident population and development
7 within the I-75/SR 50 PDD and to serve the transportation needs of the Additional Benefitted
8 Properties.

9
10 (p) It is the policy of the Board that new development bears its full share of the actual
11 costs to provide new public facilities and infrastructure, i.e. roads, parks, schools and other public
12 capital improvements for the anticipated resident population and development of this area, and
13 that these costs are fairly and proportionately shared among all Property Owners within the I-
14 75/SR 50 PDD and among the Additional Benefitted Properties.

15
16 (q) The County requires an additional and reliable source of funding for the anticipated
17 public infrastructure and facilities needed to accommodate the density and intensity of new
18 development that is planned to occur within the I-75/SR 50 PDD, and along the SR 50 corridor as
19 pertaining to the Additional Benefitted Properties, and that the funding of which may be fairly
20 apportioned among all Property Owners at time of development.

21
22 (r) The establishment of an impact fee surcharge and planning overlay for the I-75/SR
23 50 PDD, and for the Additional Benefitted Properties as to road improvements, is the fairest and
24 most practicable method of insuring that there will be adequate public infrastructure and facilities
25 in place prior to or concurrent with new development within this area and that such funding is
26 approximately and fairly apportioned to all Property Owners at time of development.

27
28 **Sec. 23-150. Rules of construction.**

29
30 (a) The provisions of this division shall be liberally construed so as to effectively carry
31 out its purpose in the interest of the public health, safety and welfare.

32
33 (b) For the purposes of administration and enforcement of this division, unless
34 otherwise stated in this division, the following rules of construction shall apply to the text of this
35 division:

36
37 (1) In case of any difference of meaning or implication between the text of this
38 division and any caption, illustration, summary table or illustrative table,
39 the text shall control.

40
41 (2) The word "shall" is always mandatory and not discretionary; the word
42 "may" is permissive.

- 1 (3) Words used in the present tense shall include the future; and words used in
2 the singular number shall include the plural, and the plural the singular,
3 unless the context clearly indicates the contrary.
- 4
- 5 (4) The phrase "used for" includes "arranged for," "designed for," "maintained
6 for" or "occupied for."
- 7
- 8 (5) The word "person" includes an individual, a corporation, a partnership, an
9 incorporated association, a limited liability company, a community
10 development district, or any other similar entity.
- 11
- 12 (6) Unless the context clearly indicates the contrary, where a regulation
13 involves two (2) or more items, conditions, provisions or events connected
14 by the conjunction "and," "or" or "either . . . or," the conjunction shall be
15 interpreted as follows:
- 16
- 17 a. "And" indicates that the connected terms, conditions, provisions or
18 events shall apply.
- 19
- 20 b. "Or" indicates that the connected items, conditions, provisions or
21 events may apply singly or in any combination.
- 22
- 23 c. "Either . . . or" indicates that the connected items, conditions,
24 provisions or events shall apply singly but not in combination.
- 25
- 26 (7) The word "includes" shall not limit a term to the specific example, but is
27 intended to extend its meaning to all other instances or circumstances of
28 like kind or character.
- 29
- 30 (8) The land use types listed in this division shall have the same meaning as
31 under the Hernando County Zoning Regulations.
- 32

33 **Sec. 23-151. Definitions.**

34 The following definitions shall apply to this division:

35 *Board* means the Board of County Commissioners for Hernando County, Florida.

36 *County administrator* means the county administrator or the county official he or she may
37 designate to administer the various provisions of this division.

38 *HCSD* means the Hernando County School District.

39 *Building permit* means an official document or official certification which authorizes the
40 construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation,
41
42
43
44
45

1 erection, demolition, moving or repair of a residential building or structure or a hotel/motel unit.
2 In the case of a change in use or occupancy of an existing building or structure, the term shall
3 specifically include certificates of occupancy and occupancy permits, as those terms are defined
4 by the county land development regulations. The terms "building permit" and "certificate of
5 occupancy permit" also mean those municipal permits which are equivalent to these county
6 permits, regardless of the names by which they are called within a municipality. Building permits
7 shall include those permits which allow the installation or location of a residential mobile home or
8 recreational vehicle on a site or lot.

9
10 Overlay District means that area of land lying within, and synonymous with, the
11 boundaries of the I-75/SR 50 PDD as depicted and mapped in the Future Land Use Map of the
12 Comprehensive Plan existing as of the adoption date of this ordinance, together with any land that
13 is thereafter added to the I-75/SR 50 PDD through the Comprehensive Plan and FLUM
14 amendment process, and which is subject to this entire division.

15
16 Additional Benefitted Properties means those properties bordering on the north side of SR
17 50 between Lockhart Road and the abandoned CSX railroad right-of-way, and those properties
18 bordering on the north and south sides of SR 50 between Lockhart Road and Spring Lake
19 Highway, as more fully described on Exhibit A attached hereto and made a part hereof, and which
20 are directly benefitted by the planned area road network identified in the I-75/SR 50 PDD Area
21 Plan.

22
23 Expanded Overlay District means that area of land encompassed by the Overlay District
24 defined herein together with that area of land encompassed by the Additional Benefitted
25 Properties.

26
27 I-75/SR 50 PDD Area Plan means that plan and accompanying regulations for the I-75/SR
28 50 PDD and the adjoining SR 50 corridor which has been duly adopted by the Board.

29
30 Property Owner means a person owning property within I-75/SR 50 PDD for purposes of
31 this division or owning property within the Additional Benefitted Properties for purposes of the
32 road impact fee surcharge provision of this division.

33
34 Feepayer means a person commencing a land development activity by applying a building
35 permit or certificate of use for a type of land development activity specified in this article,
36 regardless of whether the feepayer owns the land which is to be developed.

37
38 Capital equipment means equipment with an expected useful life of three (3) years or
39 more.

40
41 Capital improvement for parks shall have the same meaning as set forth in division 4 of
42 this article; capital improvement for roads shall have the same meaning as set forth in division 5
43 of this article. In no event shall capital improvement include maintenance or operating costs.
44

1 Educational facilities for purposes of this division means the construction of a new school
2 or schools (elementary, middle, K-8, 9-12, or combination) within or in proximity of the I-75/SR
3 50 PDD which will serve the resident population of the I-75/SR 50 PDD.

4
5 Capital costs of educational facilities shall have same meaning as set forth in division 2 of
6 this article.

7
8 Neighborhood community parks for purposes of this division means that park or parks
9 located within the I-75/SR 50 PDD intended to serve the residents of the community or
10 communities in which the park or parks are located and developed in accordance with the
11 document entitled Typical Neighborhood Community Park Standards, as such standards have
12 been approved by the Board.

13
14 District parks for purpose of this division means that park or parks that may serve the I-
15 75/SR 50 PDD and may be more particularly identified in the I-75/SR 50 PDD Area Plan and
16 which meet the criteria for a regional district park under the Comprehensive Plan.

