

ORDINANCE 06-17

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING CHAPTER 11 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED) TO ESTABLISH STANDARDS FOR NON-CONFORMITIES RESULTING FROM THE EXERCISE OF THE POWER OF EMINENT DOMAIN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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 December 8, 2005, 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 December 20, 2005, and January 10, 2006, 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 Existing Land Development Code. This ordinance hereby amends and revises the Manatee County Land Development Code, also known as Manatee County Ordinance 90-01, as amended, as follows:

- A. Section 1101 is hereby amended to read as follows (underlined language to be added):

Section 1101. Purpose and Intent.

1101.1. The purpose of this Chapter is to provide for the regulation and limit the development and continued existence

of uses, structures, and lots established prior to the effective date of this Code which do not conform to the requirements of this Code and to address nonconformities that result from the exercise of eminent domain powers. Many nonconformities may continue subject to the provisions of this Code or the Comprehensive Plan. It is the general intent of this Chapter to reduce nonconformities and eventually bring them into conformance.

1101.2. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this Code and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this Code or any subsequent amendment to this Code or as a result of an acquisition of real property by Manatee County or a state agency through the exercise or threat of exercise of its power of eminent domain may be continued or maintained only in accordance with the terms of this Chapter.

- B. The following Section is hereby added after Section 1105.1. and before Section 1105.1.2., to be numbered Section 1105.1.1.

1105.1.1. The rebuilding, reconstruction, or relocation of an otherwise conforming structure or use rendered nonconforming as a result of the acquisition of a portion of the real property on which such structure or use is located by the County or a state agency through the exercise or threat of exercise of its power of eminent domain shall be governed by the provisions of Section 1112.3. Any expansion of such use or structure shall be governed by Section 1102 or 1106, respectively.

- C. Section 1105.1.3 is hereby amended to read as follows (underlined language to be added):

1105.1.3. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar event, and the cost of restoring the structure to its condition immediately prior to the event is a substantial improvement, then the structure shall not be restored unless the structure as restored, and the use thereof, will thereafter conform to all requirements of the land use district in which it is located and this Code, subject to the exception provision in 1105.1.5 and provided however that a structure subject to Section 1112.3 may be restored with such non-conformities as are permissible pursuant to Section 1112.3, regardless of the cost of restoration. Cost of restoration shall be determined in the manner established by the Building Division of the Planning Department.

- D. Section 1106.1 is hereby amended to read as follows (underlined language to be added):

1106.1. Except as provided in this Section or in Section 1112, a nonconforming structure shall not undergo any substantial improvement or be enlarged or moved in any manner unless provided below:

- E. The following Section is hereby added after Section 1107.3.2. and before Section 1107.4, to be numbered Section 1107.3.3.

1107.3.3. Nonconforming lots which were legally created and are in single ownership, sharing continuous street frontage, if taken together would meet the minimum zoning district regulations, do not have to combine lots to meet the zoning district regulations if the nonconformity exists only as a result of the exercise of eminent domain powers by the County or a state agency.

- F. The following Section is hereby added after Section 1111, to be numbered Section 1112.

Section 1112. Nonconformities Resulting From Exercise of Power of Eminent Domain.

1112.1. Applicability. The provisions of this Section shall apply to real property of which a portion is acquired by Manatee County or a state agency through the exercise or threat of exercise of eminent domain powers on or after February 1, 2006. This Section shall apply without regard to whether the real property acquisition is pursuant to an order of a court of competent jurisdiction or is pursuant to a process of negotiated purchase. This Section shall apply without regard to whether the acquisition was initiated by Manatee County or a state agency.

1112.2. Existing Nonconformities Preserved. A nonconformity, of any nature whatsoever, which existed at the time of the real property acquisition shall not be deemed to be permitted, exempted, or reduced, in any manner, nor to any extent, by the application of this Section.

1112.3. Nonconformities Created by Eminent Domain Proceedings.

1112.3.1. A nonconformity created through the exercise of eminent domain powers shall not constitute a

violation of this Code, and the owner of any property that is the subject of such nonconformity shall not be required to cure such nonconformity.

1112.3.2. Any structure or site improvement subject to this Section may be rebuilt, relocated, or reconstructed to cure the adverse impacts that result from the exercise of eminent domain powers, even if such rebuilding, relocation, or reconstruction does not conform to this Code with respect to area, width, depth, setbacks, required yards, landscape buffer, location of improvements, location of signs, or parking, so long as the following criteria are met:

1112.3.2.1. The proposed rebuilding, relocation, or reconstruction is necessary to allow use of the property consistent with or similar to the pre-acquisition use of the property;

1112.3.2.2. The size or intensity of the structure or use is not expanded in violation of Section 1102 or 1106 hereof; and

1112.3.2.3. The rebuilding, relocation, or reconstruction will not result in a violation of the Comprehensive Plan.

1112.3.3. Either Manatee County or the state agency exercising its eminent domain powers, as the case may be, is authorized to apply for such permits or approvals necessary to carry out the rebuilding, relocation, or reconstruction of a structure or site improvement pursuant to this Section 1112.3.

1112.3.4. Following any acquisition of a portion of real property subject to this Section by Manatee County, the County shall endeavor to record with the Clerk of the Circuit Court a notice of severance on the remainder of the real property not acquired. The failure to record such notice shall not limit or prevent the application of this Section to the subject property.

1112.4. Future Right-of-Way and Fire Safety Regulations. The provisions of Sections 1112.1 - 1112.3 shall not apply nor be interpreted to waive or alter the provisions of this Code pertaining to future right-of-way lines, nor shall the provisions of this Section waive or alter the application of any fire prevention code or fire prevention requirements, either current or in the future,

or applicable provisions of the Manatee County Building Codes.

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 invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentence, 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.

[EXECUTION PAGE TO FOLLOW]

**PASSED AND DULY ADOPTED**, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 10<sup>th</sup> day of January, 2006.

MANATEE COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS

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

*J. M. Case*  
Chairman



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

*R. B. Shore*

FILED FOR RECORD  
R. B. SHORE

2006 FEB -1 10:03 AM

CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA



FLORIDA DEPARTMENT OF STATE  
**Sue M. Cobb**  
Secretary of State  
DIVISION OF LIBRARY AND INFORMATION SERVICES

January 24, 2006

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

Attention: Nancy Harris, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 11, 2006 and certified copies of Manatee County Ordinance Nos. 06-17, 06-22 and 06-23, which were filed in this office on January 17, 2006.

As requested, the date stamped copies are being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/kcs

Enclosures

STATE LIBRARY OF FLORIDA  
R.A. Gray Building • Tallahassee, Florida 32399-0250 • (850) 245-6600  
FAX: (850) 488-2746 • TDD: (850) 922-4085 • <http://www.dos.state.fl.us>  
 LEGISLATIVE LIBRARY SERVICE     RECORDS MANAGEMENT SERVICES     FLORIDA STATE ARCHIVES  
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