

FILED FOR RECORD
R. B. SHORE

**MANATEE COUNTY ZONING ORDINANCE
PDMU-06-21(P)(R4) – CC MANATEE DEVELOPMENT, LLC / NEWPORT ISLES**

2009 OCT 16 AM 9:01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE NO. PDMU-06-21(P)(R3) PERTAINING TO APPROXIMATELY 734.2 ACRES NORTH OF BUCKEYE ROAD, EAST OF GRASS FARM ROAD, AND EXTENDING NORTH TO THE HILLSBOROUGH COUNTY LINE IN THE PDMU (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT; APPROVE REVISED ORDINANCE NO. PDMU-06-21(P)(R4) TO BE SUBSTITUTED FOR ORDINANCE PDMU-06-21(P)(R3), TO AMEND STIPULATION 5.A REGARDING CONCURRENCY; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

WHEREAS, Manatee County (County) and CC Manatee Development, LLC (the "Applicant") mutually desire to amend the Ordinance approved on September 19, 2006, and amended on September 11, 2007, March 11, 2008, and October 2, 2008, pertaining to property north of Buckeye Road, east of Grass Farm Road and extending north to the Hillsborough County Line in the PDMU (Planned Development Mixed Use) zoning district, this property being more specifically described in Exhibit "A", attached hereto; and

WHEREAS, the revision amends Stipulation 5.A regarding concurrency; and

WHEREAS, the Board of County Commissioners of Manatee County held a public hearing on October 6, 2009 after due notice, considered the criteria set forth in the Manatee County Land Development Code, and approved the amendment to the Ordinance.

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 of said County, after considering the testimony, evidence, documentation, 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 staff concerning amendment of the Zoning Ordinance.

B. The Board of County Commissioners held a duly noticed public hearing on October 6, 2009, regarding the amended Ordinance.

Section 2. AMENDMENT OF OCTOBER 2008 ORDINANCE APPROVAL.

Stipulation 5.A of Ordinance PDMU-06-21(Z)(P)(R3) is hereby amended. The previous Zoning Ordinance and Site Plan approval on September 19, 2006 remains in effect, except for the

revision to Stipulation 5.A, as amended on September 11, 2007, March 11, 2008, October 2, 2008 and as further amended herein. The amended and restated Stipulations for the approved Preliminary Site Plan on the property described in Exhibit "A" are as follows:

STIPULATIONS

1. Non-residential:

- A. Site improvements for the school site shall be as generally as indicated on Sheets 7 and 12 of the Preliminary Site Plan. Substantial changes which are deemed by the Planning Director as having the potential to adversely impact nearby residences shall be approved by the BOCC at a noticed public hearing. The school site may be used as a park.
- B. All rooftop mechanical equipment shall be screened from view from abutting roadways or adjacent residential properties. Screening shall be provided by materials consistent with the building. Details shall be shown prior to Final Site Plan approval.
- C. Service Areas
 - 1) All truck loading, service areas, and outside storage shall not be visible from adjacent roads or residential properties.
 - 2) Trash and garbage receptacles shall be screened with materials similar to the adjacent building facade.

2. Residential Uses:

- A. No lots shall be platted through any greenbelt, wetland, stormwater pond, floodplain compensation area, wetland or wetland buffer.
- B. Improvements for each pocket park shall be determined at the time of Final Site Plan approval and may include recreation amenities, benches, and shade trees, as determined by the county.
- C. A 20 foot wide buffer shall be provided between the single-family attached residential lots and the eastern project boundary.
- D. A five foot wide sidewalk shall be provided from those areas with 26' wide lots to the pedestrian systems along the connector road to Sweetwater Preserve.
- E. Lot 1376 shall be eliminated and converted to open space. The developer may relocate this lot elsewhere on the property at the time of Final Site Plan, consistent with maintaining the design integrity of the project.

- F. A 5' wide paved pedestrian way shall be constructed between Lots 1,215 and 1,351 from the street to the eastern property boundary, in the buffer, for purposes of connecting to the proposed pedestrian system in Sweetwater Preserve.

3. Environmental

- A. An Exotic Plant Species Management Plan shall be submitted for review and approval prior to or concurrent with Final Site Plan or Construction Plan approval. The management plan shall provide for the continued, phased, removal of nuisance, exotic plant species that become reestablished within common areas of a residential development and open spaces within non-residential projects, for the life of the project. Removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the first Final Plat approval, in accordance with Section 715.4 of the LDC.
- B. The developer shall use the lowest quality of water available for irrigation purposes. Consideration shall be given to meeting the irrigation needs of the Project with the following sources in order of preference: (1) reuse water (if available); (2) stormwater; and (3) non-potable quality groundwater. Prior to Final Site Plan approval, the developer shall identify the irrigation source which will be utilized. Use of Manatee County public potable water supply shall be prohibited for in-ground irrigation systems, including on individual lots.
- C. The developer shall provide signs adjacent to wetland buffers and conservation easements indicating that the area is a "Conservation Area", as required pursuant to Section 719.11.1.3.3 of the LDC. The type and location of such signs shall be shown and approved by the Planning Department with the Final Site Plan.
- D. Erosion and Sediment control (ESC) measures are required by Sections 717.3.17 and 717.4.2.7 of the LDC. Locations, details or notes for ESC should be submitted to the Planning Department for approval and be included in the Final Site Plan.
- E. An Integrated Pest Management Plan (IPM) for the application of fertilizers, pesticides, and herbicides shall be submitted to the Planning Department for review and approval prior to Final Site Plan approval. Where practical, native or drought tolerant landscape materials shall be utilized in common areas. In addition, the developer shall encourage individual homeowners to participate in the Florida Yards and Neighborhood Program by disseminating program information to individual lot owners.
- F. A Construction Water Quality Monitoring Program and proposed sampling locations shall be submitted to the EMD for review and approval prior to Final Site Plan approval.

- G. A Well Management Plan for the proper rehabilitation or abandonment of existing wells shall be submitted to the EMD for review and approval prior to Final Site Plan approval.
- H. An ERP approved by SWFWMD shall be provided to the Planning Department prior to Final Site Plan approval.
- I. Tree Protection Measures:
 - 1). Prior to construction, grading, or tree removal from the site, required protective barriers within each area of construction shall be installed to protect all 4" DBH (trunk diameter measured at 4.5 feet from the ground) and greater trees identified for protection, that is, not shown on the Preliminary Site Plan as proposed to be removed, replaced, or relocated. Specific tree protective measures shall be approved by the Planning Department with the Final Site Plan and Construction Plan submittal. Tree barricades for trees to be preserved shall be located at the drip line, unless otherwise approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed and shall be clearly shown on the Final Site Plan. 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 Planning Department.
 - 2). The developer shall require all contractors, subcontractors, and construction crews to attend the pre-construction meeting required by Section 508.3.4.7(j) of the LDC. The purpose of this meeting is to discuss tree protection and to ensure trees in the field to be retained and removed, ensure tree barricades remain up during all phases of construction, and penalties for noncompliance or unauthorized tree removal in accordance with the LDC.
 - 3). The developer shall immediately notify the Planning Department in the event that any preserved tree or native vegetation is adversely impacted.
 - 4). The Final Site Plan shall include the following information:
 - Tree and native vegetation preservation areas.
 - The limits of clearing.
 - Typical cross section details for all activities within 25' of any preservation areas.

- Details and locations of signs (in both English and Spanish) to alert workers of tree and native vegetation protection areas. These signs shall be constructed of weather resistant materials and shall demarcate the boundaries of the protected areas.
- J. If burning of trees or branches is required for land clearing, a burn permit must be first obtained from the Environmental Management Department. No burn permits will be issued until Final Site Plans and Construction Plans are approved.

4. Stormwater and Drainage

- A. The Drainage Models and Construction Plans shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.
- B. Routing and modeling of the existing conditions shall be provided with the Drainage Model and Construction Plan for all natural drainage systems within and surrounding this project taking into consideration all wetland storage and ground depressions.
- C. Any fill within the 100-year floodplain of Curiosity Creek shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation), unless stormwater modeling is performed and approved otherwise.
- D. There shall be a 25-year attenuation on all stormwater ponds within the development.
- E. The developer shall provide an easement over the proposed stormwater facilities to Manatee County to accept stormwater for the potential Buckeye Road expansion along the property frontage, and the proposed Piney Point Road (Port Connector), with a right of access to modify the stormwater system to create additional treatment and attenuation capacity at the expense of the County.

5. Transportation

- A. Manatee County has required the Applicant and other developers with development projects in the vicinity of the Project to (1) design, finance, donate and build infrastructure, public facilities and services, (2) share or jointly use infrastructure, facilities and services, and (3) coordinate development plans for interconnectivity between development projects in order to benefit the public interest, and plan and implement a county-coordinated land-planning effort for the area of the County in which the Applicant's Project is located. Applicant has filed Application No. 06-05 to process a Development Agreement (LDA) in order

to obtain an extended CLOS for the Project and detail the respective responsibilities of the Applicant and other developers in regard to the funding and construction of public infrastructure.

By adoption of this zoning ordinance by the Board of County Commissioners the Applicant does not receive any entitlement to any extended CLOS beyond the term that is allowed by Sec. 510, Land Development Code without an LDA. The Board of County Commissioners reserves complete discretion to approve, approve with modifications or deny approval of any future LDA.

Until such LDA is approved, the staff is only authorized to issue a Certificate of Level of Service for 150 dwelling units, said amount having been determined as not having any traffic impacts which require mitigation. Staff is further authorized to maintain the application for a CLOS in its current place in line until April 2, 2011. Said LDA shall be presented to the Board of County Commissioners for action by October 6, 2010, such consideration which may be continued from time to time.

Said LDA shall include provisions for the monitoring of transportation impacts and a mechanism for adjusting the timing and priority of the transportation improvements required in the LDA to maintain adopted level of service standards.

- B. There shall be no traffic access (including earthmoving and/or construction access) to this project from Grass Farm Road.
- C. If the portion of Grass Farm Road north of Green Grass Road is not vacated, the applicant shall dedicate sufficient area to provide a 42 foot half width right-of-way.
- D. Prior to Final Plat approval for the 1,000th lot, the applicant shall provide an additional means of access, in addition to the main boulevard entrance road.
- E. A 5 foot wide sidewalk shall be provided along the project's frontage along Buckeye Road, with the first Final Plat approval.
- F. Concurrent with adjacent Newport Isles plat approvals, an eight foot wide multi-purpose trail shall be constructed along one side of the east-west internal connector road between Sweetwater Preserve and Artisan Boulevard and along Artisan Boulevard within Newport Isles.
- G. The applicant shall dedicate to Manatee County a 30-foot wide Greenway Trail in conjunction with the development of adjacent parcels. The Greenway Trail shall be located within the 50' Greenbelt Buffer along the south side of the Port Connector Road, as shown on the Preliminary Site Plan and will be constructed in a manner substantially in conformance with the cross section which is attached

hereto as Exhibit "C". Applicant shall be entitled to recreational impact fee credits, as allowed by Manatee County Code for all acreage dedicated or conveyed to Manatee County for the Greenway Trail. In addition, applicant shall be entitled to impact fee credits for all construction costs associated with construction of this trail. If the project does not develop as intended, Manatee County has the option of requesting dedication or conveyance of a 30 foot strip to use as a Greenway Trail. The owner shall be entitled to impact fee credits for any requested conveyance or dedication.

6. General Conditions

A.

- 1) Upon 30 days written notice from either the Manatee County School Board or Manatee County, the applicant shall convey for value a minimum of 20 acres of usable upland land to said governmental entity for use as an elementary school.
- 2)
 - a) If not previously acquired pursuant to (1) above, the applicant shall provide notice to the Manatee County School Board and Manatee County when sufficiently sized public road access, sewer and water are available to the school site. Concurrent with said notice, the applicant shall offer to convey for value a minimum of 20 acres of usable, upland land to the Manatee County School Board.
 - b) Public water, sewer and road access to the school site shall be provided no later than concurrently with the final plat for the 562nd dwelling unit.
- 3) If, within six months of receiving notice prescribed in (2) above, the School Board does not accept such conveyance in writing, the obligation to convey to the School Board is terminated.
- 4) In the event the School Board has not accepted such conveyance within the six month period described in (3) above, then the applicant shall provide notice to Manatee County that the School Board failed to accept such conveyance and that the applicant offers to convey such land to Manatee County for a school or park.
- 5) If Manatee County does not accept, in writing, the offer to convey such land within three months of receipt of notice described in (4) above, all obligations to convey such land to Manatee County shall terminate.
- 6) The applicant shall design and construct off-site stormwater ponds to accommodate required stormwater for the elementary school site at no cost to either the Manatee County School Board or Manatee County.

- 7) The location of this land shall be substantially as shown on the Preliminary Site Plan.
 - 8) The applicant shall be entitled to receive value for the school site no greater than its purchase price, closing costs and interest carry from the date of purchase (not to exceed three years of interest carry) as shall be detailed in a separate agreement between the applicant and governmental entity accepting the conveyance (either Manatee County or the Manatee County School Board).
- B. The Preliminary Site Plan for 60,000 square feet of commercial uses and structures on the commercial site must be submitted to the Board of County Commissioners for approval. The Board's review shall be to determine appropriate uses, compatibility, design, and relationship to the adjacent property.
- C. Existing agricultural uses on the property, in whole or in part, as an approved secondary use, are hereby allowed and reserved until development commences on the applicable section or portion of the site.
- D. The Notice to Buyers or Tenants shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the sales contract, and in the Final Site Plan shall include language informing prospective homeowners of the following:
- 1). Future commercial development in the northwest corner of the project, as shown on the approved Preliminary Site Plan.
 - 2). The future extension of Artisan Lakes Boulevard a collector roadway along the northwest boundary of the project, as shown on the approved Preliminary Site Plan.
 - 3). The future East-West Port Connector Road, a major collector, along the north boundary of the project, as shown on the approved Preliminary Site Plan.
 - 4). The future elementary school or park site, in the western portion of the project, as shown on the approved Preliminary Site Plan.
 - 5). The inter-neighborhood tie to the east to Sweetwater Preserve, as as shown on the approved Preliminary Site Plan.
- E. The metal building, parking, access and associated facilities shall be allowed as shown on The Maintenance Area exhibit, marked as Exhibit "B". However, no ingress or egress shall be allowed along the west side of the metal building, nor shall any access impact wetland buffers.

- F. A temporary sales center, parking lot, entrance, and associated features shall be allowed on Lots 14, 15 and 16, as shown on The Sales Center Plan, marked as Exhibit "C". If the access on Buckeye Road causes traffic conflicts, as determined by the County, the County may require closure or mitigating measures at the discretion of the Transportation Director. The temporary entrance shall be allowed for no more than four years.
- G. Earthmoving activity associated with the project, including off-site removal, shall be allowed and shall comply with the operating permit criteria of the Land Development Code.

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, clause, sentence, 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. 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 6th day of October, 2009.

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

BY: *Robert H. Browne*
Chairman

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

BY: *Diann E. Vollmer*
Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL A

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE RUN S 00°20'10" E ALONG THE EAST LINE OF SECTION 10, TOWNSHIP 33 SOUTH, RANGE 18 EAST, A DISTANCE OF 1330.80 FEET; THENCE N 89° 37' 21" W ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10, A DISTANCE OF 1331.98 FEET; THENCE S 00° 15' 10" E ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10, A DISTANCE OF 1302.39 FEET; THENCE N 89°44'36" W ALONG THE NORTHERLY MAINTAINED RIGHT OF WAY LINE OF BUCKEYE ROAD, A DISTANCE OF 1383.72 FEET; THENCE NORTHERLY AND EASTERLY THE FOLLOWING TWO COURSES ALONG THE EASTERLY BOUNDARY OF PROPERTY DESCRIBED IN O.R. BOOK 1743, PAGE 4860; THENCE N 01° 33'34" E, A DISTANCE OF 772.94 FEET; THENCE S 89°38'59" E, A DISTANCE OF 439.51 FEET; THENCE N 00°27'07" E ALONG THE EASTERLY LINE OF PROPERTY DESCRIBED IN O.R. BOOK 1743, PAGE 4860 AND O.R. BOOK 1692, PAGE 2290, A DISTANCE OF 807.11 FEET; THENCE N 89°38'49" W ALONG THE NORTHERLY LINE OF PROPERTY DESCRIBED IN O.R. BOOK 1692, PAGE 2290, A DISTANCE OF 141.72 FEET; THENCE NORTHERLY THE FOLLOWING TWO COURSES ALONG THE EASTERLY LINE OF PROPERTY DESCRIBED IN O.R. BOOK 1768, PAGE 550; THENCE N 32°23'22" W, A DISTANCE OF 542.68 FEET; THENCE N 01°21'06" W, A DISTANCE OF 593.32 FEET; THENCE S 89°03'23" E ALONG THE SOUTHERLY RIGHT OF WAY LINE OF GRASS FARM ROAD DESCRIBED IN O.R. BOOK 172, PAGE 345 AND O.R. BOOK 172, PAGE 347 A DISTANCE OF 178.73 FEET; THENCE N 00°56'37" E ALONG EAST RIGHT OF WAY LINE OF GRASS FARM ROAD, A DISTANCE OF 66.00 FEET; THENCE N 89°03'23" W, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID GRASS FARM ROAD, A DISTANCE OF 2436.86 FEET; THENCE N 00°39'39" E ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID GRASS FARM ROAD, A DISTANCE OF 2558.50 FEET; THENCE N 89°20'21" W ALONG THE NORTH LINE OF SAID GRASS FARM ROAD, A DISTANCE OF 66.00 FEET; THENCE N 00°39'39" E ALONG THE WESTERLY LINE OF AFOREMENTIONED SECTION 3, A DISTANCE OF 2054.86 FEET; THENCE N 88°55'52" E, A DISTANCE OF 5036.79 FEET; THENCE S 01°00'25" W ALONG THE EAST LINE OF SAID SECTION 3, A DISTANCE OF 4822.84 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTIONS 3 AND 10, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 653.44 ACRES.

PARCEL B

BEGINNING AT THE NORTHEAST CORNER OF SECTION 3, TOWNSHIP 33 SOUTH, RANGE 18 EAST, THENCE RUN S 01°00'25" W ALONG THE EAST LINE OF SAID SECTION 3, A DISTANCE 700.68 FEET; THENCE S 88°55'52" W, A DISTANCE OF 5036.79 FEET; THENCE N 00°39'39" E ALONG THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 700.54 FEET; THENCE N 88°55'52" E ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 5041.02 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 3, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 81.00 ACRES.



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 8TH day of

OCTOBER 2009

R.B. SHORE
Clerk of Circuit Court

By: Nancy Harris C.C.