17
18 Road network means all roads, roadway segments, links and intersections identified in the
19 I-75/SR 50 Area Plan and including, without limitation, SR 50 (between Lockhart Road and the
20 CSX railroad right-of-way lying east of Kettering Road), Lockhart Road (between SR 50 and
21 Powerline Road), Powerline Road (between Lockhart Road and the aforesaid railroad right-of-
22 way), Kettering Road (between Powerline Road and SR 50), Dashbach Street, Sunrise Parkway,
23 Parallel Collector Road (to SR 50), Spine Road, Church Road, and those roadway segments which
24 are necessary to provide connectivity to the foregoing roadways.

25
26 Required right-of-way means that land within the Expanded Overlay District needed by
27 the county or the state for right-of-way for those roads comprising the road network and shall be
28 calculated at such width based on county collector road design standards. Required right-of-way
29 shall be donated by the Property Owner to the county without cost or credit absent a provision in a
30 development agreement or development order to the contrary.

31
32 Compensable right-of-way means that portion of right-of-way transferred to the county in
33 excess of the width required under county collector road design standards. Compensable right-of-
34 way shall be eligible for payment or credit by the county (as to the excess width only) absent a
35 provision in a development agreement or development order to the contrary.

36
37 Site-related improvement means an improvement related to the specific site or
38 development and includes, without limitation, internal roadways within the development or
39 frontage roads that are not part of the Road network (defined herein), internal sidewalks, entrance
40 features, and lane and access improvements at the entrance.

41
42 Development agreement means that written agreement entered into between the Property
43 Owner and the Board, pursuant to the county's home rule authority and chapter 125 of the Florida
44 Statutes, which states those terms and conditions upon which the Property Owner may develop or
45 use land in furtherance of this division.

1 Development order means an order adopted by the Board approving or approving with
2 conditions a development of regional impact pursuant to s. 380.06, Florida Statutes.

3
4 Educational facilities impact fee surcharge means that fee over and above the educational
5 facilities impact fees set forth in division 2 this article applicable to all new or expanded
6 residential development occurring within the I-75/SR 50 PDD. The impact fee surcharge shall be
7 stated as a percentage relative to the educational facilities impact fee in effect at the time a
8 building permit is requested.

9
10 Public capital facilities impact fee surcharge means that fee over and above the public
11 capital facilities impact fees (for each category, i.e. library, buildings, and law enforcement) set
12 forth in division 3 this article applicable to all new or expanded development occurring within the
13 I-75/SR 50 PDD. The impact fee surcharge shall be stated as a percentage relative to the public
14 capital facilities impact fee in effect at the time a building permit is requested.

15
16 Parks impact fee surcharge means that fee over and above the parks impact fees set forth
17 in division 4 this article applicable to new development occurring within the I-75/SR 50 PDD.
18 The Parks impact fee surcharge shall be stated as a percentage relative to the parks impact fee in
19 effect at the time a building permit is requested.

20
21 Roads impact fee surcharge means that fee over and above the roads impact fees set forth
22 in division 5 this article applicable to all new or expanded development occurring within the
23 Expanded Overlay District. The Roads impact fee surcharge shall be stated as a percentage
24 relative to the roads impact fee in effect at the time a building permit is requested.

25
26 Pipeline advance means the up-front funds in cash advanced by the Property Owner to the
27 county and/or the HCSD to accelerate the construction or expansion of schools, parks, roads or
28 other public capital facilities and which advance of such funds was in furtherance of the Property
29 Owner's obligations under a development agreement, development order, land development
30 regulation, or this division. A Pipeline advance is intended to occur early in the development
31 process unless some other provision is made within a development agreement or development
32 order. Pipeline advances shall be eligible for credit as provided for in this division.

33
34 Pipeline donation means that land (excluding required right-of-way) transferred to the
35 county and/or HCSD by the Property Owner for use as a school, park, public capital facility or
36 compensable right-of-way and the transfer of such land was pursuant to the Property Owner's
37 obligations under a development agreement, development order, land development regulation, or
38 this division. A Pipeline donation is intended to occur early in the development process unless
39 some other provision is made within a development agreement or development order. Pipeline
40 donations shall be eligible for credit as provided for in this division.

41
42 Pipeline improvement means that construction undertaken by or on behalf of the Property
43 Owner related to the construction of a new or expanded public infrastructure or facility within or
44 in proximity to the I-75/SR 50 PDD (as identified by the county or HCSD, respectively, or in the
45 I-75/SR 50 PDD Area Plan) and the construction of such improvement has been agreed to by the

1 Property Owner pursuant to the Property Owner's obligations under a development agreement,
2 development order, land development regulation, or this division. A Pipeline improvement is
3 intended to occur early in the development process unless some other provision is made within a
4 development agreement or development order. Pipeline improvements shall be eligible for credit
5 as provided for in this division.

6
7 Total impact fee surcharge means the total amount of money that would be collected by
8 the county, for itself or on behalf of the HCSD, based upon present impact fee surcharge rates
9 under this division (i.e. those rates in effect at the time this calculation is made) assuming
10 complete build-out of the proposed development.

11
12 **Sec. 23-152. Imposition of impact fee surcharge for schools, public capital facilities, parks**
13 **and roads.**

- 14
15 (a) Schools. Any new or expanded residential development within the I-75/SR 50
16 PDD that would otherwise be subject to the educational facilities impact fee
17 pursuant to division 2 of this article shall be subject to educational facilities impact
18 fee surcharge unless exempted under this division.
19
20 (b) Public Capital Facilities. Any new or expanded development within the I-75/SR
21 50 PDD that would otherwise be subject to the public capital facilities impact fee
22 pursuant to division 3 of this article shall be subject to public capital facilities
23 impact fee surcharge unless exempted under this division.
24
25 (c) Parks. Any new or expanded residential development within the I-75/SR 50 PDD
26 that would otherwise be subject to the parks impact fee pursuant to division 4 of
27 this article shall be subject to parks impact fee surcharge unless exempted under
28 this division.
29
30 (d) Roads. Any new or expanded development within the Expanded Overlay District
31 that would otherwise be subject to the roads impact fee pursuant to division 5 of
32 this article shall be subject to roads impact fee surcharge unless exempted under
33 this division.

34
35 **Sec. 23-153. Computation of the amount of impact fee surcharge.**

- 36
37 (a) Schools. The educational facility impact fee surcharge shall be calculated by
38 applying the residential land use type set forth in the table in code sec. 23-69 and
39 multiplying by 0.10 to yield the surcharge amount (this rate is based upon the value
40 of the two school sites identified in the I-75/SR 50 PDD Area Plan and the HCSD
41 obtaining these sites without any out-of-pocket cost or any future financial outlay).

42
43 For all residential developments with 100 or more dwelling units, ten percent
44 (10%) of the Total Impact Fee Surcharge amount for the educational facilities
45 impact fee surcharge shall be provided to the HCSD in the form of a Pipeline

1 advance (cash) which shall occur prior to the issuance of a building permit unless
2 some other time frame is agreed to as part of a development agreement or
3 development order. In lieu of this payment, a Property Owner may agree to make
4 an equal or greater contribution in the form of a Pipeline donation or Pipeline
5 improvement as part of a development agreement or development order. A
6 Pipeline advance, Pipeline donation or Pipeline improvement under this provision
7 shall be eligible for enhanced credits using the multiplier provided under code sec.
8 23-157.

- 9
10 (b) Public capital facilities. The public capital facilities impact fee surcharge shall be
11 calculated by applying the land use type set forth in the table in code sec. 23-91
12 (for each category, i.e. library, buildings and law enforcement) and multiplying by
13 0.10 to yield the surcharge amount.

14
15 For all residential developments with 100 or more dwelling units or commercial
16 developments in excess of 250,000 gross square feet, ten percent (10%) of the
17 Total Impact Fee Surcharge amount for the public capital facilities impact fee
18 surcharge shall be provided to the county administrator in the form of a Pipeline
19 advance (cash) which shall occur prior to the issuance of a building permit unless
20 some other time frame is agreed to as part of a development agreement or
21 development order. In lieu of this payment, a Property Owner may agree to make
22 an equal or greater contribution in the form of a Pipeline donation or Pipeline
23 improvement as part of a development agreement or development order. A
24 Pipeline advance, Pipeline donation or Pipeline improvement under this provision
25 shall be eligible for enhanced credits using the multiplier provided under code sec.
26 23-157.

- 27
28 (c) Parks. The parks impact fee surcharge shall be calculated by applying the
29 residential land use type set forth in the table in code sec. 23-114 and multiplying
30 by 0.60 to yield the surcharge amount.

31
32 For all residential developments with 100 or more dwelling units, ten percent
33 (10%) of the Total Impact Fee Surcharge amount for the parks impact fee
34 surcharge shall be provided to the county administrator in the form of a Pipeline
35 advance (cash) which shall occur prior to the issuance of a building permit unless
36 some other time frame is agreed to as part of a development agreement or
37 development order. In lieu of this payment, a Property Owner may agree to make
38 an equal or greater contribution in the form of a Pipeline donation or Pipeline
39 improvement as part of a development agreement or development order. A
40 Pipeline advance, Pipeline donation or Pipeline improvement under this provision
41 shall be eligible for enhanced credits using the multiplier provided under code sec.
42 23-157.

1 (d) Roads. The roads impact fee surcharge shall be calculated by applying the land use
2 type set forth in the table in code sec. 23-138 and multiplying by 0.50 to yield the
3 surcharge amount.

4
5 For all residential developments with 100 or more dwelling units or commercial
6 developments in excess of 250,000 gross square feet, ten percent (10%) of the
7 Total Impact Fee Surcharge amount for the roads impact fee surcharge shall be
8 provided to the county administrator in the form of a Pipeline advance (cash)
9 which shall occur prior to the issuance of a building permit unless some other time
10 frame is agreed to as part of a development agreement or development order. In
11 lieu of this payment, a Property Owner may agree to make an equal or greater
12 contribution in the form of a Pipeline donation or Pipeline improvement as part of
13 a development agreement or development order. A Pipeline advance, Pipeline
14 donation or Pipeline improvement under this provision shall be eligible for
15 enhanced credits using the multiplier provided under code sec. 23-157.
16

17 **Sec. 23-154. Payment of impact fee surcharge; establishment of impact fee surcharge trust**
18 **funds accounts.**

19
20 (a) The Property Owner shall pay all impact fee surcharges required by this division to
21 the county administrator prior to the issuance of a building permit.
22

23 (b) All funds collected shall be properly identified as impact fee surcharge funds and
24 promptly transferred for deposit in the respective impact fee surcharge trust fund account to be
25 held in separate accounts and used solely for the respective facilities within or for the benefit of
26 the Overlay District/Expanded Overlay District in accordance with this division.
27

28 (c) There are hereby established separate impact fee surcharge trust fund accounts for:
29 parks impact fee surcharges, public capital facilities impact fee surcharges (and further segregated
30 as the library impact fee surcharges; the buildings impact fee surcharges, and the law enforcement
31 impact fee surcharges); and the roads impact fee surcharges. The foregoing shall be maintained
32 by the county for the purposes set forth in this division. The educational facilities impact fee
33 surcharge trust fund account shall be maintained by the HCSD for the purposes set forth in this
34 division.
35

36 (d) Funds withdrawn from impact fee surcharge trust fund accounts must be used in
37 accordance with this division.
38

39 **Sec. 23-155. Use of funds.**

40
41 (a) Schools:

42
43 (1) The funds collected by the county shall be remitted to the HCSD when
44 impact fees are remitted to HCSD.
45

1 (2) HCSD shall use the Educational facilities impact fee surcharges for those
2 facilities which serve students residing in the Overlay District as per HCSD
3 policies to the extent not contrary to a development agreement or
4 development order to which HCSD is a party to or gave its consent to.

5
6 (3) Funds may be used to provide refunds as described in this division.

7
8 (4) The county may collect an administrative fee not to exceed three percent
9 (3%) or its actual costs, whichever is less, related to collecting the fee and
10 administering this division which shall be deducted prior to remitting any
11 funds to HCSD.

12
13 (b) Public capital facilities:

14
15 (1) Except as provided in this division or otherwise provided in a development
16 agreement or development order, public capital facilities impact fee
17 surcharge funds shall be used exclusively for new capital facilities (i.e.
18 library, buildings, law enforcement facilities) or expansion of existing
19 capital facilities within the I-75/SR 50 PDD and which benefit the resident
20 population of the I-75/SR 50 PDD. Funds shall be spent in the order
21 collected. In no event shall funds be used for maintenance or operations.

22
23 (2) In the event that bonds or similar debt instruments are issued for the
24 advanced provision of public capital facilities improvements for which
25 public capital facilities impact fee surcharges may be expended, such public
26 capital facilities surcharges may be used to pay debt service on such bonds
27 or similar debt instruments to the extent that the facilities provided are of
28 the type described in this division.

29
30 (3) At least once each fiscal period the county administrator shall present to the
31 Board a proposed capital improvement program for public capital facilities,
32 assigning public capital facilities impact fee surcharge funds, including any
33 accrued interest, to specific public capital improvement projects and related
34 expenses. Monies, including any accrued interest, not assigned in any
35 fiscal period shall be retained in the same public capital facilities impact fee
36 surcharge trust fund account until the next fiscal period, except as provided
37 by the refund provisions of this division.

38
39 (4) Funds may be used to provide refunds as described in this division.

40
41 (5) The county may collect an administrative fee not to exceed three percent
42 (3%) or its actual costs, whichever is less, related collecting the fee and
43 administering this division.

1 (c) Parks:

2
3 (1) Except as provided in this division or otherwise provided in a development
4 agreement or development order, parks impact fee surcharge funds shall be
5 used exclusively for new parks or expansion or improvement of existing
6 parks within the I-75/SR 50 PDD and/or for the District park as identified
7 in the I-75/SR 50 PDD Area Plan and which benefit the resident population
8 of the I-75/SR 50 PDD. Funds shall be spent in the order collected. In no
9 event shall funds be used for maintenance or operations.

10
11 (2) In the event that bonds or similar debt instruments are issued for the
12 advanced provision of parks for which parks impact fee surcharges may be
13 expended, such parks impact fee surcharges may be used to pay debt
14 service on such bonds or similar debt instruments to the extent that the
15 facilities provided are of the type described in this division.

16
17 (3) At least once each fiscal period the county administrator shall present to the
18 Board a proposed capital improvement program for parks, assigning parks
19 impact fee surcharge funds, including any accrued interest, to specific park
20 improvement projects and related expenses. Monies, including any accrued
21 interest, not assigned in any fiscal period shall be retained in the same parks
22 impact fee surcharge trust fund account until the next fiscal period, except
23 as provided by the refund provisions of this division.

24
25 (4) Funds may be used to provide refunds as described in this division.

26
27 (5) The county may collect an administrative fee not to exceed three percent
28 (3%) or its actual costs, whichever is less, related collecting the fee and
29 administering this division.

30
31 (d) Roads:

32
33 (1) Except as provided in this division or otherwise provided in a development
34 agreement or development order, roads impact fee surcharge funds shall be
35 used exclusively for the purpose of capital improvements to transportation
36 facilities within the Road network (as defined in this division) and as
37 enumerated in the I-75/SR 50 PDD Area Plan. Funds shall be spent in the
38 order collected. In no event shall funds be used for maintenance or
39 operations.

40
41 (2) In the event that bonds or similar debt instruments are issued for advanced
42 provision of road capital improvements for which roads impact fee
43 surcharges may be expended, roads impact fee surcharges may be used to
44 pay debt service on such bonds or similar debt instruments to the extent that

1 the facilities provided are of the type described in this division and are
2 located within the Expanded Overlay District.

3
4 (3) Each fiscal period the county administrator shall present to the board of
5 county commissioners a proposed capital improvement program for roads,
6 assigning funds, including any accrued interest, from the roads impact fee
7 surcharges trust funds to specific road improvement projects. Monies,
8 including any accrued interest, not assigned in any fiscal period shall be
9 retained in the same roads impact fee surcharge trust funds account until the
10 next fiscal period, except as provided by the refund provisions of this
11 division.

12
13 (4) Funds may be used to provide refunds as described in this division.

14
15 (5) The county may collect an administrative fee not to exceed three percent
16 (3%) or its actual costs, whichever is less, related collecting the fee and
17 administering this division.

18
19 **Sec. 23-156. Refund of fees paid.**

20
21 (a) If a building permit or certificate of use expires, is revoked or is voluntarily
22 surrendered and is, therefore, voided, and no construction or improvement of land
23 (including moving a mobile home or recreational vehicle on to land) has been
24 commenced, then the current parcel owner of record, upon application to the
25 county, shall be entitled to a refund of any impact fee surcharges paid as a
26 condition for its issuance except as otherwise provided herein, minus
27 administrative expenses actually incurred by the county. No interest shall be paid
28 on refunds under this section. Notwithstanding the foregoing, the fee payer may
29 waive or relinquish its right to any refund under a development agreement or
30 development order and which agreement or order may provide that such impact fee
31 surcharges may be deemed non-refundable and expended by the county upon
32 receipt.

33
34 (b) Pipeline advances, Pipeline donations and Pipeline improvements shall be deemed
35 earned and expendable upon receipt by the county, or HCSD respectively, and
36 therefore, shall be considered non-refundable. However, Pipeline advances,
37 Pipeline donations and Pipeline improvements shall be entitled to credits under this
38 division to the extent not contrary to the terms of any development agreement or
39 development order.

40
41 (c) Any impact fee surcharge funds not expended or encumbered by the end of the
42 calendar quarter immediately following six (6) years from the date the respective
43 impact fee surcharge was recorded as revenue by the County shall, upon
44 application of the current parcel owner of record, within one hundred eighty (180)
45 days of the expiration of the six-year period, be returned to the current parcel

1 owner of record with interest at the county's average annual rate of return to the
2 extent not contrary to the terms of any development agreement or development
3 order.

4
5 **Sec. 23-157. Exemptions and credits; additional incentives.**

6
7 (a) Exemptions:

8
9 (1) Educational facilities impact fee surcharge. The following shall be
10 exempted from payment of the educational facilities impact fee surcharge
11 under this division:

- 12
13 a. Alterations or expansion of an existing residential building where
14 no additional units are created and where the use is not changed.
- 15
16 b. The construction of accessory buildings or structures.
- 17
18 c. The replacement of a residential land use with a new unit of the
19 same type and use.
- 20
21 d. The replacement of a lawfully permitted building, mobile home, or
22 structure, the building permit for which was issued on or before the
23 effective date of this division or the replacement of a building,
24 mobile home or structure that was constructed subsequent thereto
25 and for which the correct educational facilities impact fee surcharge,
26 which was owed at the time the building permit was applied for,
27 was paid or otherwise provided for, with a new building, mobile
28 home, or structure of the same use and at the same location.
- 29
30 e. A building permit for which the educational facilities impact fee
31 surcharge thereof has been or will be paid or otherwise provided for
32 pursuant to a development agreement or development order which,
33 by the written terms thereof, clearly and unequivocally was intended
34 to provide for the full mitigation of such impact by enforcement of
35 the agreement or development order and not by the application of
36 this division.
- 37
38 f. A building permit which does not result in any additional impact on
39 educational facilities.
- 40
41 g. The construction of any nonresidential building or structure.

42
43 (2) Public capital facilities impact fee surcharge. The following shall be exempted
44 from payment of the public capital facilities impact fee surcharge under this
45 division:

- a. Alterations or expansion of an existing residential building where no additional units are created and where the use is not changed.
- b. The construction of accessory buildings or structures.
- c. The replacement of a residential land use with a new unit of the same type and use.
- d. The replacement of a nonresidential land use with a new building or structure of the same size and use.
- e. The replacement of a lawfully permitted building, mobile home, or structure, the building permit for which was issued on or before the effective date of this division or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct public capital facilities impact fee surcharge, which was owed at the time the building permit was applied for, was paid or otherwise provided for, with a new building, mobile home, or structure of the same use and at the same location.
- e. A building permit for which the public capital facilities impact fee surcharge thereof has been or will be paid or otherwise provided for pursuant to a development agreement or development order which, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of such impact by enforcement of the development agreement or development order and not by the application of this division.
- f. A building permit which does not result in any additional impact on public capital facilities.

(3) Parks impact fee surcharge. The following shall be exempted from payment of the parks impact fee surcharge under this division:

- a. Alterations or expansion of an existing building where no additional residential units are created and where the use is not changed.
- b. The construction of accessory buildings or structures.
- c. The replacement of a residential land use with a new unit of the same type and use.

1 d. The replacement of a lawfully permitted building, mobile home, or
2 structure, the building permit for which was issued on or before the
3 effective date of this division or the replacement of a building,
4 mobile home or structure that was constructed subsequent thereto
5 and for which the correct parks impact fee, which was owed at the
6 time the building permit was applied for, was paid or otherwise
7 provided for, with a new building, mobile home, or structure of the
8 same use and at the same location.

