



Office of the
**MANATEE COUNTY
ATTORNEY**

Tedd N. Williams, Jr., County Attorney

James A. Minix, Chief Assistant County Attorney
Patricia McVoy, Senior Assistant County Attorney*
Maureen S. Sikora, Senior Assistant County Attorney*
Robert M. Eschenfelder, Assistant County Attorney
Rodney C. Wade, Assistant County Attorney*
William E. Clague, Assistant County Attorney
James R. Cooney, Assistant County Attorney
Sarah A. Schenk, Assistant County Attorney*
Jason C. Henbest, Associate County Attorney

M E M O R A N D U M

DATE: May 8, 2007
TO: Planning Commissioners
THRU: Tedd N. Williams, Jr., County Attorney *TNW 5/9/07*
FROM: Jason C. Henbest, Associate County Attorney *JCH 5/8/07*
RE: **LDC AMENDMENT REGARDING PROCEDURES FOR SPECIAL APPROVAL;
PROPOSED ORDINANCE NO. 07-41**

At the February 8, 2007, meeting of the Planning Commission, the County Attorney's Office presented Ordinance No. 07-41 for review and recommendation. The need for this ordinance was identified on January 9, 2007, when the Board of County Commissioners found that language in the Land Development Code's Special Approval Chart (Chart 605) was inconsistent with the County's Comprehensive Plan. Ordinance No. 07-41 is intended to remove the inconsistency from the LDC and clarify the procedures required to obtain Special Approval when required by the Comp Plan.

Following a number of public hearings before the Board of County Commissioners regarding the proposed Ordinance No. 07-41, a number of changes have been made to the ordinance. These changes include the following:

- Addition of a definition to the LDC for "residential support uses" that includes all uses that historically fell into this classification (e.g., churches, schools, and day care facilities).
- Revision to Section 605 to establish a more complete process for review and granting of special approvals. The new Section 605 provides for the time when special approval needs to be granted (Section 605.2), the duration for which a special approval will remain valid (Section 605.3), the manner in which a special approval must be granted (Section 605.4), the standards for granting special approval (Section 605.5), and the submittal/application requirements (Section 605.6). Most of this is new language that did not previously exist in the LDC.

* Board Certified City, County & Local Government Law

However, some of the language has been carried over, and deleted, from the old Section 605.1.2.

- Revision to Chart 605 to require a public hearing before the Board where the special approval for non-residential projects exceeding 30,000 square feet and consisting solely of residential support uses would be reviewed and, as appropriate, granted but otherwise maintaining the same processes for approval as were historically available.

These changes have been drafted by the County Attorney's Office and reviewed by the Planning Director. Due to the extent of the changes between the ordinance originally presented and the current draft, the County Attorney's Office and the Planning Director felt it was most prudent to bring the final draft of the ordinance, which is attached hereto, back to the Planning Commission for further review and recommendation. With that in mind, a public hearing has been scheduled for the Planning Commission's May 10, 2007, meeting.

If you have any questions regarding this matter prior to the hearing, please feel free to contact me at your convenience. Also, I will be present at the hearing and will be happy to address any concerns you may have at that time.

JCH
attachments

Cc: Carol B. Clarke, Director, Planning Department
Joaquin Servia, Plan Implementation Administrator, Planning Department
Bobbi Roy, Project Coordinator, Planning Department

RECOMMENDED MOTION:

I move to recommend adoption of Ordinance No. 07-41 in the form entered into the record by the County Attorney's Office.

ORDINANCE 07-41

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTIONS 201, 602.2 AND 605 AND AMENDING FIGURE 6-1 AND CHART 605 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED) TO CLARIFY THE PROCEDURES FOR SPECIAL APPROVAL; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Comprehensive Plan requires Special Approval from the Board of County Commissioners (or as specifically delegated to County staff) for any nonresidential project exceeding thirty thousand (30,000) square feet of gross building area in the RES-1, RES-3, and UF-3 future land use classifications; and

WHEREAS, the Special Approval process is defined in the Comprehensive Plan so as to provide an enhanced level of review of the proposed project as to its potential impact on natural resources, adjacent land uses, and public facilities; and

WHEREAS, Chart 605 of the Land Development Code includes an exemption from the above Special Approval requirement for residential support uses; and

