

P.C. 4/12/07

ORDINANCE 07-25

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708.3 RELATING TO THE SALE OF ALCOHOLIC BEVERAGES IN MIXED USE PROJECTS; AMENDING OTHER PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

P.C. 4/12/07

B.O.C.C. 4/24/07, 5/3/07

RECOMMENDED MOTION

Based upon the recommendations of staff and finding the request to be **CONSISTENT** with the Manatee County Comprehensive Plan, I move to recommend **ADOPTION** of Manatee County Ordinance 07-25, amending the Manatee County Land Development Code (Ordinance 90-01, as amended).

Background/Discussion:

- The current Code prohibits the outdoor sale of alcoholic beverages within 200 ft. of residential uses. Any such sales require the applicant to obtain a Special Permit.
- Section 708.3.4 is unduly restrictive to mixed use developments where residential is often in the same building as the restaurant that wants to sell alcohol at tables outdoors.
- Section 708.3.2(3) & (6) require restaurants less than 150 seats to meet certain locational and distance requirements from residential uses. Within a mixed use project those sorts of distances make little sense.
- An exception is made in Section 708.3.4 for country club facilities within subdivisions.
- Planning staff has processed three Special Permit applications in the past year for this exact type of situation.
- The County is encouraging the development of mixed use projects as a means to reduce traffic on roadways. The Code and Comprehensive Plan do contain some restrictions that prevent the integration of residential and non-residential uses.
- The purpose for the current limitation is to prevent potential adverse impacts to residents. The mixed use developments are typically conceived as a whole and any potential residential owners are not only aware of the mix of uses, but, want to live adjacent to the non-residential uses. The proposed changes require prior notification to residential owners within these projects.
- The proposed changes are consistent with the Land Development Code and Comprehensive Plan. The Comprehensive Plan addresses this issue with regard to compatibility and screening, and these have been addressed with the screening requirements provided for in the language.

Recommendations:

Approval of the text changes to the Land Development Code in the appropriate areas as indicated. Amend the following sections as shown:

1. Section 708.3.2 amend this section as follows:

708.3.2. Restaurants with Consumption on Premises. Restaurants having less than one hundred fifty (150) seats, where more than fifty (50) percent of the revenues are derived from the sale of food may be permitted administratively upon submission of an affidavit affirming that the establishment:

1. Has applied for a 1-COP, 2-COP, or 4-COP license;
2. Has primary access from a street classified as a collector or higher;
3. Will orient the main public entrance away from any adjacent residential zoning or uses;
4. Will provide a screening buffer meeting the requirements of Section 715.5.2 for all vehicle use areas adjacent to residential zoning or uses;
5. That all public entrances are located a minimum of five hundred (500) feet, measured in a straight line, from any church, school or day care center's property line;
6. That all public entrances are located a minimum of one hundred fifty (150) feet measured in a straight line, from residentially zoned or used property;
7. That there will be no sale, distribution or consumption in any required yard.

Restaurants not meeting the above criteria must obtain a Special Permit, pursuant to Section 505. Restaurants within approved mixed use projects do not have to meet the criteria in (3), (6), and (7) above pursuant to

Section 708.3.4.1.

2. Amend Section 708.3.4 as follows:

708.3.4. *Outdoor Sales.* Except at Country Clubs within residential developments, all outdoor sales or consumption on premises of alcoholic beverages within two hundred (200) feet of residentially zoned or used property shall be required to obtain a Special Permit pursuant to Section 505.

708.3.4.1. Outdoor Sales in Mixed Use Projects. An Administrative Permit may be allowed where such residentially used or zoned property is in a 2nd floor or above residence in a mixed use project with two or more uses. The Developer of such projects shall have provided notification to residential unit owners, through a Declaration of Covenants, Conditions and Restrictions or other similar recorded instrument, that the nature and use of the commercial establishments may include outdoor dining, entertainment, and activities. Such applications shall be exempt from the standards in 708.3.2 (3),(6), and (7).

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WHEREAS, the Board of County Commissioners of Manatee County, Florida, is authorized under Chapters 125 and 163, Florida Statutes, to enact zoning and other land development regulations to protect the health, safety, and welfare of the citizens of Manatee County, Florida; and

WHEREAS, Sections 163.3201, 163.3202, 163.3204, 163.3211, and 163.3213, Florida Statutes, empower and require the Board of County Commissioners of Manatee County, Florida, to implement adopted comprehensive plans by the adoption of appropriate land development regulations and specify the scope, content, and administrative review procedures for said regulations; and

WHEREAS, Section 163.3202, Florida Statutes, further provides that certain specified and mandated regulations are to be combined and compiled into a single land development code for the County; and

WHEREAS, the Manatee County Planning Commission has been established pursuant to Manatee County Ordinance 90-01, as amended, and in accordance with Sections 302 and 503 of said ordinance and Section 163.3194(2), Florida Statutes, said Commission is required to review proposed amendments to the Manatee County Land Development Code and to make its recommendations to the Board of County Commissioners after holding a public hearing on the matter; and

WHEREAS, the Manatee County Planning Commission has reviewed an amendment to the above cited Code to more adequately address and prepare for Manatee County's future development and growth and to implement the Manatee County Comprehensive Plan; and

WHEREAS, the Manatee County Planning Commission held a public hearing on April 12, 2007 on the above cited amendments with due public notice having been provided, and having reviewed and considered all comments received during said public hearing, including the staff comments and reports, recommended said amended version of the Manatee County Land Development Code as being consistent with the adopted Manatee County Comprehensive Plan and meeting the requirements of 163.3202(2) and 163.3213(1) and (2), Florida Statutes; and

WHEREAS, pursuant to Chapters 163 and 125, Florida Statutes, and the provisions of Sections 502 and 503 of the Manatee County Land Development Code, on April 24, 2007 and May 3, 2007 the Board of County Commissioners of Manatee County held public hearings, with due public notice having been provided, to consider proposed amendments to the above referenced Land Development Code; and

WHEREAS, the Board of County Commissioners further considered all oral and written comments, including staff reports and studies received, during said public hearings along with the specific recommendations of the Planning Commission; and

WHEREAS, in exercise of said authority, the Board of County Commissioners of Manatee County, Florida, has determined it necessary and desirable to amend and revise in part the Manatee County Land Development Code in order to implement the Manatee County Comprehensive Plan and meet its responsibilities under Florida Statutes to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within Manatee County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

Section 1. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Amendment of Land Development Code. The Manatee County Land Development Code (Manatee County Ordinance No. 90-01, as amended) (the "Land Development Code") is hereby amended as follows:

(Underlined language to be added/struck-through language to be deleted)

A. Section 708.3.2, amend as follows:

708.3.2. Restaurants with Consumption on Premises. Restaurants having less than one hundred fifty (150) seats, where more than fifty (50) percent of the revenues are derived from the sale of food may be permitted administratively upon submission of an affidavit affirming that the establishment:

1. Has applied for a 1-COP, 2-COP, or 4-COP license;
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3. Will orient the main public entrance away from any adjacent residential zoning or uses;
4. Will provide a screening buffer meeting the requirements of Section 715.5.2 for all vehicle use areas adjacent to residential zoning or uses;
5. That all public entrances are located a minimum of five hundred (500) feet, measured in a straight line, from any church, school or day care center's property line;
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Restaurants not meeting the above criteria must obtain a Special Permit, pursuant to Section 505. Restaurants within approved mixed use projects do not have to meet the criteria in (3), (6), and (7) above pursuant to Section 708.3.4.1.

B. Amend Section 708.3.4 as follows:

708.3.4. *Outdoor Sales.* Except at Country Clubs within residential developments, all outdoor sales or consumption on premises of alcoholic beverages within two hundred (200) feet of residentially zoned or used property shall be required to obtain a Special Permit pursuant to Section 505.

708.3.4.1. Outdoor Sales in Mixed Use Projects. An Administrative Permit may be allowed where such residentially used or zoned property is in a 2nd floor or above residence in a mixed use project with two or more uses. The Developer of such projects shall have provided notification to residential unit owners, through a Declaration of Covenants, Conditions and Restrictions or other similar recorded instrument, that the nature and use of the commercial establishments may include outdoor dining, entertainment, and activities. Such applications shall be exempt from the standards in 708.3.2 (3),(6), and (7).

Section 3. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the above amendments into the Land Development Code.

Section 4. 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 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 5. Effective Date. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 3rd day of May, 2007.