9
10 e. A building permit for which the parks impact thereof has been or
11 will be paid or otherwise provided for pursuant to a development
12 agreement or development order which, by the written terms
13 thereof, clearly and unequivocally was intended to provide for the
14 full mitigation of such impact by enforcement of the development
15 agreement or development order and not by the application of this
16 division.

17
18 f. A building permit which does not result in any additional impact on
19 park or recreational facilities.

20
21 g. The construction of any nonresidential building or structure.

22
23 (4) Roads impact fee surcharge. The following shall be exempted from
24 payment of the roads impact fee surcharge under this division:

25
26 a. Alterations or expansion of an existing building or use of land
27 where no additional living units will be produced over and above
28 those in the existing use of the property, the use is not changed, and
29 where no additional vehicular trips will be produced over and above
30 those produced by the existing use.

31
32 b. The construction of accessory buildings or structures which will not
33 produce additional vehicular trips over and above those produced by
34 the principal building or use of the land.

35
36 c. The replacement of a lawfully permitted building, mobile home, or
37 structure, the building permit for which was issued on or before the
38 effective date of this division or the replacement of a building,
39 mobile home or structure that was constructed subsequent thereto
40 and for which the correct roads impact fee, which was owed at the
41 time the building permit was applied for, was paid or otherwise
42 provided for, with a new building, mobile home, or structure of the
43 same use and at the same location, provided that no additional
44 vehicular trips will be produced over and above those produced by
45 the original use of the land.

- 1 d. A building permit or certificate of use for which the roads impact
2 thereof has been or will be paid or otherwise provided for pursuant
3 to a development agreement or development order which, by the
4 written terms thereof, clearly and unequivocally was intended to
5 provide for the full mitigation of such impact by enforcement of the
6 development agreement or development order and not by the
7 application of this division.
- 8
- 9 e. A building permit or certificate of use which does not result in any
10 additional generation or attraction of traffic.
- 11
- 12 f. The construction of a single family home on a lot of record in
13 existence prior to the effective date of this ordinance.
- 14

15 Any claim of exemption must be made no later than the time of application
16 for a building permit. Any claim not so made shall be deemed waived.

17

18 (b) Credits:

19

20 (1) Educational facilities impact fee surcharge. The following shall apply to
21 the educational facilities impact fee surcharge credits under this division:

22

- 23 a. General. Pipeline advances (cash), Pipeline donations (land) and/or
24 Pipeline improvements (construction) may be offered by the
25 Property Owner as total or partial payment of the required impact
26 fee surcharge pursuant to a development agreement, development
27 order or this division subject to concurrence by the HCSD. The
28 offer to the HCSD must specifically request or provide for a impact
29 fee surcharge credit. If the HCSD accepts such an offer, the total
30 credit shall be as determined below.
- 31
- 32 b. Valuation. A Pipeline advance (cash) shall have a value equal to
33 the cash advance made. A Pipeline donation (land) identified in the
34 I-75/SR 50 PDD Area Plan shall have such value as assigned in said
35 Plan; a Pipeline donation (land) which is not identified in the I-
36 75/SR 50 PDD Area Plan shall have a value equal to one hundred
37 fifteen percent (115%) of the most recent assessed value by the
38 county property appraiser, or current fair market value established
39 by an appraisal prepared in accordance with USPAP and performed
40 by a state licensed real appraiser acceptable to HCSD. A Pipeline
41 improvement (construction) identified in the I-75/SR 50 PDD Area
42 Plan shall have such value as assigned in said Plan; a Pipeline
43 improvement (construction) which is not identified in the I-75/SR
44 50 PDD Area Plan shall be valued based upon the actual costs of the
45 improvement which was reasonably and necessarily incurred absent

1 some other method of valuation set forth in a development
2 agreement or development order. The developer shall be
3 responsible for providing adequate and reasonable supporting
4 documentation for all costs claimed.

5
6 c. *Multiplier factor.* In recognition and consideration of a Property
7 Owner making a Pipeline advance (cash), Pipeline donation (land)
8 or Pipeline improvement (construction), the following shall apply:

9
10 i. *Pipeline advance.* For a Pipeline advance (cash) received by
11 HCS D prior to the issuance of a building permit, the
12 Property Owner's total dollar credits under this division
13 shall be the amount of cash advanced times a 1.50
14 multiplier.

15
16 ii. *Pipeline donation.* For a Pipeline donation (land) received
17 by HCS D prior to final plat approval, the Property Owner's
18 total dollar credits under this division shall be the value of
19 the land (per the preceding valuation provision) times a 1.50
20 multiplier. For subsequently acquired land, the value of the
21 donation shall be as agreed upon and set forth in a
22 development agreement or development order.

23
24 iii. *Pipeline improvement.* For a Pipeline improvement
25 (construction), the Property Owner's total dollar credits
26 under this division shall be as provided in a development
27 agreement or development order. Depending on the timing
28 of the improvement, the multiplier factor will be between
29 1.00 to 1.50 (taking into account when the improvement is
30 to be completed).

31
32 d. *Any claim for credit must be made and agreed to by HCS D no later*
33 *than the time of application for a building permit. Any claim not so*
34 *made shall be deemed waived.*

35
36 e. *Impact fee surcharges shall be paid at the same time as impact fees*
37 *are paid. Credits under this provision (calculated in dollars) shall be*
38 *applied simultaneously to both educational impact fees due under*
39 *division 2 of this article and the educational impact fee surcharges*
40 *due under this division until such credits are fully expended, absent*
41 *a provision in a development agreement or development order to the*
42 *contrary.*

43
44 f. *Any Property Owner who has excess credits (calculated in dollars),*
45 *after applying such credits to pay for all of its educational facilities*

1 impact fee surcharges under this division and to all of its
2 educational facilities impact fees pursuant to division 2 of this
3 article (absent a provision in a development agreement or
4 development order to the contrary), remaining after complete build-
5 out of the property (unless an earlier calculation is provided for in
6 connection with a determination that full mitigation of school
7 impacts has been accounted for) may request refund of the
8 remaining credit balance from HCSD by making such request in
9 writing. The remaining credit balance, as verified by staff, shall be
10 paid to the Property Owner within 90 days of the receipt of the
11 request for refund.

12
13 g. Credits under this provision may only be used towards educational
14 facilities impact surcharge fees and educational facilities impact
15 fees and for no other purpose.

16
17 (2) Public capital facilities impact fee surcharge. The following shall apply to
18 the public capital facilities impact fee surcharge credits under this division:

19
20 a. General. Pipeline advances (cash), Pipeline donations (land) and/or
21 Pipeline improvements (construction) may be offered by the
22 Property Owner as total or partial payment of the required impact
23 fee surcharge pursuant to a development agreement, development
24 order or this division subject to concurrence by the county. The
25 offer to the county must specifically request or provide for a impact
26 fee surcharge credit. If the county accepts such an offer, the total
27 credit shall be as determined below.

28
29 b. Valuation. A Pipeline advance (cash) shall have a value equal to
30 the cash advance made. A Pipeline donation (land) identified in the
31 I-75/SR 50 PDD Area Plan shall have such value as assigned in said
32 Plan; a Pipeline donation (land) which is not identified in the I-
33 75/SR 50 PDD Area Plan shall have a value equal to one hundred
34 fifteen percent (115%) of the most recent assessed value by the
35 county property appraiser, or current fair market value established
36 by an appraisal prepared in accordance with USPAP and performed
37 by a state licensed real appraiser acceptable to the county
38 administrator. A Pipeline improvement (construction) identified in
39 the I-75/SR 50 PDD Area Plan shall have such value as assigned in
40 said Plan; a Pipeline improvement (construction) which is not
41 identified in the I-75/SR 50 PDD Area Plan shall be valued based
42 upon the actual costs of the improvement which was reasonably and
43 necessarily incurred absent some other method of valuation set forth
44 in a development agreement or development order. The developer

1 shall be responsible for providing adequate and reasonable
2 supporting documentation for all costs claimed.

3
4 c. Multiplier factor. In recognition and consideration of a Property
5 Owner making a Pipeline advance (cash), Pipeline donation (land)
6 or Pipeline improvement (construction), the following shall apply:

7
8 i. Pipeline advance. For a Pipeline advance (cash) received by
9 the county prior to the issuance of a building permit, the
10 Property Owner's total dollar credits under this division
11 shall be the amount of cash advanced times a 1.50
12 multiplier.

13
14 ii. Pipeline donation. For a Pipeline donation (land) received
15 by the county prior to final plat approval, the Property
16 Owner's total dollar credits under this division shall be the
17 value of the land (per the preceding valuation provision)
18 times a 1.50 multiplier. For subsequently acquired land, the
19 value of the donation shall be as agreed upon and set forth in
20 a development agreement or development order.

21
22 iii. Pipeline improvement. For a Pipeline improvement
23 (construction), the Property Owner's total dollar credits
24 under this division shall be as provided in a development
25 agreement or development order. Depending on the timing
26 of the improvement, the multiplier factor will be between
27 1.00 to 1.50 (taking into account when the improvement is
28 to be completed).

29
30 d. Any claim for credit must be made no later than the time of
31 application for a building permit. Any claim not so made shall be
32 deemed waived.

33
34 e. Impact fee surcharges shall be paid at the same time as impact fees
35 are paid. Credits under this provision (calculated in dollars) shall be
36 applied simultaneously to both public capital facilities impact fees
37 due under division 3 of this article and the public capital facilities
38 impact fee surcharges due under this division until such credits are
39 fully expended, absent a provision in a development agreement or
40 development order to the contrary.

41
42 f. Any Property Owner who has excess credits (calculated in dollars),
43 after applying such credits to pay for all of its public capital
44 facilities impact fee surcharges under this division and to all of its
45 public capital facilities impact fees pursuant to division 3 of this

1 article (absent a provision in a development agreement or
2 development order to the contrary), remaining after complete build-
3 out of the property (unless an earlier calculation is provided for in
4 connection with a determination that full mitigation of school
5 impacts has been accounted for) may request refund of the
6 remaining credit balance from the county by making such request in
7 writing. The remaining credit balance, as verified by staff, shall be
8 paid to the Property Owner within 90 days of the receipt of the
9 request for refund.

10
11 g. Credits under this provision may only be used towards public
12 capital facilities impact surcharge fees and public capital facilities
13 impact fees and for no other purpose.

14
15 (3) Parks facilities impact fee surcharge. The following shall apply to the
16 parks impact fee surcharge credits under this division:

17
18 a. General. Pipeline advances (cash), Pipeline donations (land) and/or
19 Pipeline improvements (construction) may be offered by the
20 Property Owner as total or partial payment of the required impact
21 fee surcharge pursuant to a development agreement, development
22 order or this division subject to concurrence by the county. The
23 offer to the county must specifically request or provide for a impact
24 fee surcharge credit. If the county accepts such an offer, the total
25 credit shall be as determined below.

26
27 b. Valuation. A Pipeline advance (cash) shall have a value equal to
28 the cash advance made. A Pipeline donation (land) identified in the
29 I-75/SR 50 PDD Area Plan shall have such value as assigned in said
30 Plan; a Pipeline donation (land) which is not identified in the I-
31 75/SR 50 PDD Area Plan shall have a value equal to one hundred
32 fifteen percent (115%) of the most recent assessed value by the
33 county property appraiser, or current fair market value established
34 by an appraisal prepared in accordance with USPAP and performed
35 by a state licensed real appraiser acceptable to the county
36 administrator. A Pipeline improvement (construction) identified in
37 the I-75/SR 50 PDD Area Plan shall have such value as assigned in
38 said Plan; a Pipeline improvement (construction) which is not
39 identified in the I-75/SR 50 PDD Area Plan shall be valued based
40 upon the actual costs of the improvement which was reasonably and
41 necessarily incurred absent some other method of valuation set forth
42 in a development agreement or development order. The developer
43 shall be responsible for providing adequate and reasonable
44 supporting documentation for all costs claimed.
45

- 1 c. Multiplier factor. In recognition and consideration of a Property
2 Owner making a Pipeline advance (cash), Pipeline donation (land)
3 or Pipeline improvement (construction), the following shall apply:
4
5 i. Pipeline advance. For a Pipeline advance (cash) received by
6 the county prior to the issuance of a building permit, the
7 Property Owner's total dollar credits under this division
8 shall be the amount of cash advanced times a 1.50
9 multiplier.
10
11 ii. Pipeline donation. For a Pipeline donation (land) received
12 by the county prior to final plat approval, the Property
13 Owner's total dollar credits under this division shall be the
14 value of the land (per the preceding valuation provision)
15 times a 1.50 multiplier. For subsequently acquired land, the
16 value of the donation shall be as agreed upon and set forth in
17 a development agreement or development order.
18
19 iii. Pipeline improvement. For a Pipeline improvement
20 (construction), the Property Owner's total dollar credits
21 under this division shall be as provided in a development
22 agreement or development order. Depending on the timing
23 of the improvement, the multiplier factor will be between
24 1.00 to 1.50 (taking into account when the improvement is
25 to be completed).
26
27 d. Any claim for credit must be made no later than the time of
28 application for a building permit. Any claim not so made shall be
29 deemed waived.
30
31 e. Impact fee surcharges shall be paid at the same time as impact fees
32 are paid. Credits under this provision (calculated in dollars) shall be
33 applied simultaneously to both parks impact fees due under division
34 4 of this article and the parks impact fee surcharges due under this
35 division until such credits are fully expended, absent a provision in
36 a development agreement or development order to the contrary..
37
38 f. Any Property Owner who has excess credits (calculated in dollars),
39 after applying such credits to pay for all of its parks impact fee
40 surcharges under this division and to all of its parks impact fees
41 pursuant to division 4 of this article (absent a provision in a
42 development agreement or development order to the contrary),
43 remaining after complete build-out of the property (unless an earlier
44 calculation is provided for in connection with a determination that
45 full mitigation of school impacts has been accounted for) may

1 request refund of the remaining credit balance from the county by
2 making such request in writing. The remaining credit balance, as
3 verified by staff, shall be paid to the Property Owner within 90 days
4 of the receipt of the request for refund.

