

**RESOLUTION NO. R-16-136**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AUTHORIZING DEFERRAL OF PROPORTIONATE SHARE MITIGATION FOR SCHOOL CONCURRENCY FOR THE INDIGO PHASES VI AND VII LAND DEVELOPMENT PROJECT PURSUANT TO FLORIDA STATUTE 163.3180(6)(H); AUTHORIZING ISSUANCE OF A CERTIFICATE OF LEVEL OF SERVICE AND APPROVAL OF A FINAL SITE PLAN FOR THE PROJECT SUBJECT TO CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the County and the Manatee County School Board (“School Board”) have adopted and implemented a public school concurrency management system (codified as Goal 12.5 of the County’s Comprehensive Plan and Section 360 of the County’s Land Development Code) to assure the future availability of public school facilities to serve new development in accordance with Florida Statute 163.3180(6); and

**WHEREAS**, the School Board has determined that insufficient high school capacity exists to serve the Indigo Phases VI and VII Development Project (the “Project”) such that the Project is required to provide proportionate share mitigation pursuant to the public school concurrency management system; and

**WHEREAS**, Florida Statute 163.3180(6)(h) authorizes the County to allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy school concurrency when certain conditions are satisfied; and

**WHEREAS**, pursuant to the authority set forth in Florida Statute 163.3180(6)(h), it is in the public interest to allow the Project to defer the requirement for proportionate share mitigation and to proceed with development subject to the conditions set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. FINDINGS.** The Board hereby makes the following findings:

- A. The above recitals are true and correct and incorporated herein;
- B. Because the School Board has determined that insufficient high school capacity exists to serve the Project, the Project may not receive a Certificate of Level of Service (“CLOS”) for school concurrency, or approval of a final site plan, under the concurrency management system unless and until the landowner enters into an agreement with the County and the School Board to provide proportionate share mitigation for high school capacity;

- C. The County has determined that the Project is consistent with the future land use designation for the specific property and with pertinent portions of the County's Comprehensive Plan, pursuant to PDR-15-15/FSP-16-26;
- D. The County's capital improvements element and the School Board's educational facilities plan provide for high school facilities adequate to serve the Project, and the County and School Board have not implemented that element because of a lack of available funds; and
- E. The County and School Board have provided a means by which the Project will be assessed a proportionate share of the cost of providing the school facilities necessary to serve the proposed development through the execution of an agreement for proportionate share mitigation before issuance of the first certificate of occupancy for the Project.

**SECTION 2. DEFERRAL OF PSM.** Pursuant to Florida Statute 163.3180(6)(h), and based upon the findings set forth above, the Board hereby authorizes the deferral of payment of the proportionate share mitigation required under the school concurrency management system until the issuance of the first certificate of occupancy for the Project. This Resolution shall not be construed to release the Project from the requirement to provide proportionate share mitigation, except as expressly provided in Section 3.

**SECTION 3. ISSUANCE OF CLOS; APPROVAL OF FINAL SITE PLAN.** Pursuant to Florida Statute 163.3180(6)(h), and based upon the findings set forth above, the Board hereby authorizes the County's officials to issue a CLOS for the Project and to approve a final site plan and other administrative development approvals for the Project, without first obtaining the proportionate share agreement, subject to the following conditions:

- A. The CLOS and final site plan shall include the following stipulation:

Prior to the issuance of any residential certificate of occupancy for the Project, the applicant shall enter into a proportionate share agreement with the County and the School Board to provide proportional share mitigation for high school capacity, and shall make the contribution of the proportionate share mitigation for high school capacity for the entire Project, pursuant to and in accordance with Goal 12.5 of the Comprehensive Plan and Section 360 of the Land Development Code. Notwithstanding the foregoing, in the event that the School Board has programmed needed school capacity for the Project to be in place or under actual construction within three (3) years of issuance of the first residential building permit from a funding source other than approved proportional share mitigation agreements, the applicant shall not be required to enter into such an agreement as a condition of issuance of a residential certificate of occupancy.

- B. The School Board has made a preliminary determination that the expected proportionate share mitigation for the Project is \$776,448.00 (based on 172 single family dwelling units and 148 duplex/townhouse dwelling units generating the need

for 24 high school student stations, the estimated cost of which is \$32,352.00 per student station).

- C. The developer of the Project shall be eligible to receive school impact fee credits in an amount equal to the proportionate share mitigation, which shall be usable in accordance with applicable law.

**SECTION 4. SEVERABILITY.** If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution.

**SECTION 5. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**ADOPTED THIS 23<sup>rd</sup> DAY OF AUGUST, 2016.**



**MANATEE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_  
Chairperson

ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT  
COURT AND COMPTROLLER

By: Robin Roth DC  
Deputy Clerk