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

By: _____
Chairman

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

By: _____
Deputy Clerk

Ord. 07-25

BRADENTON HERALD

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P.O. Box 921
Bradenton, FL 34206-0921
102 Manatee Avenue West
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Bradenton Herald
Published Daily
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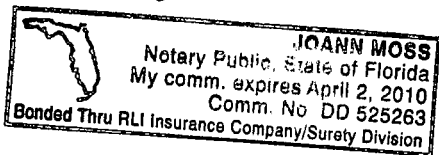
STATE OF FLORIDA
COUNTY OF MANATEE;

Before the undersigned authority personally appeared Sandy Riley, who on oath says that she is a Legal Advertising Representative of the Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **NOTICE OF LAND DEVELOPMENT CODE CHANGES** in the Court, was published in said newspaper in the issues of, **3/30,'07**

Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sandy Riley
(Signature of Affiant)

Sworn to and subscribed before me this
4 Day of April, 2007



Joann Moss
SEAL & Notary Public
Personally Known OR Produced Identification _____
Type of Identification Produced _____

NOTICE OF LAND DEVELOPMENT CODE CHANGES IN UNINCORPORATED MANATEE COUNTY

The Manatee County Planning Commission will hold a public hearing to consider an amendment to certain provisions of the Manatee County Land Development Code (Ordinance 90-01, as amended) and make a recommendations to the Board of County Commissioners as to the consistency of the proposed Ordinance Nos. 07-25 and 07-44 with the Comprehensive Plan and as to whether the proposed ordinance should be adopted, adopted with modifications, or denied.

Date: Thursday, April 12, 2007
Time: 9:00 AM or soon thereafter
Place: Manatee County Government Administrative Center
1112 Manatee Avenue West,
1st Floor Chambers

ORDINANCE 07-25

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708 REGARDING SALE OF ALCOHOLIC BEVERAGES; PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

ORDINANCE 07-44

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 712 REGARDING ACCESS BY CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

The public is invited to speak at this hearing, subject to proper rules of conduct. The hearing may be continued from time to time to a date and time certain. The public may also provide written comments for the Planning Commission to consider.

Interested parties may examine the proposed Ordinance and related documents and may obtain assistance regarding these matters from the Manatee County Planning Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, Florida; telephone number (941) 749-3070; e-mail to: planning.agenda@co.manatee.fl.us.

Rules of procedure for this public hearing are in effect pursuant to Resolution 05-239(PC). A copy of this Resolution is available for review or purchase from the Planning Department (see address below).

Please send comments to: Manatee County Planning Department Attn: Agenda Coordinator
1112 Manatee Ave. West Suite 427 Bradenton, FL 34205

All written comments will be entered into the record.

For More Information: Copies of the proposed amendment will be available for review and copying at cost approximately ten (10) days prior to the public hearing. Information may also be obtained by calling 749-3070 x 6878, between 8:00 AM - 5:00 PM.

Americans With Disabilities: The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Kaycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds, FAX 745-3790.

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY PLANNING COMMISSION
Manatee County Planning Department
Manatee County, Florida

R33878
3/30/07

SARASOTA HERALD-TRIBUNE
PUBLISHED DAILY
SARASOTA, SARASOTA COUNTY, FLORIDA

MANATEE COUNTY PLANNING
ATTN: BOBBI ROY
1112 MANATEE AVE W 4TH FL
BRADENTON, FL 34205

STATE OF FLORIDA
COUNTY OF MANATEE

BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED SHARI BRICKLEY, WHO ON OATH SAYS SHE IS THE CLASSIFIED ADVERTISING MANAGER OF THE SARASOTA HERALD-TRIBUNE, A DAILY NEWSPAPER PUBLISHED AT SARASOTA, IN SARASOTA COUNTY FLORIDA; AND CIRCULATED IN MANATEE COUNTY DAILY; THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A NOTICE IN THE MATTER OF:

NOTICE OF LAND DEVELOPMENT
ORDINANCE 07-25

IN THE COURT WAS PUBLISHED IN MANATEE EDITION
OF SAID NEWSPAPER IN THE ISSUES OF:

MARCH 30, 2007

AFFIANT FURTHER SAYS THAT THE SAID SARASOTA HERALD-TRIBUNE IS A NEWSPAPER PUBLISHED AT SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS THERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID SARASOTA COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MAIL MATTER AT THE POST OFFICE IN BRADENTON, IN SAID MANATEE COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT SHE HAS NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORATION ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN THE SAID NEWSPAPER.

SIGNED

Shari Brickley

SWORN TO AND SUBSCRIBED BEFORE ME THIS 30TH DAY OF MARCH A.D., 2007 BY SHARI BRICKLEY WHO IS PERSONALLY KNOWN TO ME.

(SEAL)



Mariann Gusbar
My Commission DD355235
Expires November 6, 2008

Mariann Gusbar

NOTARY PUBLIC

**NOTICE OF
LAND DEVELOPMENT
CODE CHANGES
IN UNINCORPORATED**

MANATEE COUNTY

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Manatee County Planning Department
Manatee County, Florida