5
6 g. Credits under this provision may only be used towards parks impact
7 surcharge fees and parks impact fees and for no other purpose.

8
9 (4) Roads impact fee surcharge. The following shall apply to the Roads impact
10 fee surcharge credits under this division:

11
12 a. General. Pipeline advances (cash), Pipeline donations (land other
13 than required right-of-way within the Expanded Overlay District)
14 and/or Pipeline improvements (construction) may be offered by the
15 Property Owner as total or partial payment of the required impact
16 fee surcharge pursuant to a development agreement, development
17 order or this division subject to concurrence by the county. The
18 offer to the county must specifically request or provide for a impact
19 fee surcharge credit. If the county accepts such an offer, the total
20 credit shall be as determined below.

21
22 b. Site-related improvements. No credit shall be given for that portion
23 of on-site improvements deemed to be site-related only.

24
25 c. Valuation. A Pipeline advance (cash) shall have a value equal to
26 the cash advance made. A Pipeline donation (land other than
27 required right-of-way within the Expanded Overlay District)
28 identified in the I-75/SR 50 PDD Area Plan shall have such value as
29 assigned in said Plan; a Pipeline donation (land other than required
30 right-of-way) which is not identified in the I-75/SR 50 PDD Area
31 Plan shall have a value equal to one hundred fifteen percent (115%)
32 of the most recent assessed value by the county property appraiser,
33 or current fair market value established by an appraisal prepared in
34 accordance with USPAP and performed by a state licensed real
35 appraiser acceptable to the county administrator. A Pipeline
36 improvement (construction) identified in the I-75/SR 50 PDD Area
37 Plan shall have such value as assigned in said Plan; a Pipeline
38 improvement (construction) which is not identified in the I-75/SR
39 50 PDD Area Plan shall be valued based upon the actual costs of the
40 improvement which was reasonably and necessarily incurred absent
41 some other method of valuation set forth in a development
42 agreement or development order. The developer shall be
43 responsible for providing adequate and reasonable supporting
44 documentation for all costs claimed.

- 1 c. Multiplier factor. In recognition and consideration of a Property
2 Owner making a Pipeline advance (cash), Pipeline donation (land)
3 or Pipeline improvement (construction), the following shall apply:
4
5 i. Pipeline advance. For a Pipeline advance (cash) received by
6 the county prior to the issuance of a building permit, the
7 Property Owner's total dollar credits under this division
8 shall be the amount of cash advanced times a 1.50
9 multiplier.
10
11 ii. Pipeline donation. For a Pipeline donation (land) received
12 by the county prior to final plat approval, the Property
13 Owner's total dollar credits under this division shall be the
14 value of the land (per the preceding valuation provision)
15 times a 1.50 multiplier. For subsequently acquired land, the
16 value of the donation shall be as agreed upon and set forth in
17 a development agreement or development order.
18
19 iii. Pipeline improvement. For a Pipeline improvement
20 (construction), the Property Owner's total dollar credits
21 under this division shall be as provided in a development
22 agreement or development order. Depending on the timing
23 of the improvement, the multiplier factor will be between
24 1.00 to 1.50 (taking into account when the improvement is
25 to be completed).
26
27 d. Any claim for credit must be made no later than the time of
28 application for a building permit. Any claim not so made shall be
29 deemed waived.
30
31 e. Impact fee surcharges shall be paid at the same time as impact fees
32 are paid. Credits under this provision (calculated in dollars) shall be
33 applied simultaneously to both roads impact fees due under division
34 5 of this article and the roads impact fee surcharges due under this
35 division until such credits are fully expended, absent a provision in
36 a development agreement or development order to the contrary.
37
38 f. Any Property Owner who has excess credits (calculated in dollars),
39 after applying such credits to pay for all of its roads impact fee
40 surcharges under this division and to all of its roads impact fees
41 pursuant to division 5 of this article (absent a provision in a
42 development agreement or development order to the contrary),
43 remaining after complete build-out of the property (unless an earlier
44 calculation is provided for in connection with a determination that
45 full mitigation of school impacts has been accounted for) may

1 request refund of the remaining credit balance from the county by
2 making such request in writing. The remaining credit balance, as
3 verified by staff, shall be paid to the Property Owner within 90 days
4 of the receipt of the request for refund.

5
6 g. Credits under this provision may only be used towards roads impact
7 surcharge fees and roads impact fees and for no other purpose.
8

9 **23-158. Additional regulations regarding planning and development within I-75/SR 50**
10 **PDD.**

- 11
- 12 (a) For all residential developments with 50 or more dwelling units or commercial
13 developments with 65,000 gross square feet of commercial space, the Property
14 Owner must go through the Planned Development Project (PDP) process set forth
15 in Article VI of the Zoning Code.
- 16
- 17 (b) For all residential developments with 100 or more dwelling units or commercial
18 developments in excess of 250,000 gross square feet, the Property Owner and the
19 county shall enter into a development agreement or development order prior to the
20 county issuing conditional plat approval (if applicable), site plan approval or a
21 building permit for vertical construction, whichever occurs first, shall address the
22 following:
- 23
- 24 (1) Incorporate all requirements contained in subsection (a) above;
- 25
- 26 (2) The amount and timing of all Pipeline advances;
- 27
- 28 (3) A provision for the donation of all required right-of-way within the
29 development;
- 30
- 31 (4) A description and estimated value of all Pipeline donations and a schedule
32 for when land will be transferred to the county and/or the HCSD and
33 manner of the transfer (i.e. by warranty deed, plat);
- 34
- 35 (5) A description and estimated value of all Pipeline improvements and the
36 timing for such improvements;
- 37
- 38 (6) A statement as to when impacts fees and impact fee surcharges become
39 non-refundable and a statement when impact fee funds may be expended by
40 the county/HCSD;
- 41
- 42 (7) A description of the size and amenities of any park intended to be located
43 within the proposed development pursuant to *Typical Neighborhood*
44 *Community Standards*;
45

1 (8) A description of how the development will interrelate with and/or connect
2 to other surrounding developments in terms of vehicle and pedestrian
3 access points, sidewalks, bikeways, trails and the like;

4
5 (9) A statement of allowed land uses, densities and intensities which the county
6 agrees to recognize, and whether there are any rights running with the land;

7
8 (10) A statement of whether concurrency has been or will be satisfied as to each
9 concurrency category (i.e. schools, parks, roads, public capital facilities)
10 based on the land uses, densities and intensities above; and,

11
12 (11) A statement of whether the Property Owner and the county has or will be
13 entering into a separate Water & Sewer Agreement addressing water and
14 sewer supply and connection.

15
16 **Sec. 23-159. Enforcement provision; appeal; biennium review.**

17
18 (a) A violation of this division shall be a violation of county code and enforceable
19 through the code enforcement process (i.e. before an appointed hearing officer) and/or judicial
20 proceeding; however, in addition to or in lieu of any such prosecution, the county or any affected
21 Property Owner shall have the power to sue for relief in civil court to enforce the provisions of
22 this division. Knowingly furnishing false information to the county administrator, his/her
23 designee, or any official who is charged with the administration of this division on any matter
24 relating to the administration of this division shall constitute a violation thereof.