WHEREAS, on January 9, 2007, the Board of County Commissioners adopted a motion finding that the Special Approval exemption in the Land Development Code for residential support uses was inconsistent with the Comprehensive Plan and directed this Ordinance be drafted and presented to address the inconsistency; and

WHEREAS, on May 10, 2007, the Planning Commission, the County's Local Planning Agency, held a duly noticed public hearing to review this Ordinance and adopted a motion finding this Ordinance consistent with the Comprehensive Plan and recommending its approval; and

WHEREAS, on May 3 and 24, 2007, the Board held the first and second duly noticed public hearings, respectively, to receive public comment, and review and consider this Ordinance; and

WHEREAS, after considering public comment, the recommendations of the Planning Commission and Planning staff respectively, the Board found this Ordinance consistent with the Comprehensive Plan, and in furtherance of the public health, safety, and welfare, and adopted the Ordinance as set forth herein.

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

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, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Amendment of the Land Development Code. This ordinance hereby amends Chapter 6 of the Manatee County Land Development Code, also known as Manatee County Ordinance 90-01, as amended, as follows:

A. Section 201 of the Land Development Code is amended to add the following definition after the existing definition for "Residential Development" and before the definition for "Residential Treatment Facility":

Residential Support Use shall mean any Church or Other House of Worship, Day Care Center, Day Care Facility (Accessory), Family Day Care Home, Environmental Education Facility, or School (whether it is elementary, middle, high, or college/university; public or private; or school of special education).

B. Section 602.2. of the Land Development Code is amended to read as follows (underlined language to be added; struck-through language to be deleted):

602.2. Permitted, Administrative and Special Uses by District. Except as specifically provided in this Code, regulations governing the use of land, water and structures within the various districts in the unincorporated portion of Manatee County shall be as shown in the Schedule of Permitted, Administrative and Special Uses by District.

Uses of land or structures which are not expressly listed in this Schedule of Permitted, Administrative and Special Permit Uses, are prohibited uses and shall not be established in that district.

Uses listed as Special Permit Uses or Administrative Permit Uses may be established in that district only after approval of an application in accord with the procedures and requirements in Chapter 5.

Notwithstanding the development review procedures set forth in Figure 6-1 or any other provision of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval pursuant to any provision of the Comprehensive Plan.

The permitted, administrative and special uses in the various zoning districts are grouped by major headings. These major headings are:

Agriculture Uses
Commercial Uses

Community Service Uses
Industrial Uses
Open Uses of Land--Light
Open Uses of Land--Heavy
Recreation Uses
Residential Uses
Residential Support Uses
Transportation Facilities
Warehousing
Miscellaneous

Figure 6-1 indicates the permitted, administrative and special uses for the standard zoning districts and Planned Districts.

C. Section 605 of the Land Development Code is amended to read as follows (underlined language to be added; struck-through language to be deleted):

Section 605. Special Approval Process as Required by the Manatee County Comprehensive Plan.

605.1. Purpose. Special approval is a process requiring an additional level of review that is required pursuant to the Comprehensive Plan. The special approval process as required by the Manatee County Comprehensive Plan is outlined in the attached Chart 605.

605.1.2. The Special Approval chart 605 is not intended to replace any development review procedures which are required pursuant to Figure 6-1 and Chapter 5 of this Code, but rather must be read in conjunction with those development review procedures. ~~is an additional level of approval that is required by the Comprehensive Plan. To the maximum extent possible, Special Approval is to be granted with whatever development application is required elsewhere in this Code; however, in many cases Planned Development is the process required to obtain Special Approval. For example, if a use is permitted within a zoning category with the approval of a Final Site Plan, and Chart 605 shows an "X" under Final Site Plan, the Special Approval may be granted with the approval of the Final Site Plan. Special Approval needs only to be granted on a single development application. Multiple checks do not indicate that approvals need to be granted for each of the development applications listed, but rather that there are options as to what type of development review process may simultaneously provide the review necessary to grant Special Approval. In many cases, Special Approval may be granted with administrative type approvals (Pre. Plan, Plat, FSP, etc.). Others require that only the Board or Hearing Officer may grant Special Approval (Rezone, GDP, Special Permit) to meet the Special Approval requirement. No development order administrative or otherwise, may be approved for projects which require special approval, without the granting of special approval.~~

~~Therefore, special approval shall be granted with the earliest approval required.~~

605.2. Timing of Special Approval. Special approval needs only to be granted on a single development application. Chart 605 indicates with regard to many types of special approvals that there are options as to what type of development review process may simultaneously provide the review necessary to grant special approval; however, special approval is not required to be granted at each stage of review. No development order, administrative or otherwise, may be approved for projects which require special approval prior to the granting of special approval. Therefore, special approval shall be granted prior to or concurrent with the earliest approval required.

605.3. Duration of Special Approval. A special approval shall continue in effect until such time as the use for which the special approval was granted is discontinued for a period exceeding one (1) years. However, the use must have been established prior to the expiration of the special approval. A special approval shall expire at the time specified in the instrument granting the special approval or, if no time was specified in the instrument, the special approval shall expire seven (7) years from the date on which the special approval was granted.

605.4. Manner of Granting Special Approval. Special approval may be granted as part of another development order when allowed pursuant to Chart 605 or may be granted through the adoption of a resolution following a duly noticed public hearing before the Board.

605.4.1. To the maximum extent possible, special approval is to be granted with whatever development application is required elsewhere in this Code. In many cases, special approval may be granted with administrative approvals (Preliminary and Final Site Plans, Preliminary Plats, etc.). In other cases, only the Board or a Hearing Officer may grant special approval (Rezone, General Development Plans, Special Permits, etc.). Where rezoning is required pursuant to Chart 605, the Planned Development process will be required to obtain special approval.

605.5. Standards for Granting Special Approval. Special approval may be granted only upon findings that the project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities and only when the specific criteria for the special approval established in the Comprehensive Plan or this Code, if any, have been satisfied. Conditions may be placed on the special approval to ensure the standards for granting are met and maintained through the life of the special approval.

605.6. Submittal Requirements. The County Administrator shall establish by administrative regulation the submittal requirements for special approval. At a minimum, the regulations shall require (i) preliminary data and analysis regarding

existing public facilities and the impact of the project on those facilities, and (ii) an aerial photograph and project plan showing the arrangements of existing and proposed buildings; existing wetlands, trees, and other natural resources; proposed buffers and landscaping; neighboring land uses and the distances of those uses from the uses within the project.

D. Figure 6-1 of the Land Development Code (the schedule of permitted, administrative, and special permit uses) is amended to add the following notation after each major grouping in the matrix:

Note: Notwithstanding the development review procedures set forth in this Figure 6-1 or any other provision of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval pursuant to any provision of the Comprehensive Plan.

E. Chart 605 of the Land Development Code (the special approval chart) is amended as shown on Exhibit "A" attached hereto and incorporated herein.

Section 3. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 2 of this ordinance 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 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 5. Effective Date. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

[SIGNATURE PAGE FOLLOWS]

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the ____ day of _____, 200_.

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

By: _____
Chairman

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

By: _____
Deputy Clerk

ORDINANCE NO. 07-41
EXHIBIT "A"

Chart 605 Deletions and Insertions
(underlined language to be added; struck-through language to be deleted)

	Rezone and GD Plan	Special Permit	Prel. Plan	Prel. Plat	Final Site	Adm. Permit	Final Plat	Bldg. Permit	Earth/moving	CO
...										
C. Non-residential developments exceeding 30,000 square feet of gross building area, located in residential (FLU) category. Residential support uses shall be exempt from this requirement. (5).	X									
C.1. Non-residential projects, excluding those projects consisting solely of residential support uses, which exceed 30,000 square feet of gross building area and are located in residential (FLU) category. (5)	X									
C.2. Non-residential projects consisting solely of residential support uses which exceed 30,000 square feet of gross building area and are located in residential (FLU) category. (5)(9)										
	See Note (9) Below									

...

NOTES:

...

(5) Parcels which already have a Planned Development category do not need to be rezoned.

...

(9) Special approval for non-residential projects consisting solely of residential support uses which exceed 30,000 square feet and are located in a residential (FLU) category shall be heard and decided by the Board of County Commissioners. Notwithstanding the Board review of special approval, such projects shall comply with the development review procedures set forth in Figure 6-1 and all other applicable provisions of this Code. Special approval may be granted by the Board as part of any other development order or through a separate process. Where special approval is granted by the Board through a separate review process, the granting of any other development order for such a project shall occur only subsequent to the Board's adoption of a resolution granting special approval for that project, and the granting of any other development order must be consistent with the Board's special approval resolution.

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:

ORDINANCE
07-41

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

APRIL 27, 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 27TH DAY OF
APRIL A.D., 2007 BY SHARI BRICKLEY WHO IS PERSONALLY
KNOWN TO ME.

(SEAL)

Mariann Gusbar
NOTARY PUBLIC

 NOTARY PUBLIC
Mariann Gusbar
My Commission DD355235
Expires November 6, 2008

**NOTICE OF
LAND DEVELOPMENT
REGULATIONS**

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 No. 07-41 with the Comprehensive Plan and as to whether the proposed ordinance should be adopted, adopted with modifications, or denied.

Date: Thursday, May 10, 2007
Time: 9:00 AM or soon thereafter
Place: Manatee County Government
Administrative Center
1112 Manatee Avenue West,
1st Floor Chambers

ORDINANCE 07-41

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTIONS 201, 602.2 AND 605 AND AMENDING FIGURE 6-1 AND CHART 605 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED) TO CLARIFY THE PROCEDURES FOR SPECIAL APPROVAL; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; 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

ORDINANCE 07-41

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTIONS 201, 602.2 AND 605 AND AMENDING FIGURE 6-1 AND CHART 605 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED) TO CLARIFY THE PROCEDURES FOR SPECIAL APPROVAL; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Comprehensive Plan requires Special Approval from the Board of County Commissioners (or as specifically delegated to County staff) for any nonresidential project exceeding thirty thousand (30,000) square feet of gross building area in the RES-1, RES-3, and UF-3 future land use classifications; and

WHEREAS, the Special Approval process is defined in the Comprehensive Plan so as to provide an enhanced level of review of the proposed project as to its potential impact on natural resources, adjacent land uses, and public facilities; and

WHEREAS, Chart 605 of the Land Development Code includes an exemption from the above Special Approval requirement for residential support uses; and

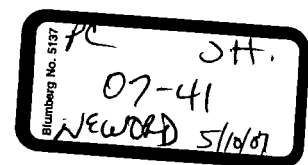
WHEREAS, on January 9, 2007, the Board of County Commissioners adopted a motion finding that the Special Approval exemption in the Land Development Code for residential support uses was inconsistent with the Comprehensive Plan and directed this Ordinance be drafted and presented to address the inconsistency; and

WHEREAS, on May 10, 2007, the Planning Commission, the County's Local Planning Agency, held a duly noticed public hearing to review this Ordinance and adopted a motion finding this Ordinance consistent with the Comprehensive Plan and recommending its approval; and

WHEREAS, on May 3 and 24, 2007, the Board held the first and second duly noticed public hearings, respectively, to receive public comment, and review and consider this Ordinance; and

WHEREAS, after considering public comment, the recommendations of the Planning Commission and Planning staff respectively, the Board found this Ordinance consistent with the Comprehensive Plan, and in furtherance of the public health, safety, and welfare, and adopted the Ordinance as set forth herein.

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



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, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Amendment of the Land Development Code. This ordinance hereby amends Chapter 6 of the Manatee County Land Development Code, also known as Manatee County Ordinance 90-01, as amended, as follows:

A. Section 201 of the Land Development Code is amended to add the following definition after the existing definition for “Residential Development” and before the definition for “Residential Treatment Facility”:

Residential Support Use shall mean any Church or Other House of Worship, Day Care Center, Day Care Facility (Accessory), Family Day Care Home, Environmental Education Facility, or School (whether it is elementary, middle, high, or college/university; public or private; or school of special education).

B. Section 602.2. of the Land Development Code is amended to read as follows (underlined language to be added; struck-through language to be deleted):

602.2. Permitted, Administrative and Special Uses by District. Except as specifically provided in this Code, regulations governing the use of land, water and structures within the various districts in the unincorporated portion of Manatee County shall be as shown in the Schedule of Permitted, Administrative and Special Uses by District.

Uses of land or structures which are not expressly listed in this Schedule of Permitted, Administrative and Special Permit Uses, are prohibited uses and shall not be established in that district.

Uses listed as Special Permit Uses or Administrative Permit Uses may be established in that district only after approval of an application in accord with the procedures and requirements in Chapter 5.

Notwithstanding the development review procedures set forth in Figure 6-1 or any other provision of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval pursuant to any provision of the Comprehensive Plan.

The permitted, administrative and special uses in the various zoning districts are grouped by major headings. These major headings are:

Agriculture Uses
Commercial Uses

Community Service Uses
Industrial Uses
Open Uses of Land--Light
Open Uses of Land--Heavy
Recreation Uses
Residential Uses
Residential Support Uses
Transportation Facilities
Warehousing
Miscellaneous

Figure 6-1 indicates the permitted, administrative and special uses for the standard zoning districts and Planned Districts.

C. Section 605 of the Land Development Code is amended to read as follows (underlined language to be added; struck-through language to be deleted):

Section 605. Special Approval Process as Required by the Manatee County Comprehensive Plan.

605.1. Purpose. Special approval is a process requiring an additional level of review that is required pursuant to the Comprehensive Plan. The special approval process as required by the Manatee County Comprehensive Plan is outlined in the attached Chart 605.

605.1.2. The Special Approval chart 605 is not intended to replace any development review procedures which are required pursuant to Figure 6-1 and Chapter 5 of this Code, but rather must be read in conjunction with those development review procedures. ~~is an additional level of approval that is required by the Comprehensive Plan. To the maximum extent possible, Special Approval is to be granted with whatever development application is required elsewhere in this Code; however, in many cases Planned Development is the process required to obtain Special Approval. For example, if a use is permitted within a zoning category with the approval of a Final Site Plan, and Chart 605 shows an "X" under Final Site Plan, the Special Approval may be granted with the approval of the Final Site Plan. Special Approval needs only to be granted on a single development application. Multiple checks do not indicate that approvals need to be granted for each of the development applications listed, but rather that there are options as to what type of development review process may simultaneously provide the review necessary to grant Special Approval. In many cases, Special Approval may be granted with administrative type approvals (Pre. Plan, Plat, FSP, etc.). Others require that only the Board or Hearing Officer may grant Special Approval (Rezone, GDP, Special Permit) to meet the Special Approval requirement. No development order administrative or otherwise, may be approved for projects which require special approval, without the granting of special approval.~~

~~Therefore, special approval shall be granted with the earliest approval required.~~

605.2. Timing of Special Approval. Special approval needs only to be granted on a single development application. Chart 605 indicates with regard to many types of special approvals that there are options as to what type of development review process may simultaneously provide the review necessary to grant special approval; however, special approval is not required to be granted at each stage of review. No development order, administrative or otherwise, may be approved for projects which require special approval prior to the granting of special approval. Therefore, special approval shall be granted prior to or concurrent with the earliest approval required.

605.3. Duration of Special Approval. A special approval shall continue in effect until such time as the use for which the special approval was granted is discontinued for a period exceeding one (1) years. However, the use must have been established prior to the expiration of the special approval. A special approval shall expire at the time specified in the instrument granting the special approval or, if no time was specified in the instrument, the special approval shall expire seven (7) years from the date on which the special approval was granted.

605.4. Manner of Granting Special Approval. Special approval may be granted as part of another development order when allowed pursuant to Chart 605 or may be granted through the adoption of a resolution following a duly noticed public hearing before the Board.

605.4.1. To the maximum extent possible, special approval is to be granted with whatever development application is required elsewhere in this Code. In many cases, special approval may be granted with administrative approvals (Preliminary and Final Site Plans, Preliminary Plats, etc.). In other cases, only the Board or a Hearing Officer may grant special approval (Rezone, General Development Plans, Special Permits, etc.). Where rezoning is required pursuant to Chart 605, the Planned Development process will be required to obtain special approval.

605.5. Standards for Granting Special Approval. Special approval may be granted only upon findings that the project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities and only when the specific criteria for the special approval established in the Comprehensive Plan or this Code, if any, have been satisfied. Conditions may be placed on the special approval to ensure the standards for granting are met and maintained through the life of the special approval.

