

MANATEE COUNTY ORDINANCE

2006 APR -6 AM 8: 20 PDR-03-32(P)(R) - LONG BAR POINTE, PHASE I, PARCEL F

CLEARING AND  
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE NO. PDR-03-32(P) PERTAINING TO THE PROPERTY LOCATED SOUTH OF EL CONQUISTADOR PARKWAY EXTENDED,  $\pm$  627 FEET SOUTH OF 53<sup>RD</sup> AVENUE WEST, ON SARASOTA BAY, IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING REVISED PDR-03-32(P)(R) TO BE SUBSTITUTED FOR PDR-03-32(P), WHICH WAS APPROVED ON NOVEMBER 2, 2004, AMEND STIPULATIONS TO DELETE STIPULATIONS 2.B AND 2.E AND REPLACE WITH A NEW STIPULATION 2.B; SETTING FORTH FINDINGS, PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, The Gustave M. Berne Foundation, Inc. (the "Applicant") has filed an application to revise a Preliminary Site Plan Ordinance previously approved on November 2, 2004 (the "November 2004 Preliminary Site Plan") pertaining to property located south of El Conquistador Parkway extended,  $\pm$ 627 feet south of 53<sup>rd</sup> Avenue West, on Sarasota Bay in the PDR (Planned Development Residential) zoning district, this property being more specifically described in Exhibit "A", attached hereto; and

**WHEREAS**, the Planning Staff has recommended the amendment of deleting stipulations 2.B & 2.E and replacing with new Stipulation 2.B contained in the November 2004 Preliminary Site Plan approval; and

**WHEREAS**, the Board of County Commissioners of Manatee County held a public hearing on March 2, 2006 and March 14, 2006 after due notice, received and considered the recommendations of the Planning Department, considered the criteria set forth in the Manatee County Land Development Code, and approved the revised Preliminary Site Plan, subject to the stipulations set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY AS FOLLOWS:**

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, application for the revised Ordinance, 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 Department concerning the application for a revised Preliminary Site Plan as it relates to the real property described in Exhibit "A" of this Ordinance.
- B. The Board of County Commissioners held a duly noticed public hearing on March 2, 2006 and March 14, 2006 regarding the revised Ordinance

described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code, and has further considered the information received at the public hearing.

- C. The proposed revised Ordinance regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01, the 2020 Manatee County Comprehensive Plan.

Section 2. AMENDMENT OF NOVEMBER 2004 PRELIMINARY SITE PLAN APPROVAL:

(a) Ordinance No. PDR-03-32(P) is hereby amended to substitute Ordinance No. PDR-03-32(P)(R) for the previously approved Preliminary Site Plan to allow a deletion of Stipulations 2.B and 2.E and replacing with a new Stipulation 2.B regarding transportation improvements, upon the property described in Exhibit "A", subject to the stipulations contained herein.

(b) Ordinance No. PDR-03-32(P) is hereby amended to delete in their entirety Stipulations 1 – 3 and to substitute Stipulations 1 - 3 to read as follows:

STIPULATIONS

- 1. Design and Planning
  - A. The design of the buildings shall be in substantial conformance with the elevations and renderings entered into the record for this case. Alternative roof materials may be approved at the discretion of the Planning Director. The main exterior veneer (including the roofing) shall utilize a soft muted color pallet and shall preclude the use of strong shades of color.
  - B. The design and shielding of any on-site lighting shall comply with Section 709.2.2 of the Land Development Code. In addition, pole mounted lights shall be limited to 20' in height and directed to the interior of the development using horizontal cut-off fixtures, unless street lamp posts or carriage style lights are used. All pole lights in each phase shall maintain a consistent style. The pole light style shall be determined prior to the first Final Site Plan for each phase.
  - C. In addition to the setbacks shown on the plan, the following setbacks shall be provided and shown on the Final Site Plan:
    - (1) A minimum setback of 20 feet shall be provided from the primary driveways.
    - (2) The minimum distance between Buildings 30, 31, and 32 shall be 30 feet.
    - (3) The minimum separation between the 4-unit buildings shall be 20 feet, provided the minimum separation between the portion of the buildings where the

garages are located shall be 30 feet.

- D. Dumpsters shall be not be visible from El Conquistador Parkway.
  - E. 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) The presence of neighboring agricultural uses, including possible use of pesticides and herbicides and of odor and noises associated with agricultural uses;
    - (2) The future extension of El Conquistador Parkway as an arterial roadway to the east;
    - (3) The site being located with the Coastal Storm Vulnerability Area and Coastal Evacuation Areas; and
    - (4) The prohibition imposed by Manatee County from trimming or cutting mangroves within the conservation easement of the project.
    - (5) The Hurricane Evacuation Plan and Disaster Plan approved by the Director of Public Safety.
- The Condominium or Homeowner's Association shall ensure that all subsequent purchasers and tenants receive copies of the approved plan.
- F. The applicant and their heirs, assigns, or transferees are hereby notified that a payment of an impact fee for emergency shelter facilities shall be required if such impact fee is adopted by the Board of County Commissioners.
  - G. No docks shall be constructed in Sarasota Bay.
  - H. Residential street trees, in accordance with Section 715.3.4 of the Land Development Code, shall be planted along all primary drive aisles.
  - I. Any significant historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Division of Historical Resources and treatment of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County. Treatment of the resources must be completed before resource-disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Section 872.05, Florida Statutes, shall be followed.
  - J. The 30 foot wide buffer along El Conquistador Parkway shall be consistent with the buffer Exhibit entered into the record with this case. Design shall consist of a berm, varying in height from 2-3 feet, a continuous hedge on top of the berm, and 11 canopy trees, 5 palm trees, and 3 understory trees per each 200 linear feet.

- K. On the landside of the wetland adjacent to Sarasota Bay, the applicant shall plant palm trees to soften the view of the buildings from Sarasota Bay. At time of planting, the clear trunk height of these trees shall vary from a minimum of 30 feet and shall be spaced no further than 40 feet apart the entire waterfront of side of the property where buildings are proposed.
- L. Prior to Final Site Plan approval, the applicant shall gain approval of a Hurricane Evacuation Plan and Disaster Plan from the Director of Public Safety.
- M. The median strip on the extension of El Conquistador Parkway from 53<sup>rd</sup> Avenue West and 75<sup>th</sup> Street West to the end of construction shall be landscaped with 2 rows of canopy trees spaced 30' on center, and to include a hedge that will achieve a height of 42" and 80% opacity within 2 years of planting. Palm trees may be used in the median landscaping provided the palms are in addition to the required canopy trees. This landscaping shall be installed prior to the first Certificate of Occupancy on this site. The median landscaping shall utilize the reclaimed water system for irrigation if available and approved by the Manatee County Utilities Operations Department. Should reclaimed lines not be available, then the lowest quality water available shall be used for on-site irrigation.
- N. Prior to the first Certificate of Occupancy for a dwelling unit, a commercial grade tot lot with benches and shade trees shall be provided.
- O. The developer shall prepay all educational facilities impact fees prior to obtaining the first building permit for a dwelling unit. Payment shall be made at the prevailing educational facilities impact fee rate as of the day of payment.
- P. The seven buildings fronting the bay shall consist of 3 and 4 stories over parking, to be constructed in substantial conformance with the elevations and renderings entered into the record for this case (Attachment #1). The maximum height of the seven buildings shall not exceed 59' above the base flood elevation as defined by the Land Development Code. The three story segment shall step down with a maximum height of 47' 6" above base flood elevation as measured by the Land Development Code.

2. Transportation

- A. Prior to Final Site Plan approval, additional right-of-way adjacent to the site to achieve a 60 foot half right-of-way for El Conquistador Parkway shall be dedicated to Manatee County.
- B. 1. Prior to the first certificate of occupancy for a residential unit, El Conquistador Parkway (hereinafter "ECP") shall be designed as a 4 lane divided roadway from the intersection of 53<sup>rd</sup> Avenue West and 75<sup>th</sup> Street West to the South project boundary and shall be constructed as a divided roadway from the intersection of 53<sup>rd</sup> Avenue West and 75<sup>th</sup> Street West to the project entrance, as approved by the Board of County Commissioners.

2. Prior to the first certificate of occupancy for a residential unit, the project entrance shall be designed and constructed to facilitate cross access between the project and the property to the North.
3. Prior to the first certificate of occupancy for a residential unit, the intersection at 75<sup>th</sup> Street West, 53<sup>rd</sup> Avenue West and ECP shall be designed and constructed as a roundabout.
4. Prior to the issuance of a building permit for a residential unit or Final Plat approval, whichever comes first, a letter of credit, bond, or other performance security acceptable to Manatee County ("Performance Security") shall be established in an amount not less than the engineers estimate of the total cost for design, permitting and construction of the segment of ECP extending from the South project boundary to the then current terminus of ECP. The engineer's estimate shall be prepared by the Developer for review and approval by the Manatee County Transportation Director. The engineer's estimate shall include a reasonable cost of inflation. In addition to the provisions for construction cost inflation, the amount of the performance security shall be 130% of the approved estimate, as is normally required for public improvements guaranteed by performance security.
5. Prior to the issuance of a Final Site Plan, the Developer shall submit a traffic study for concurrency review in accordance with the standards and procedures of Manatee County. The Traffic Study and Certificate of Level of Service shall be approved prior to Final Site Plan approval. Nothing in these stipulations or in the Local Government Development Agreement identified in #6 below shall authorize approval of the Certificate of Level of Service that is not in accordance with Manatee County requirements.
6. Prior to the issuance of a Building Permit or Final Plat, whichever occurs first, the Developer and Manatee County shall enter into a local government development agreement (LDA) which provides for the design, permitting and construction of ECP from the South project boundary to its then current southern terminus. The LDA shall provide, at a minimum, that:
  - (i) Developer and its affiliates dedicate to Manatee County, sufficient right of way to achieve a 60 foot half right of way for ECP;
  - (ii) ECP be designed and permitted as a 4 lane divided thoroughfare configuration with roundabouts and other traffic calming features approved by Manatee County, sidewalks and bike lanes on both sides of the roadway, the appropriate design to be approved by Manatee County;
  - (iii) construction of ECP shall be completed prior to December 31, 2008, subject to force majeure; the construction shall be for a two land roadway with the outside lanes constructed. Stormwater for the four lane roadway shall be constructed.
  - (iv) the Developer satisfy interim milestones the failure of which will entitle Manatee County to collect the Performance Security, which milestones shall be acceptable to Manatee County and include minimum dates for completion of preliminary design, application for plan approval and SWFWMD permit, commencement and completion of

construction;

(v) the entire cost of design, permitting and construction shall be paid by Developer, or through issuance of bonds authorized by a community development district established by Manatee County pursuant to Chapter 190, Florida Statutes, upon Developers proper application and shall not be impact fee creditable and;

(vi) In exchange for Developer's agreement to make identified transportation improvements, Manatee County agrees to reserve, for a period not to exceed three years, capacity of the identified transportation improvements for the Developer's project (PDR-03-32(P) Long Bar Pointe, Phase I, Parcel F and such additional capacity as is mutually agreeable for development from adjacent property of the Developer and for such a period of time as may be mutually agreeable.

The terms, provisions and conditions of the LDA shall be acceptable to Manatee County, and no development rights shall be created.

7. At its option Manatee County may expand the local development agreement to include additional property and property owners (covering the area generally south of Cortez Road and North of ECP from 86<sup>th</sup> Street West to 34<sup>th</sup> Street West), all of which may share in the cost of transportation improvements as mutually agreed upon.

8. No certificate of occupancy shall be issued until all road improvements required by these stipulations and any Certificate of Level of Service are completed. Temporary certificates of occupancy may be issued provided performance security is posted and the remaining improvements are considered minimal by the Planning Director and the Transportation Director (i.e. final lift of asphalt in areas where there will be ongoing construction traffic)."

- C. All proposed roads, including El Conquistador Parkway, and driveways shall be constructed so as to be above the 100 year design storm elevation. The design elevation must be approved by and coordinated with the Project Management and Transportation Departments.
- D. Any approved gates or emergency access points within or to the project shall be accessible to emergency service providers by either a remote control or siren activated system. Prior to Final Site Plan approval, the applicant shall receive written approval from EMS and the Fire Marshall approving the proposed system.
- E. The cul-de-sac south of Building 32 shall be eliminated and the driveway shall be extended to El Conquistador Parkway.

3. Environmental

- A. All exotic nuisance plant species shall be removed from upland portions of the site prior to the issuance of the first Certificate of Occupancy, 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; (2) treated 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.

- C. Unless otherwise approved by the Environmental Management Department, native or drought tolerant landscape materials shall be utilized. The developer and future owners of the site shall be required to participate in the Florida Yards and Neighborhood Program.
- D. The applicant shall install wetland information signs at representative sites within common areas readily viewed by residents. Wetland information signs are in addition to the "Conservation Area" signs required by Section 719.11.1.3.3. of the Land Development Code. The signs should explain the purpose, importance, and need for preserving wetlands and wetland buffers. The location and details of such signs shall be shown and approved by the EMD with the Final Site Plan.
- E. Prior to the first Certificate of Occupancy, a Conservation Easement for the areas defined as post-development jurisdictional wetlands and wetland buffers shall be dedicated to the County in accordance with Section 719.11.1.3 of the LDC. The conservation easement shall include language which clearly prohibits the trimming or cutting of mangroves.
- F. Prior to commencement of construction or land clearing, an Erosion and Sediment Control Plan (ESCP) shall be submitted to the EMD for review and approval pursuant to Section 508.3.4.7.j. of the LDC. Final Site Plans, Construction Plans, ERP, and NPDES permit approvals must be obtained prior to submittal of the ESCP.
- G. An integrated Pest Management Plan (IPM) for the application of fertilizers, pesticides, and herbicides shall be submitted to the EMD 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.
- H. A Construction Water Quality Monitoring Program and proposed sampling locations shall be submitted to the EMD for review and approval prior to any land clearing activities, or Final Site Plan approval, whichever occurs first.
- I. The entire site shall be evaluated for potential hazardous material locations (i.e., historical cattle dipping vats, underground/aboveground storage tanks, or buried drums), by a qualified environmental consultant. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation/mitigative measures.

J. The development shall comply with all FEMA regulations.

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 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 become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

**PASSED AND DULY ADOPTED**, by the Board of County Commissioners of Manatee County, Florida on the 14<sup>th</sup> day of March, 2006.

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

BY:   
**FIRST VICE-Chairman**

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

BY:   
**Deputy Clerk**





ATTACHMENT "A"  
LEGAL DESCRIPTION.

PARCEL F:

FROM THE SOUTHEAST CORNER OF THE N.W. ¼ OF SECTION 18, TOWNSHIP 35 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA; THENCE N.01°05'49"E., ALONG THE EAST LINE OF SAID N.W. ¼, A DISTANCE OF 58.07 FEET TO THE POINT OF BEGINNING; THENCE S.48°13'52"W., A DISTANCE OF 925.95 FEET; THENCE N.46°11'37"W., A DISTANCE OF 2411.43 FEET; THENCE N.43°48'23"E., A DISTANCE OF 960.15 FEET; THENCE N.69°05'28"E., A DISTANCE OF 593.95 FEET TO THE NORTH LINE OF SOUTH ½ OF THE N.W. ¼ OF SAID SECTION 18; THENCE S.89°32'32"E., ALONG SAID NORTH LINE, A DISTANCE OF 1198.74 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF EL CONQUISTADORY PARKWAY (100 FOOT WIDE) AS RECORDED IN O.R. BOOK 703, PAGE 731, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE S.01°05'49"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 333.84 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 1300.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND THE AFORESAID EXISTING RIGHT-OF-WAY LINE AND THE PROPOSED SOUTHWESTERLY RIGHT-OF-WAY LINE OF EL CONQUISTADOR PARKWAY, THROUGH A CENTRAL ANGLE OF 57°40'05", A DISTANCE OF 1308.45 FEET; THENCE S.48°13'52"W., A DISTANCE OF 756.85 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTION 18, TOWNSHIP 35 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA.

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

CONTAINING 102.37 ACRES, MORE OR LESS.



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 22<sup>nd</sup> day of

MARCH, 20 06

R.B. SHORE  
Clerk of Circuit Court

By: Nancy Harris D.C.

FILED FOR RECORD  
R. B. SHORE



2006 APR -6 AM 8:20

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

FLORIDA DEPARTMENT OF STATE

**Sue M. Cobb**

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

March 28, 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 March 22, 2006 and certified copy of Manatee County Ordinance No. PDR-03-32(P)(R), which was filed in this office on March 24, 2006.

As requested, the date stamped copy is being returned for your records.

Sincerely,

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

Liz Cloud  
Program Administrator

LC/mp

Enclosures