

2014 - PSP & Zoning
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MANATEE COUNTY ORDINANCE
PDR-13-41(P) – HBT of EAGLE POINTE, LLC / EAGLE POINTE - DTS20130400 –
B00000242

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR 1,600 RESIDENTIAL UNITS CONSISTING OF 740 SINGLE FAMILY DETACHED UNITS, 260 SINGLE FAMILY ATTACHED UNITS, AND 600 MULTI-FAMILY UNITS ON APPROXIMATELY 674 ACRES ON THE EAST SIDE OF CARTER ROAD, NORTH OF MOCCASIN WALLOW ROAD, AND SOUTH OF BUCKEYE ROAD IN PALMETTO IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; INCLUDING PROVISIONS ALLOWING UNIT TYPES TO MOVE AMONG PHASES III, VI, AND VII; THE TOTAL NUMBER OF UNITS SHALL NOT EXCEED THE FOLLOWING: PHASE III 260 UNITS, PHASE VI 300 UNITS, PHASE VII 300 UNITS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, HBT of Eagle Pointe, LLC (the "Applicant") filed an application for a Preliminary Site Plan for 1,600 residential units consisting of 740 single family detached units, 260 single family attached units, and 600 multi-family units including provisions allowing unit types to move among Phases III, VI, and VII; the total number of units shall not exceed the following: Phase III 260 units, Phase VI 300 units and Phase VII 300 units on approximately 674 acres described in Exhibit "A", attached hereto, (the "Property") and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) in the UF-3 Future Land Use Category (FLUC) with a gross residential density exceeding one (1) dwelling unit per acre and a net residential density exceeding three (3) dwelling units per acre, 2) adjacent to a perennial lake or stream and 3) located within the Entranceway; and

WHEREAS, the applicant also filed a request for Specific Approval of an alternative to Sections 604.10.3.3(f) (Design Standards for North Central Overlay District Landscaping Buffers) and 714.8.7 (Replacement Tree Standards) of the Land Development Code; and

WHEREAS, this Ordinance is not intended to change the provisions of the Main Branch Participation Agreement or the East Branch Participation Agreement, but only to demonstrate activity on the Project and the Applicant's commitment to Manatee County; and

WHEREAS, the Building and Development Services Department staff recommended approval of the Preliminary Site Plan, Special Approval and Specific Approval applications subject to the stipulations contained in the staff report; and

WHEREAS, the previously approved Preliminary Site Plan [PDR-04-55(Z)(P)(R)] for the property described in Exhibit "A" shall be superseded by the Preliminary Site Plan approved in this Ordinance [PDR-13-41(P)] such that Preliminary Site Plan shall be of no further force or effect upon the effective date of the ordinance; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on June 12, 2014 to consider the Preliminary Site Plan, Special Approval and Specific Approval applications, received the staff recommendation, and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

WHEREAS, the Manatee County Planning Commission, as the County's Local Planning Agency, found the Preliminary Site Plan, Special Approval and Specific Approval applications consistent with the Manatee County Comprehensive Plan, and the Manatee County Land Development Code, recommended approval subject to the stipulations contained in the staff report.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. FINDINGS OF FACT. The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners, after considering the testimony, evidence, documentation, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for a Preliminary Site Plan, Special Approval and Specific Approval as it relates to the real property described in Exhibit "A" of this Ordinance.
- B. The Board of County Commissioners held duly a noticed public hearing on August 7, 2014 regarding the proposed amended Ordinance described herein in accordance with the requirements of the Manatee County Land Development Code and has further considered the information received at the public hearing.
- C. The proposed revised Ordinance regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of the Manatee County Comprehensive Plan.
- D. The Board finds that the purpose of the Special Approval regulation is satisfied by the analysis provided in the staff report and proposed design which indicates the proposed project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.
- E. Notwithstanding the failure of this plan to comply with the requirements of the Land Development Code Section 604.10.3.3(f), the Board finds that the public purpose and intent of the LDC regulation is satisfied to an equivalent degree by the project design. The proposed wall and berm combination will meet the requirements of the LDC by mitigating noise impacts and the landscaping will meet the intent of the Overlay standards by having the majority of the landscaping in front of the wall and berm.

- F. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 714.8.7, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.
- G. The Board makes a Specific Finding that the multi-family buildings in Phases VI and VII exceeding 35-feet in height are consistent with Section 603.7.4.9 of the Land Development Code in that the development, as approved and stipulated, is compatible with the surrounding area and will not create any external impacts that would adversely affect surrounding development or the entranceway.

Section 2. PRELIMINARY SITE PLAN. The revised Preliminary Site Plan is hereby approved for 1,600 residential units consisting of 740 single family detached units, 260 single family attached units, and 600 multi-family units including provisions allowing unit types to move among Phases III, VI and VII: the total number of units shall not exceed the following: Phase III 260 units, Phase VI 300 units and Phase VII 300 units; subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE STIPULATIONS

- 1. The Notice to Buyers shall be included in the Declaration of Covenants and Restrictions. The following language shall be included in the Notice to Buyers and also in a separate addendum to the sales contract.
 - a) The presence of neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.
 - b) The internal streets within this development are privately owned and maintained by the Homeowner’s Association.
- 2. The following height restrictions and minimum setback requirements shall apply to Phase III, Buildings T-13, T-14, and T-15:

Setback from Carter Road ROW	Maximum Height
65-feet ¹	25-feet
95.5-feet ¹	35-feet

¹ Setback is being measured from the property boundary and does **not** include the 20-feet of ROW that is included in the LDC Section 604.10.3.3.(1) formula.

- 3. The following height restrictions and minimum setback requirements shall apply to Phase VII, Building B-9:

Setback from Carter Road ROW	Maximum Height
65-feet ¹	25-feet
95.5-feet ¹	35-feet
110.5-feet ¹	40-feet

¹ Setback is being measured from the property boundary and does **not** include the 20-feet of ROW that is included in the LDC Section 604.10.3.3.(1) formula.

4. Phase VI and Phase VII shall have a maximum structure height of 40-feet.
5. Prior to the issuance of the first Certificate of Occupancy for any Phase VII structure, the required 12-foot high wall and berm noise barrier shall be constructed in the location shown on Sheet 10 of 15 of the Preliminary Site Plan. The noise barrier shall be setback a minimum of 50-feet from Carter Road. The wall shall be painted a muted earth tone color and the landscaping shall be placed on the Carter Road side of the wall portion of the noise barrier.
6. The required 20-foot Greenbelt Buffer landscaping material that is located within the existing 330-foot Florida Power and Light (FPL) Easement shall be relocated outside of the FPL easement if at any time during the life of the project, it is determined by FPL that the buffer vegetation cannot be located within the easement.
7. At the time of Final Site Plan, the applicant shall select from the development options provided on the Preliminary Site Plan for Phases III, VI, and VII and shall submit a tracking chart showing the total number of units approved with each Final Site Plan to ensure that the total number of units approved with each Final Site Plan does not exceed 260 units for Phase III, 300 units for Phase VI, and 300 units for Phase VII. Any changes which are consistent with the development options presented within this Preliminary Site Plan shall be reviewed and approved administratively with the Final Site Plan and shall not require further approval from the Board of County Commissioners.

B. INFRASTRUCTURE STIPULATIONS

1. Approved construction plans, calculations, and FDOT and FDEP water and wastewater permits must be obtained prior to beginning construction.
2. Proper documentation for all public utility easements shall be provided to the Property Management Department prior to Certificate of Occupancy.
3. Sewer transmission lines, including connection to adjacent property shall be in accordance with the current version of the applicable master plan or as established in the Wastewater Participation Agreement (O.R. 02221, PG 3744-3843).

C. STORMWATER STIPULATIONS

1. This project shall be required to reduce the calculated pre-development flow rate by fifty percent (50%) for all stormwater outfall flow directly or indirectly into Buffalo Canal. Modeling shall be used to determine pre- and post-development flows. Over-attenuation is not required for open space areas, upland preservation areas, wetlands and their buffers, landscape buffers, stormwater reservation for adjacent thoroughfares, or undisturbed areas. Attenuation is not required on the stormwater flows that discharge onto and through this property from adjacent roadways, subdivisions, lands, etc.