25
26 (b) Any decision made by the county administrator in the course of administering this
27 division may be appealed to the board of county commissioners by filing a notice of appeal within
28 thirty (30) days after the decision. The county administrator shall then schedule the appeal before
29 the board of county commissioners.

30
31 (c) The impact fee surcharges set forth in this division are based upon the projected
32 needs of the Overlay District/Expanded Overlay District at time of adoption. Prior to amending
33 any of the impact fees set forth in this article, and no less than once every two years, the county
34 shall update its needs analysis for this area and shall review and adjust the surcharges as may be
35 appropriate.

36
37 **SECTION 2. Severability.** It is declared to be the intent of the Board of County Commissioners
38 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any
39 reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the
40 remaining portions of this ordinance.

41
42 **SECTION 3. Full Force and Effect of Remainder.** All sections, subsections, clauses,
43 sentences, phrases, and provisions of Chapter 23 of the Code not amended herein shall stay the
44 same and remain in full force and effect until amended, repealed or otherwise acted upon by the
45 Board of County Commissioners.

1 **SECTION 4. Inclusion in the Code.** It is the intention of the Board of County Commissioners
2 of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
3 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end,
4 any section or subsection of this Ordinance may be renumbered or relettered to accomplish such
5 intention, and the word "ordinance" may be changed to "section, "article," or other appropriate
6 designation.

7
8 **SECTION 5. Filing with Secretary of State.** This ordinance shall be filed with the Secretary of
9 State.

10
11 **SECTION 6. Effective date.** This ordinance shall take effect on the ninety-first (91st) day
12 following its adoption.

13
14 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO**
15 **COUNTY** in Regular Session this 12th day of September, 2007.

16
17 **BOARD OF COUNTY COMMISSIONERS**
18 **HERNANDO COUNTY, FLORIDA**

19
20
21 Attest:

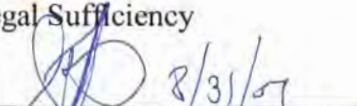


22 KAREN NICOLAI
23 CLERK



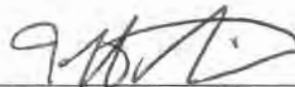
24
25
26
27
28 Approved for Form
29 and Legal Sufficiency

30
31 By:

 8/31/07

32 Geoffrey T. Kirk
33 Assistant County Attorney

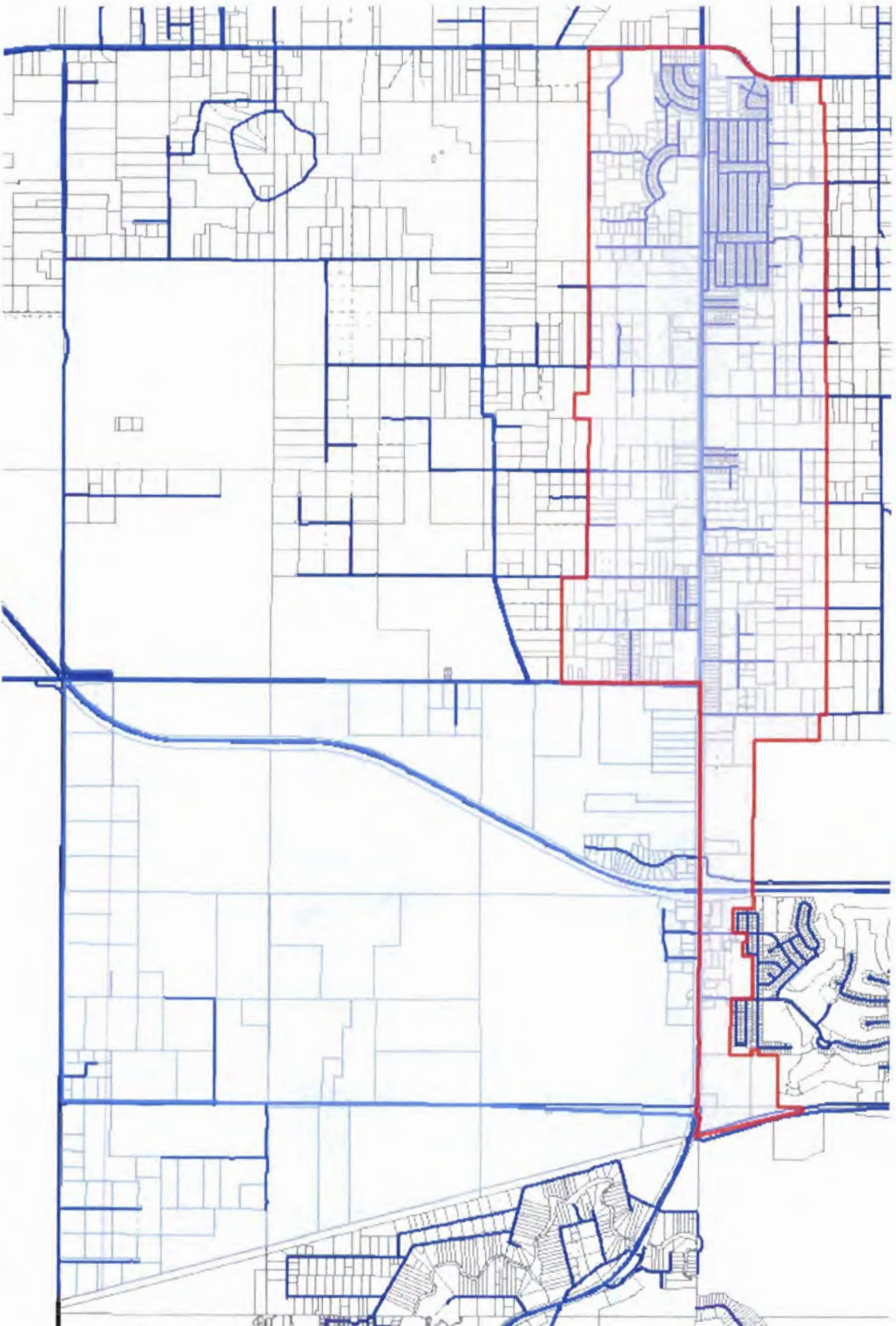
By:



JEFF STABINS
CHAIRMAN



**EXHIBIT A - ORDINANCE 2007-16
EXPANDED OVERLAY DISTRICT
("ADDITIONAL BENEFITTED PROPERTIES" + I-75/SR 50 PDD AREA)**



Legend
 "Additional Benefitted Properties"
 I-75/SR 50 PDD



The information in this document is a representation of the information available to the Herkendo County Planning Department as of the date of the adoption of this document. The information is provided for informational purposes only and does not constitute a guarantee, warranty, or endorsement of the accuracy, completeness, or reliability of the information. The information is provided for informational purposes only and does not constitute a guarantee, warranty, or endorsement of the accuracy, completeness, or reliability of the information.