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R. B. SHORE

2010 SEP 14 PM 1:13

CLERK OF DISTRICT COURT  
MANATEE CO. FLORIDA

**MANATEE COUNTY ORDINANCE**

**PDR-04-55(P)(R) – HBT OF EAGLE POINTE, LLC DTS#20100111**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT APPROVING AN AMENDED ZONING ORDINANCE AND REVISED PRELIMINARY SITE PLAN REDUCING THE REQUIRED SIDE SETBACKS FOR SINGLE-FAMILY DWELLING UNITS, ADDING A NEW STIPULATION REGARDING SEPARATION BETWEEN ACCESSORY EQUIPMENT AND STRUCTURES, AND DELETING A STIPULATION REGARDING EDUCATION FACILITY IMPACT FEES IN EAGLE POINTE SUBDIVISION ON APPROXIMATELY 679 ACRES LOCATED ON THE EAST SIDE OF CARTER ROAD, NORTH OF MOCCASIN WALLOW ROAD, AND SOUTH OF BUCKEYE ROAD, IN THE PDR/NCO (PLANNED DEVELOPMENT RESIDENTIAL/NORTH CENTRAL OVERLAY) ZONING DISTRICT; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, HBT of Eagle Pointe, LLC (the "Applicant") filed an application for a revised Preliminary Site Plan for approximately 679 acres described in Exhibit "A", attached hereto, (the "Property") to approve a revised Preliminary Site Plan reducing the required side setbacks for single-family dwelling units, adding a new stipulation regarding separation between accessory equipment and structured, and deleting a stipulation regarding education facility impact fees in the Eagle Pointe Subdivision located on the east side of Carter Road, north of Moccasin Wallow Road, and south of Buckeye Road in the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district; and

**WHEREAS**, Planning Department staff recommended approval of the revised Preliminary Site Plan; application 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 August 12, 2010 to consider the revised Preliminary Site Plan, 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 application consistent with the Manatee County Comprehensive Plan, and the Manatee County Land Development Code, recommended approval subject to the stipulations contained 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

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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 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 August 12, 2010 regarding the proposed revised Preliminary Site Plan 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. PRELIMINARY SITE PLAN.** The revised Preliminary Site Plan is hereby approved subject to the following Stipulations:

#### **STIPULATIONS**

- 1. Prior to Final Plat approval for the lots in the northwest portion of the project, near Carter Road and identified as being within the projected Leq (design hour) 65 dBA contour, a 12 foot high wall and berm shall be installed. To avoid conflict with the intent of the North County Overlay requirements, the wall and at least 75 percent of the berm shall be setback a minimum of 50 feet from Carter Road.  
  
The wall shall be painted a muted earth tone color and landscaping shall be placed on the Carter Road side of the wall and berm.
- 2. The site plan shall be designed in accordance with Habitat Management Guidelines for the Bald Eagle in the southeast Region, as amended, or a Habitat Management Plan for Bald Eagles, approved by the U.S. Fish and Wildlife Service, and Planning prior to Final Site Plan approval.
- 3. A Well Management Plan shall be submitted to the Planning and Environmental Management Departments prior to Final Site Plan approval. The Well Management Plan shall include identification of which wells are to be retained or abandoned; the timing of abandonment; wellhead protection details for those wells to remain and a copy of all Water Use Permits, if applicable.
- 4. The Phase I Environmental Assessment for this project identified contamination that exceeds State Soil and Groundwater Cleanup Target Levels (SCTL). A "Remediation Plan" approved by the DEP shall be provided to the Planning and the Environmental Management Departments prior to Final Site Plan approval. Prior to commencement of land clearing/construction activities, the site shall be remediated in accordance with DEP requirements. The "No Further Action" order shall be

submitted to the Planning and Environmental Management Departments with the required Erosion and Sediment Control Plan.

5. 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. 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 the Planning Department. Trees that cannot be adequately protected should be accounted for in the tree removal/replacement matrix.
6. Prior to or in conjunction with the Final Plat approval, a Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers, and upland preservation or conservation areas shall be dedicated to the County.
7. All pedestrian paths and trails shall be at least 5 feet wide and be paved or have a 4 inch compacted shell surface, to be approved with the Final Site Plan. If mulch is to be utilized, the trail shall be clearly defined by railroad ties on each side.
8. The sidewalk along Carter Road shall be extended north to the northern limits of the FP&L and gas easement.
9. Final engineering drainage design shall be approved prior to Final Site Plan approval, including the following:
  - a.) Any fill within the 100-year floodplain of the 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).
  - b.) There shall be a full 25-year attenuation on all stormwater ponds within the development.
10. This project shall be required to reduce the calculated pre-development flow rate by fifty percent (50%) for all stormwater outfall flow directly or indirectly into Buffalo Canal. Modeling shall be used to determine pre- and post- development flows.
11. Flowage Easements shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats along all drainage conveyance systems within the project boundaries. In addition, a twenty (20) foot Drainage-Maintenance Access Easement shall be provided along at least one side of these systems. Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Manatee County is only responsible for maintaining the free flow of drainage through these systems. The Homeowner's

Association(s) or Community Develop District(s) (CDD) shall be responsible for routine maintenance. A maintenance schedule and an engineer's cost estimate for maintenance shall be included in the homeowner's documents.

12. The Drainage Model and Construction Plan shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.
13. Based on the environmental assessment provided by the applicant, this property appears to contain levels of contamination (petroleum) above the residential soil cleanup levels (SCTL's) contained within Chapter 62-777 F.A.C. Prior to Final Site Plan approval, the entire site shall be re-evaluated to determine the level of contamination and appropriate remediation/mitigative measures as approved by the Environmental Management Department Director. Copies of a remediation/mitigation plans along the approvals by appropriate State or Federal agencies shall be provided to the Planning Department. All remediation/mitigation activities shall be completed prior to commencement of construction. All remediation plans shall be reviewed and approved by the Environmental Management Department Director.
14. A Certificate of Level of Service may be issued for an extended period of time with approval of a Local Development Agreement providing for same. The Local Development Agreement shall include dedication of right-of-way without payment or impact fee credits.
15. The project will be subject to school concurrency requirements as applicable upon adoption.
16. There shall be a minimum ten (10) foot separation between accessory equipment (e.g. air conditioner units, heat pumps, pumps, etc.) and structures alongside adjoining houses with a 5-foot yard setback.

**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, sentence, clause, 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. 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 5. 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 2<sup>nd</sup> day of September, 2010.

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

BY:

  
Donna G. Hayes, Chairman

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

BY:

  
Deputy Clerk



EXHIBIT "A"

A parcel of land lying in Sections 10, 11, 12, 13, 14 and 15, Township 33 South, Range 18 East, Manatee County, Florida and described as follows:

Commence at the Southeast corner of the above mentioned Section 14; thence N.89°33'52"W., along the south line of said Section 14, a distance of 1349.57 feet; thence N.00°26'08"E., a distance of 36.57 feet to the north right-of-way line of Moccassin Wallow Road (80-foot wide public right-of-way) as recorded in Official Record Book 276, Page 534 and 535, Public Records of Manatee County, Florida for a POINT OF BEGINNING; thence N.89°31'43"W., along said north right-of-way line, a distance of 1,365.81 feet; thence N.01°09'03"E., a distance of 1,002.43 feet; thence N.89°34'09"W., a distance of 2,177.48 feet to the east maintained right-of-way line of Carter Road (variable width public right-of-way) as recorded in Road Plat Book 1, Page 167 through 180 as recorded in the above mentioned Public Records; thence along said east right-of-way line for the following six (6) calls; (1) thence N.01°12'56" E., a distance of 2,327.69 feet; (2) thence N.08°32'03"W., a distance of 220.12 feet; (3) thence N.00°33'05"W., a distance of 423.44 feet; (4) thence N.00°02'42"W., a distance of 1,311.01 feet; (5) thence N.13°20'34"E., a distance of 62.95 feet; (6) thence N.00°20'02"W., a distance of 443.35 feet to a point on the southeasterly right-of-way line of a 100-foot wide frontage road as shown on the Interstate 75 (State Road 93-A) Section 13075-2406; thence along said southeasterly right-of-way line for the following five (5) calls; (1) thence S.89°39'58"W., a distance of 5.06 feet to the point of curvature of a non tangent curve to the right, of which the radius point lies N.89°48'23"E., a radial distance of 522.96 feet; (2) thence northeasterly along the arc of said curve, through a central angle of 50°51'18", an arc length of 464.17 feet to the point of reverse curvature of a curve to the left having a radius of 7,869.44 feet and a central angle of 12°28'06"; (3) thence northeasterly along the arc of said curve, a distance of 1,712.50 feet to the point of tangency of said curve; (4) thence N.38°11'35"E., a distance of 284.21 feet to the point of curvature of a non tangent curve to the right, of which the radius point lies S.51°48'28"E., a radial distance of 522.96 feet; (5) thence northeasterly along the arc of said curve, through a central angle of 05°44'15", an arc length of 52.37 feet to the end of said curve; thence S.89°30'38"E., a distance of 3,363.55 feet; thence S.00°35'36"W., a distance of 50.00 feet; thence N.89°40'58"E., a distance of 681.10 feet; thence S.00°51'11"E., a distance of 837.77 feet; thence S.51°56'49"W., a distance of 720.90 feet; thence S.15°39'42"W., a distance of 1,006.40 feet; thence S.24°40'05"W., a distance of 1,179.84 feet; thence S.49° 28'48"W., a distance of 801.72 feet; thence S.44° 05'02"E., a distance of 606.86 feet; thence S.11° 48'52"W., a distance of 947.23 feet; thence S.52° 54'09"W., a distance of 554.62 feet; thence S.00° 08'59"E., a distance of 2,086.61 feet to the POINT OF BEGINNING.

Containing 29,589,993 square feet or 679.2938 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 21st day of September, 20 10  
R.B. SHORE  
Clerk of Circuit Court  
By: Urbis J. Sosa a.c.



## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

**STATE LIBRARY AND ARCHIVES OF FLORIDA**

**DAWN K. ROBERTS**  
Interim Secretary of State

September 9, 2010

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

Attention: Ms. Vicki Tessmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 2, 2010 and certified copies of Manatee County Ordinance Nos. 10-16, PDR-03-41(P)(R), PDR-10-05(Z)(G), PDMU-10-08(Z), Z-10-04, PDR-04-55(P)(R), Z-10-03 and 10-58, which were filed in this office on September 7, 2010.

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

Sincerely,

Liz Cloud  
Program Administrator

LC/srd  
Enclosure

### DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT  
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STATE ARCHIVES OF FLORIDA  
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LEGISLATIVE LIBRARY SERVICE  
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850.245.6270 • FAX: 850.245.6282

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CLERK OF CIRCUIT COURT  
MANATEE CO FLORIDA