605.6. Submittal Requirements. The County Administrator shall establish by administrative regulation the submittal requirements for special approval. At a minimum, the regulations shall require (i) preliminary data and analysis regarding

existing public facilities and the impact of the project on those facilities, and (ii) an aerial photograph and project plan showing the arrangements of existing and proposed buildings; existing wetlands, trees, and other natural resources; proposed buffers and landscaping; neighboring land uses and the distances of those uses from the uses within the project.

D. Figure 6-1 of the Land Development Code (the schedule of permitted, administrative, and special permit uses) is amended to add the following notation after each major grouping in the matrix:

Note: Notwithstanding the development review procedures set forth in this Figure 6-1 or any other provision of this Code, the development review procedures required pursuant to Section 605 and Chart 605 shall control when the project requires Special Approval pursuant to any provision of the Comprehensive Plan.

E. Chart 605 of the Land Development Code (the special approval chart) is amended as shown on Exhibit "A" attached hereto and incorporated herein.

Section 3. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 2 of this ordinance 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 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 5. Effective Date. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

[SIGNATURE PAGE FOLLOWS]

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the ____ day of _____, 200_.

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

By: _____
Chairman

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

By: _____
Deputy Clerk

Alternative 1 – CAO Presented Alternative

ORDINANCE NO. 07-41
EXHIBIT "A"

Chart 605 Deletions and Insertions
(underlined language to be added; struck-through language to be deleted)

	Rezone and GD Plan	Special Permit	Prel. Plan	Prel. Plat	Final Site	Adm. Permit	Final Plat	Bldg. Permit	Earth/moving	CO
...										
C. Non-residential developments exceeding 30,000 square feet of gross building area, located in residential (FLU) category. Residential support uses shall be exempt from this requirement. (5).	X									
C.1. Non-residential projects, excluding those projects consisting solely of residential support uses, which exceed 30,000 square feet of gross building area and are located in residential (FLU) category. (5)	X									
C.2. Non-residential projects consisting solely of residential support uses which exceed 30,000 square feet of gross building area and are located in residential (FLU) category. (5)(9)										
See Note (9) Below										
...										

NOTES:

- (5) Parcels which already have a Planned Development category do not need to be rezoned.
- (9) Special approval for non-residential projects consisting solely of residential support uses which exceed 30,000 square feet and are located in a residential (FLU) category shall be heard and decided by the Board of County Commissioners. Notwithstanding the Board review of special approval, such projects shall comply with the development review procedures set forth in Figure 6-1 and all other applicable provisions of this Code. Special approval may be granted by the Board as part of any other development order or through a separate process. Where special approval is granted by the Board through a separate review process, the granting of any other development order for such a project shall occur only subsequent to the Board's adoption of a resolution granting special approval for that project, and the granting of any other development order must be consistent with the Board's special approval resolution.

Alternative 2 – Commissioner Requested Alternative

ORDINANCE NO. 07-41
EXHIBIT “A”

Chart 605 Deletions and Insertions
(underlined language to be added; struck-through language to be deleted)

	Rezone and GD Plan	Special Permit	Prel. Plan	Prel. Plat	Final Site	Adm. Permit	Final Plat	Bldg. Permit	Earth/moving	CO
...										
C.	Non-residential developments exceeding 30,000 square feet of gross building area, located in residential (FLU) category. Residential support uses shall be exempt from this requirement. (5).	X								
C.	<u>Non-residential projects which exceed 30,000 square feet of gross building area and are located in the RES-1, RES-3, UF-3, RES-6, RES-9, RES-12, or RES-16 future land use categories. (9)</u>									
See Note (9) Below										

...

NOTES:

...

(5) Parcels which already have a Planned Development category do not need to be rezoned.

...

(9) Special approval for non-residential projects which exceed 30,000 square feet and are located in a residential (FLU) category shall be heard and decided by the Board of County Commissioners. Notwithstanding the Board review of special approval, such projects shall comply with the development review procedures set forth in Figure 6-1 and all other applicable provisions of this Code. Special approval may be granted by the Board as part of any other development order or through a separate process. Where special approval is granted by the Board through a separate review process, the granting of any other development order for such a project shall occur only subsequent to the Board's adoption of a resolution granting special approval for that project, and the granting of any other development order must be consistent with the Board's special approval resolution.