

## Manatee County Ordinance

### **PDMU-20-10(P) - THE PRESERVE AT GAP CREEK - PLN2006-0026**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR 216 MULTI-FAMILY UNITS, A CLUBHOUSE, GYM, GARAGE, MAINTENANCE AND STORAGE BUILDINGS, AND A MAIL KIOSK BUILDING ON APPROXIMATELY 38.49 ACRES ZONED PDMU (PLANNED DEVELOPMENT MIXED USE); GENERALLY LOCATED ON THE EAST SIDE OF US 301, AND WEST SIDE OF 33<sup>RD</sup> STREET EAST, APPROXIMATELY 1,008 FEET SOUTH OF S.R.70, BRADENTON (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, BMG Park 30 Land Trust (the "Applicant") filed an application for a Preliminary Site Plan for 216 Multi-Family units, A Clubhouse, Gym, Garage, Maintenance and Storage Buildings, and a Mail Kiosk on approximately 38.49 acres as described in Exhibit "A", attached hereto, (the "Property"); and

**WHEREAS**, the applicant also filed a request for Specific Approval an alternative to Land Development Code Sections 701.4.B.3.iii (chain link fence) and 1001.1.C.3.1 (second means of access); and

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

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held a public hearing on December 17, 2020 to consider the Preliminary Site Plan and Specific Approval applications, received the staff recommendation and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

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

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

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

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

A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for a Preliminary Site Plan and Specific Approval as it relates to the real property described in Exhibit “A” of this Ordinance.

B. The Board of County Commissioners, after due public notice, held a public hearing on January 7, 2021 regarding the proposed Ordinance described herein in accordance with the requirements of the Manatee County Land Development Code and has further considered the information received at said public hearing.

C. The proposed Ordinance regarding the property described in Exhibit “A” herein is found to be consistent with the requirements of the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Land Development Code.

D. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 1001.1.C.3.a, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the adequate access is provided for emergency vehicles and residents.

E. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 701.4.B.3.iii, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the fence will act as a distinct boundary between parcels while remaining camouflaged into the wooded area. This request proposes no adverse impacts to the adjacent property and was requested by adjacent property owners at previous public hearings. The proposed 50-foot-wide buffer along the Southern boundary exceeds the required minimum 15-foot-wide landscape buffer.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 216 Multi-Family units, A Clubhouse, Gym, Garage, Maintenance and Storage Buildings, and a Mail Kiosk on approximately 38.49 acres upon the property subject to the following Stipulations:

#### STIPULATIONS

##### **A. DESIGN AND LAND USE CONDITIONS:**

1. Any gates or emergency access points within the project shall be accessible to emergency providers by either a remote control or siren activated system in accordance with Manatee County Ordinance 04-30. Prior to Final Site Plan approval, the applicant shall receive written approval from EMS and the Fire Marshal approving the proposed system.
2. The entrance to the south shall be utilized as a full emergency access and a means of egress for residents and visitors.
3. The design of the buildings shall be in substantial conformance with the elevations presented at the Planning Commission and Board of County Commission hearings. A design alternative may be approved administratively upon the applicant submitting building elevations to the satisfaction of the Building and Development Services Department Director, demonstrating the intent of the PDMU District is satisfied to an equal or greater degree.
4. There shall be no pedestrian or vehicular access connection to the existing inter-neighborhood tie to Briarwood Subdivision to the south.

5. All other applicable state or federal permits shall be obtained before commencement of the development.
6. The approval of this Preliminary Site Plan supersedes all other previous final site plan approvals.
7. A meandering fence shall be place in the 50-foot wide buffer connecting to the west side of the proposed wall and extending westward to the western boundary of the site. The fence is to be placed as north as possible with maximum cooperation with neighbors.

## **B. STORMWATER CONDITIONS:**

1. Pursuant to Section 801 and 802 of the Land Development Code and Code of Federal Regulations (CFR), Title 44, Section 60.3, the Construction Plan and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to proposed impacts to the FEMA 2014 FIRM 100-year floodplain, preliminary 100-year floodplain delineation pursuant to the Pearce Drain Watershed Management Plan (available from the Public Works Department), and post-development discharge of runoff. The following storm frequency events, corresponding cumulative rainfall, and rainfall distribution shall be provided as a comparison of the existing pre-development condition versus the proposed post-development development condition:

Storm Frequency:	Cumulative Rainfall:	Rainfall Distribution:
10-year/24-hour	7 inches	FLMOD
25-year/24-hour	8 inches	FLMOD
100-year/24-hour	10 inches	FLMOD
100-year/72-hour	18 inches	FDOT-72

The comparison of existing pre-development condition versus the proposed post-development development condition shall include results in terms of runoff and staging. Drainage Modeling (utilizing best available information from Pearce Drain Watershed Management Plan) shall be submitted to demonstrate compliance prior to commencement of construction.

2. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Pearce Drain. Modeling shall be used to determine pre- and post- development flows.
3. All fill within the 100-year floodplain (as delineated from the FEMA 2014 FIRM or preliminary data available from Pearce Drain Watershed Management Plan) 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).
4. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan along Collins Dairy Drain (County Maintained Drainage System "E48") within the project boundaries. In addition, a twenty-five (25) feet wide Drainage-Maintenance Access Easement shall be provided along the south side of

the drain. Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Landscaping/Greenbelt Buffers shall be located outside of the Drainage-Maintenance and Access Easement. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

### **C. ENVIRONMENTAL CONDITIONS:**

1. All other applicable state or federal permits shall be obtained prior to commencement of development.
2. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.
3. The developer shall provide an updated study, consistent with Policy 3.3.2.1 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. The Management Plan, and correspondence and permits, approved by the State (Florida Fish and Wildlife Conservation Commission) shall be submitted prior to the commencement of development for any listed species found on site.
4. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 353.3 of the LDC.
5. If wells are encountered, a Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the ERS for review and approval prior to recommencing construction activities. The Well Management Plan shall include the following information:
  - Digital photographs of the well along with nearby reference structures (if existing);
  - GPS coordinates (latitude/longitude) of the well;
  - The methodology used to secure the well during construction (e.g. fence, tape);
  - &
  - The final disposition of the well - used, capped, or plugged.
6. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

**Section 3. SPECIFIC APPROVALS.** Specific Approval is hereby granted for alternatives to Land Development Code Sections 701.4.B.3.iii (chain link fence) and 1001.1.C.3.1 (second means of access). Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

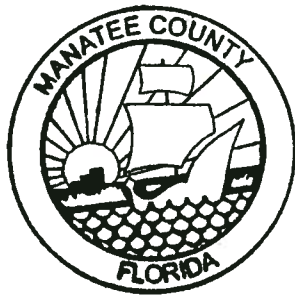
**Section 4. SEVERABILITY.** If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**Section 5. CODIFICATION.** Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

**Section 6. STATE AND FEDERAL PERMITTING.** The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

**Section 7. 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 7<sup>th</sup> day of January 2020.



**BOARD OF COUNTY  
COMMISSONERS OF MANATEE  
COUNTY, FLORIDA.**

BY:   
Vanessa Baugh, Chairperson

**ATTEST: ANGELINA COLONNESO  
Clerk of the Circuit Court**

BY:   
Deputy Clerk

## **Exhibit "A"**

### **Legal Description**

COMMENCE AT THE NORTHEAST CORNER OF THE N.W.  $\frac{1}{4}$  OF SECTION 17, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE S.00°05'36"E., ALONG THE EAST LINE OF SAID N. W.  $\frac{1}{4}$  A DISTANCE OF 1997.95 FEET TO THE NORTHEAST CORNER OF THE SOUTH  $\frac{1}{4}$  OF SAID N.W.  $\frac{1}{4}$ ; THENCE S. 89°50'15"W., ALONG THE NORTH LINE OF SAID SOUTH  $\frac{1}{4}$  OF THE N.W.  $\frac{1}{4}$ , A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE, S.89°50'15" W., ALONG SAID NORTH LINE, A DISTANCE OF 2573.72 FEET TO AN INTERSECTION WITH THE EASTERLY LIMITED ACCESS RIGHT OF WAY LINE OF U.S. HIGHWAY 301; THENCE NORTHERLY ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES: (1) N.06°25'14"E., A DISTANCE OF 126.75 FEET; (2) N.00°59'38"E., A DISTANCE OF 200.16 FEET TO AN INTERSECTION WITH THE APPROXIMATE CENTERLINE OF COLLINS DAIRY DRAIN; THENCE EASTERLY ALONG SAID CENTERLINE OF THE FOLLOWING EIGHT (8) COURSES: (1) N.77°34'11"E, A DISTANCE OF 105.00 FEET; (2) N.61°40'12" E., A DISTANCE OF 249.68 FEET; (3) S.89°36'24"E., A DISTANCE OF 198.44 FEET; (4) N.81°17'39"E., A DISTANCE OF 201.59 FEET; (5) S.88°48'18"E., A DISTANCE OF 293.11 FEET; (6) N.82°07'13"E., A DISTANCE OF 519.61 FEET; (7) N.58°19'14"E., A DISTANCE OF 43.89 FEET; (8) N.61°46'06"E., A DISTANCE 64.73 FEET; THENCE N.10°15'00"E., A DISTANCE OF 98.08 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 105.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 58°51'00", A DISTANCE OF 109.68 FEET TO A POINT OF TANGENCY; THENCE N.70°43'00"E., A DISTANCE OF 303.99 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 500.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°00'36", A DISTANCE OF 43.72 FEET; THENCE N.00°12'34"W., A DISTANCE OF 169.70 FEET; THENCE N.89°07'40" E., A DISTANCE OF 517.13 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF 33RD STREET EAST; THENCE S.00°05'36"E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 1074.03 FEET TO THE POINT OF BEGINNING LYING AND BEING IN SECTION 17, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA

SUBJECT TO PERTINENT EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.

CONTAINING 38.49 ACRES MORE OR LESS.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

January 8, 2021

Honorable Angelina Colonnese  
Clerk of the Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

Attention: Quantana Acevedo

Dear Ms. Colonnese:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. PDMU-20-10(P), which was filed in this office on January 8, 2021.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb