

MANATEE COUNTY ORDINANCE

Y 14 PM 4: 39 PDR-03-53(P)(R2) - NEAL COMMUNITIES OF SOUTHWEST FLORIDA/FOREST CREEK
2007 MAY 14 PM 4: 39

THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RELATING TO LAND DEVELOPMENT AMENDING ORDINANCE NO. PDR-03-53(P)(R) PERTAINING TO APPROXIMATELY 8,890 SQUARE FEET AT 11719 HIDDEN FOREST LOOP IN THE FOREST CREEK SUBDIVISION, IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING REVISED ORDINANCE NO. PDR-03-53(P)(R2) TO BE SUBSTITUTED FOR ORDINANCE NO. PDR-03-53(P)(R), WHICH WAS APPROVED ON JANUARY 5, 2006, TO AMEND STIPULATION #4 TO REDUCE THE FRONT YARD SETBACK FOR LOT #33 FROM 20' TO 15'; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Neal Communities of Southwest Florida (the "Applicant") filed an application to revise a Ordinance previously approved on January 5, 2006 (the "January 2006 Ordinance") pertaining to property at 11719 Hidden Forest Loop in the Forest Creek Subdivision in the PDR (Planned Development Residential) zoning district, this property being more specifically described in Exhibit "A", attached hereto; and

WHEREAS, the Ordinance revises Stipulation #4 to reduce the front yard setback for lot #33 from 20' to 15'; and

WHEREAS, the Applicant also filed a request for Specific Approval for alternatives to Section 907.9.4.2 and 604.10.3.6 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the Ordinance to revise Stipulation #4 to reduce the front yard setback for lot #33 from 20' to 15'; and

WHEREAS, the Board of County Commissioners of Manatee County held a public hearing on May 3, 2007 after due notice, considered the criteria set forth in the Manatee County Land Development Code, and approved the revised Ordinance and 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 zoning ordinance and site plan, 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 the application for

a revised Ordinance 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 May 3, 2007, 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 Preliminary Site Plan 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 JANUARY 2006 ORDINANCE:

Ordinance No. PDR-03-53(P)(R) is hereby amended to substitute Ordinance No. PDR-03-53(P)(R2) to amend Stipulation #4 to reduce the front yard setback for lot #33 from 20' to 15' upon the property described in Exhibit "A", subject to the stipulations contained herein. The Board hereby GRANTS Specific Approval for alternatives to Sections 907.9.4.2 and 604.10.3.6 of the Land Development Code subject to the stipulation contained herein. The Board hereby GRANTS Special Approval for a density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category; subject to the following Stipulations;

STIPULATIONS

1.a. A minimum 50-foot wide roadway buffer shall be provided along all property lines adjacent to U.S. 301 and Red Rooster Road. The required landscaping in the roadway buffer, as specified in the following, shall provide 85% opacity to a height of six (6) feet as viewed from the adjacent roadway within three (3) years from the date of the first Final Subdivision Plat.

Tree Plantings in long, straight lines are prohibited in required landscape areas. Tree plantings shall be staggered and clustered in natural, rather than formal arrangements. As such, the plant spacing standards referenced below are more so for the purposes of quantifying required plantings than for actual spacing of plants:

- (1) Canopy trees. Two (2) rows of canopy trees which meet the following minimum standards:
 - (i) four (4) inch caliper;
 - (ii) fifteen-sixteen (15 – 16) feet in height;

- (iii) six (6) feet spread; and
 - (iv) off-set thirty (30) feet on center in each row.
- (2) Understory evergreen trees. Two (2) rows of understory evergreen trees which meet the following minimum standards:
 - (i) two (2) inch caliper;
 - (ii) six (6) feet in height;
 - (iii) three (3) feet spread;
 - (iv) off-set thirty (30) feet on center in each row.
- (3) Evergreen shrubs. Two (2) rows of evergreen shrubs (33 shrubs total per 100 linear feet) which meet the following minimum standards:
 - (i) three (3) feet in height; and
 - (ii) thirty (30) inch spread.

Plantings in required landscape areas shall be with plant species that are native to Florida. In addition to prohibited plant species listed in Section 715.4.D, the following coastal plant species shall not be planted in required landscape areas: beach sunflower; buttonwood; seagrape; and sea oxide daisy.

To prevent monocultures, a minimum of three (3) different species for each plant category (e.g., canopy tree, understory tree, and shrub) shall be planted within required landscape areas. A maximum of twenty (20) percent of all required trees may be native palm trees transplanted on-site. When palm trees are utilized as canopy trees, a minimum of two (2) palms in a grouping will serve as the equivalent of one (1) canopy tree. Intermittent, gentle contouring of soil to achieve a natural appearance and to facilitate drainage and air flow is permitted in buffer and greenbelt areas provided that individual contours do not exceed a slope of five (5) percent, a height of two and a half (2.5) feet; and a length of eight (8) feet. Contours shall not be located so as to affect the viability of protected trees. Contours shall not be factored into opacity calculations.

Meandering sidewalks or trails within roadway buffers are permitted and encouraged, subject to approval by the Planning Department.

1.b. Except as otherwise required by Stipulations 1.a and 1.c a 20 feet wide greenbelt buffer shall be provided along all property lines. The greenbelt buffers shall be as follows:

Width – 20 feet

Evergreen Canopy Trees:

- 3 per 100 linear feet
- 4 inch caliper
- 15 – 16 feet at time of planting
- 6 foot spread at time of planting

Evergreen Shrubs:

- 33 per 100 linear feet
- 36 inches at time of planting
- 30 inches spread at time of planting

1.c. A 20' perimeter greenbelt buffer shall be provided adjacent to Kingsfield and Kingsfield Lakes Subdivisions (except for wetlands or roadway buffers). This buffer shall be planted with 3 evergreen canopy trees per 100 linear feet (4" caliper, 15 – 16 feet in height, with a 6 foot spread) and a hedge (36" in height at planting and 36" on center) prior to first Final Subdivision Plat approval. The required landscaping shall consist of native or naturalized species typically found in the Parrish area (canopy tree and plant species to be approved by the Planning Department) and shall provide 85% opacity to a height of 6 six feet within three years from the date of the first Final Subdivision Plat approval.

1.d. Annual reports by a Landscape Architect shall be submitted to the Planning Department to demonstrate that the required canopy trees and hedges are growing at rate to achieve the height and opacity requirement. If the annual report identifies that required landscaping has died or will not achieve the required height and opacity requirements, additional plantings shall be added as approved by the Planning Department. Annual reports shall be provided until the turnover of the subdivision to Homeowner's Association. Also, a private improvement bond shall be provided for required landscaping and only released after certification provided by a landscape architect and approved by the Planning Department that the required height and opacity has been achieved.

1.e. Overhead power lines or detention or retention ponds shall not be located within the landscape buffers, greenbelts, or tree stands designated for preservation.

1.f. Existing native vegetation and tree groupings within upland areas of the site along the perimeter roadway buffers shall be preserved to fulfill screening requirements, not including wetlands.

1.g. Existing vegetation within the roadway, greenbelt buffers, and tree and native plant preservation areas shall not be disturbed and shall remain in a natural state (plant communities shall be preserved at all times) and only required landscaping shall be maintained and pruned in a manner that preserves the natural shape and growth characteristics of the species. Pruning that lollipops or grossly alters the natural characteristic form is prohibited.

2. At the time of Final Plat approval all lots adjacent to land zoned A-1 or A must have a rear lot line of 70 feet.
3. At the time of Final Plat approval the minimum lot size for perimeter lots adjacent to A or A-1 zoning shall be 7,475 sq. ft.
4. Setback shall be as follows:

SINGLE-FAMILY DETACHED:

Front:	20' / 15' for Lot 33 only
Side:	7.5'
Rear:	15'

*15' setback from all wetland buffers.

** All structures shall have a waterfront setback of 30'.

SINGLE-FAMILY ATTACHED:

Front:	20'
Side:	0'/10' End Units
Rear:	15'

*15' setback from all wetland buffers.

** All structures shall have a waterfront setback of 30'.

RECREATIONAL STRUCTURES AND FACILITIES:

All recreational structures of facilities shall meet a 30' setback from the right-of-way.

ADJACENT TO ACTIVE AGRICULTURE:

All lots adjacent to active agricultural operations shall have an additional 35' setback. If an adjoining agricultural operation is permanently discontinued at the time of submittal of the Final Plat, then the requirements of Section 702.6.7 shall no longer apply, and the additional 35' setback may be eliminated from the Final Plat.

5. 3" caliper canopy trees shall be planted one every 30' at a height of 12' with a 5' spread in the main rec area of the site. Also, a hedge shall be installed within the roadway buffer and the parking lot shall be screened in accordance with Section 715 of

the Land Development Code requirements.

6. The centrally located recreational area of the project shall include a commercial grade tot lot, 50' x 50' multi-purpose court, swimming pool, benches, and 5 shade trees.

7. All buildings on perimeter lots along U.S. 301 and Red Rooster Road shall be restricted to one story and a maximum height of 22', as building height is defined in the Land Development Code. Any pool cages or other screened cages shall not exceed the height of the home and shall utilize materials of a dark color such as black or bronze. This condition shall be reflected in the covenants and restrictions for the subdivision.

8. The applicant shall be responsible for bringing County water and sewer to the site. This approval is contingent upon the site being served by public utilities.

9. The developer shall provide potable water and wastewater collection system stubouts to the development's property limits within all neighborhood ties and at the Red Rooster Road entrance.

10. The lowest quality water possible shall be used for irrigation. In-ground irrigation using Manatee County public potable water supply shall be prohibited, including on individual lots.

11. No lots shall be platted into perimeter buffers, roadway buffers, wetlands, or stormwater retention ponds.

12. A non-ingress egress easement shall be recorded along the frontage of all lots along U.S. 301 and Red Rooster Road prior to or in conjunction with approval of the Final Subdivision Plat for each phase, except for approved entrances.

13. The Engineer of Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow.

14. Prior to Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (e.g., 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 or mitigative measures.

15. Conservation Easements inclusive or areas defined as wetlands, wetland buffers, common areas with tree groupings designated for preservation, and upland preservation shall be recorded concurrently with the Final Plat. The boundaries of conservation areas shall be marked with signs that indicate a Conservation Area. The number and placement of signs shall be approved by the Environmental Management Department with the Final Site Plan approval. The developer shall include information in the deed restrictions concerning the conservation easement, the limitations on use therein, maintenance of the easement area, maintenance of the signs, and the consequences of

violations.

16. Land clearing shall not commence until a Final Site Plan and Construction Plans have been approved. Land clearing, tree removal, or grading shall be limited to the specific phase receiving approval. 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 reviewed and approved by the Environmental Management Department with the Final Site Plan and Construction Plan submittal. Generally, the dripline (one foot for each inch of dbh) of all trees to be retained on site shall be protected from construction activity.

17. Any proposed tree transplanting on site shall be shown on the Final Site Plan and subject to Environmental Management Department approval.

18. All tree grouping areas to be preserved shall be shown on the Final Site Plan and dedicated as conservation easements. No tree removal, stormwater ponds, underground or overhead powerlines, underground utilities, or grading are permitted within the conservation easement.

19. The drainageway along the west property line adjacent to Kingsfield Lakes shall be redesigned to meander around the dripline of the 31" dbh Oak tree.

20. Unless otherwise approved by Environmental Management Department, native xeriscape 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.

21. The Notice-To-Buyers, the sales contract or a separate addendum to the sales contract, and the Final Site Plan shall include language informing prospective homeowners of the presence of neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.

22. The Notice-To-Buyers shall inform homeowners that an inter-neighborhood tie for this project shall connects to a future roadway when development occurs on the property.

23. Structures on site designated for removal on the Preliminary Site Plan shall be removed prior to Final Subdivision Plat approval. Prior to Final Site Plan approval the applicant shall make any required payment to County Affordable Housing Trust Fund or provide a clearance letter from Community Services that the home removed from the site did not qualify as affordable housing.

24. Street lighting for the subdivision shall be limited to a maximum height of 12', with a unified theme. The design and shielding of any on-site lighting within the development shall comply with Section 709.2.2 of the Land Development Code. In addition, any pole or building mounted lights in common areas shall be limited to 12' in height and shall be directed to the interior of the development using horizontal cut-off fixtures. The use of decorative street lights is permitted.

25. Final engineering drainage design shall be approved prior to Final Site Plan approval, including the following:

- a. This project shall be required to provide a 50% reduction in allowable peak discharge.
- b. Drainage modeling and construction plans shall be used to demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.

26. Drainage/maintenance access easements shall be provided on all existing drainage ditches in accordance with LDC Section 907.10.3. Manatee County is only responsible for maintaining the free flow of drainage through these systems. The homeowners' association is responsible for routine maintenance, erosion control, embankment stabilization, beautification, and any other operations that the County is not legally responsible to perform. Also, a maintenance schedule and an engineer's cost estimate for maintenance shall be included in the homeowners' documents.

27. Construction traffic to the site shall not utilize Red Rooster Road until Red Rooster Road is paved in accordance with Stipulation #28, below.

28. Red Rooster Road shall be constructed to County standards from the entrance to Selby Grove to the southern end of this project's frontage on Red Rooster Road. Construction shall be to Manatee County 24' wide paved rural configuration within the right-of-way of Red Rooster Road, meeting county structural standards. Paving shall be completed or guaranteed by performance security prior to Final Subdivision Plat approval of Phase 1. Construction shall be completed prior to issuance of the building permits for any home within 500 feet of the centerline of Red Rooster Road or the building permit for the 101st home within the entire project. In the event that this project receives Final Subdivision Plat approval prior to Selby Grove, then this project shall be responsible for the paving of Red Rooster Road from the south end of the road to the proposed entrance to Selby Grove entrance to U.S. 301. The developer may enter into a Participation Agreement with the developer of Selby Grove to apportion the project between them, however, this shall not delay the construction of the improvement.

29. The final design for this project shall incorporate traffic calming measures along the internal streets to be approved by the Transportations and Planning Departments with the Final Site Plan.

30. The second means of access for the development shall be constructed prior to

Final Plat approval for the 101st platted lot.

31. A 100' half width right-of-way along U.S. 301 shall be dedicated to Manatee County prior to or in conjunction with first Final Plat approval.

32. A Wetland Buffer Restoration Plan should be submitted to the EMD for review with the Final Site Plan in accordance with Section 719.11.2.1 of the LDC. The plan shall include both supplemental plantings and ongoing removal of exotic, nuisance vegetation.

33. Tree barricades for trees to be preserved shall be located at the drip line. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. 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 or other material as approved by EMD.

34. The Final Site Plan shall include details on how proposed swales located within tree preserve areas will be constructed without causing adverse impact to preserved trees.

35. The developer shall require all contractors, subcontractors and construction crews to attend the pre-construction meeting required by Section 508.3.4.7(j). 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.

36. The Final Site Plan and Construction Plan shall show 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.

37. The recreational facility shall be in substantial conformance with the photographs entered into the record of the public hearing for this case.

38. Prior to Final Subdivision Plat approval for Phase 1, the developer shall, upon County request, deed to Manatee County the remainder of the 120' right-of-way along Red Rooster Road, up to 70' as needed, based on the thoroughfare study. The additional right-of-way shall be eligible for impact fee credits or reimbursement as appropriate.

39. The applicant shall make available to Manatee County or FDOT stormwater pond capacity for retention from the future expansion of U.S. 301.

Section 3 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 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 sentence, section, clause, or other such 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.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 3rd day of May, 2007.

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

BY: 
Chairman



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

BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION.

LOT 33, FOREST CREEK PHASE I SECTION 31, TOWNSHIP 33 S, RANGE 19E AS
RECORDED IN PLAT BOOK 49 PAGES 119 THROUGH 141 OF THE PUBLIC RECORDS OF
MANATEE COUNTY, FLORIDA



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 3rd day of

May, 2007.
H.B. SHORE
Clerk of Circuit Court

By: Diane E. Vollmer D.C.

FILED FOR RECORD
R. B. SHORE

2007 MAY 14 PM 4: 39

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

CHARLIE CRIST
Governor



FLORIDA DEPARTMENT of STATE

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

May 9, 2007

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

Attn: Diane E. Vollmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 3, 2007, and certified copies of Manatee County Ordinance Nos. Z-07-04, Z-07-09, PDR-03-53(P)(R2) and PDC- 06-07(Z)(P), which were filed in this office on May 7, 2007.

As requested, one 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/lbh
Enclosures

DIRECTOR'S OFFICE

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