2. For any portion of the project without a valid Final Site Plan/Construction Plan approval, all fill within the 100-Year Floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. The 100-year compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e. stormwater attenuation and floodplain compensation), except as provided below. The applicant must demonstrate either:
 - a. the available storage volume above the 25-Year Design High Water Level of any proposed compensation requirement; or
 - b. Provide a stormwater routing model that utilizes reverse flow into the on-site lakes during a 100-year, 24-hour storm event. The volume of stormwater that backfeeds into the on-site lakes will be credited as floodplain compensation volume.
3. Flowage Easements shall be dedicated to Manatee County and shall be shown on the Final Site Plan and Final Plats along all drainage conveyance systems within the project boundaries. In addition, a twenty (20) foot Drainage-Maintenance Access Easements shall be provided along at least one side of these systems. Drainage Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Manatee County is only responsible for maintaining the free flow of drainage through these systems. The Homeowner's Association(s) or Community Development District(s) (CDD) shall be responsible for routine maintenance. A maintenance schedule and an engineer's cost estimate for maintenance shall be included in the homeowner's documents.
4. Future Final Site Plan phases shall be based on D-FIRM Panels 12081C0176E and 12081C0177E, effective 03/17/2014, which shows Zones X, A with no base flood elevation determined and AE with BFE's between 24.8' – 26.1' NAVD 1988. Developer agrees to provide required base flood elevation.

D. ENVIRONMENTAL STIPULATIONS

1. Abandoned septic tanks shall be pumped out, bottoms ruptured, and filled with clean sand or other suitable material. A permit is required from the Florida Department of Health unless work is approved by Manatee County Public Works. Abandonment permit information can be obtained by call 941-748-0747, x1340.
2. Public swimming pools and spas shall meet the standards in Chapter 64E-9, Florida Administrative Code, and require an annual operating permit from the Florida Department of Health. Prior to opening, contact 941-748-0747, x1340 for plan submittal and application information.
3. Final Site Plans shall be designed in accordance with Bald Eagle Management Plan, as amended, or an Eagle Disturbance permit approved by the Florida Fish and Wildlife Conservation Commission.

4. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the County for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well – used, capped, or plugged.

5. Tree barricades for trees to be preserved shall be located at the drip line unless otherwise approved by the Environmental Planning Division. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees:
 - Machinery and vehicle travel or parking;
 - Underground utilities;
 - Filling or excavation;
 - Storage of construction materials.

The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height unless otherwise approved by the Environmental Planning Division. Trees that cannot be adequately protected should be accounted for in the tree removal/replacement matrix.

6. Prior to or in conjunction with Final Plat approval(s), a Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers and upland preservation areas shall be dedicated to the County.

7. Based on the environmental assessment provided by the Applicant, this property appears to contain levels of contamination (petroleum) above the residential soil cleanup levels (SCTL's) contained within Chapter 62-777 F.A.C. Prior to Final Site Plan(s) approval, the entire site shall be re-evaluated to determine the level of contamination and appropriate remediation/mitigative measures as approved by the County. Copies of a remediation/mitigation plans along with the approvals by appropriate State or Federal agencies shall be provided to the County. All remediation/mitigation activities shall be completed prior to commencement of construction. **(Completed; refer to January 24, 2007 FDEP Site Rehabilitation Completion Order.)**

8. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.

9. An evaluation for the presence of listed species prior to each Final Site Plan approval in accordance with Comprehensive Plan Policy 3.3.2.1(1). Evaluation of the proposed development site shall contain:

- Dates of field review
- Name and qualifications of individual(s) conducting the review
- A brief statement of the methodology used to conduct the investigation
- A map indicating where listed species were observed on the site
- Measures proposed by the applicant to ensure non-disturbance, relocation, or other acceptable mitigative measures.

Section 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance 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 Ordinance.

Section 4. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 5. STATE AND FEDERAL PERMITTING. The issuance of this local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 7th day of August, 2014.



**BY: BOARD OF COUNTY
COMMISSIONERS
MANATEE COUNTY, FLORIDA**

BY: 
Larry Bustle, Chairman

**ATTEST: R. B. SHORE
Clerk of the Circuit Court**

BY: 
Deputy Clerk

EXHIBIT "A"
LEGAL DESCRIPTION

A parcel of land lying in Sections 10, 11, 12, 14 and 15, Township 33 South, Range 18 East, Manatee County, Florida and described as follows:

Commence at the southeast corner of the above mentioned Section 14; thence N.89°33'52"W., along the south line of said Section 14, a distance of 1349.57 feet; thence N.00°26'08"E., a distance of 36.57 feet to the north right-of-way line of Moccasin Wallow Road (80-foot wide public right-of-way) as recorded in Official Record Book 276, Page 534 and 535, Public Records of Manatee County, Florida for a POINT OF BEGINNING; thence N.89°31'43"W., along said north right-of-way line, a distance of 1,365.81 feet; thence N.01°09'03"E., a distance of 1,002.43 feet; thence N.89°34'09"W., a distance of 2,177.48 feet to the east maintained right-of-way line of Carter Road (variable width public right-of-way) as recorded in Road Plat Book 1, Page 167 through 180 as recorded in the above mentioned Public Records; thence along said east right-of-way line for the following six (6) calls; (1) thence N.01°12'56"E., a distance of 2,327.69 feet; (2) thence N.08°32'03"W., a distance of 220.12 feet; (3) thence N.00°33'05"W., a distance of 423.44 feet; (4) thence N.00°02'42"W., a distance of 1,311.01 feet; (5) thence N.13°20'34"E., a distance of 62.95 feet; (6) thence N.00°20'02"W., a distance of 443.35 feet to a point on the southeasterly right-of-way line of a 100-foot wide frontage road as shown on the Interstate 75 (State Road 93-A) Section 13075-2406; thence along said southeasterly right-of-way line for the following five (5) calls; (1) thence S.89°39'58"W., a distance of 5.06 feet to the point of curvature of a non tangent curve to the right, of which the radius point lies N.89°48'23"E., a radial distance of 522.96 feet; (2) thence northeasterly along the arc of said curve, through a central angle of 50°51'18", an arc length of 464.17 feet to the point of reverse curvature of a curve to the left having a radius of 7,869.44 feet and a central angle of 12°28'06"; (3) thence northeasterly along the arc of said curve, a distance of 1,712.50 feet to the point of tangency of said curve; (4) thence N.38°11'35"E., a distance of 284.21 feet to the point of curvature of a non tangent curve to the right, of which the radius point lies S.51°48'28"E., a radial distance of 522.96 feet; (5) thence northeasterly along the arc of said curve, through a central angle of 05°44'15", an arc length of 52.37 feet to the end of said curve; thence S.89°30'38"E., a distance of 3,363.55 feet; thence S.00°35'36"W., a distance of 50.00 feet; thence N.89°40'58"E., a distance of 681.10 feet; thence S.00°51'11"E., a distance of 837.77 feet; thence S.51°56'49"W., a distance of 720.90 feet; thence S.15°39'42"W., a distance of 1,006.40 feet; thence S.24°40'05"W., a distance of 1,179.84 feet; thence S.49°28'48"W., a distance of 801.72 feet; thence S.44°05'02"E., a distance of 606.86 feet; thence S.11°48'52"W., a distance of 947.23 feet; thence S.52°54'09"W., a distance of 554.62 feet; thence S.00°08'59"E., a distance of 2,086.61 feet to the POINT OF BEGINNING.

LESS THEREFROM:

An additional 35.00 foot wide strip along the south boundary for right-of-way of Moccasin Wallow Road and a variable width strip on the west boundary for right-of-way of Carter

Road, as recorded in Official Records Book 2343, Page 2537, Public Records of Manatee County, Florida.

The remainder parcel contains 29,361,017 square feet or 674.0362 acres, more or less.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 12, 2014

Honorable R. B. "Chips" Shore
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. PDR-13-41(P), which was filed in this office on August 11, 2014.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure