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R. B. SHORE

2006 NOV -1 PM 2: 38

MANATEE COUNTY ZONING ORDINANCE  
PDR-04-55(Z)(P) – HBT OF EAGLE POINTE, LLC

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY, ORDINANCE NO. 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF APPROXIMATELY 114.52 ACRES GENERALLY LOCATED EAST OF CARTER ROAD, NORTH OF MOCCASIN WALLOW ROAD, AND SOUTH OF BUCKEYE ROAD FROM THE A/NCO (GENERAL AGRICULTURE/NORTH CENTRAL OVERLAY DISTRICT) ZONING DISTRICT TO THE PDR/NCO (PLANNED DEVELOPMENT RESIDENTIAL/NORTH CENTRAL OVERLAY DISTRICT) ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW 1,072 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIAL APPROVAL FOR A DENSITY EXCEEDING 1 DWELLING UNIT PER ACRE IN THE UF-3 FUTURE LAND USE CATEGORY AND AN ENTRANCEWAY; GRANTING SPECIFIC APPROVAL FOR SECTION 604.10.3.3 OF THE LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS; PROVIDING FOR A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, HBT of Eagle Pointe, LLC (the "Applicant") has filed a rezone application to rezone approximately 114.52 acres described in Exhibit "A", attached hereto, (the "Property") from the A/NCO (General Agriculture/North Central Overlay) zoning district to the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district; and

**WHEREAS**, the Applicant has also filed a preliminary site plan application on approximately ± 679 acres described in Exhibit "B" to allow 1,072 lots for single-family detached residences (the "Project") to be located upon the Property; and

**WHEREAS**, the Applicant has also filed a request for Special Approval to allow a density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category and an entranceway; and

**WHEREAS**, Planning staff recommended approval of the rezone and preliminary site plan applications, subject to the stipulations contained in the Planning Staff report; and

**WHEREAS**, the Applicant has also filed a request for specific approval of an alternative to Section 604.10.3.3; and

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held public hearings on April 13, 2006 and May 11, 2006 to consider the rezone, preliminary site plan, specific approval, and special approval applications, received the Planning Staff's recommendations 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 rezone and preliminary site plan 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 of the applications, subject to the stipulations contained in the Planning staff report and the granting of the special approval for a Project with a density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category and an entranceway, and granting the specific approval for an alternative to Section 604.10.3.3 design standards in the North Central Overlay for a 12 foot high berm and wall combination in the buffer adjacent to Carter Road. This noise wall and berm may exceed the maximum contour height of 3 feet, the maximum slope of 20 percent, and the maximum length of 35 feet that are allowed in a 50 foot wide buffer.

**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, application for amendment of the Official Zoning Atlas, 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 Official Zoning Atlas Amendment as it relates to the real property described in Exhibit "A" of this Ordinance from the A/NCO (General Agriculture/North Central Overlay) zoning district to the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on May 4, 2006 and June 1, 2006, regarding said proposed Official Zoning Atlas Amendment 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 said public hearing.

C. The proposed amendment to the Official Zoning Atlas 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.

D. The Board hereby finds that the public purpose and intent of Section 604.10.3.3 of the Land Development Code has been satisfied to an equivalent degree.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved to allow 1,072 lots for single-family detached residences upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval for a Project with a density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category and an entranceway, GRANTS Specific Approval for an alternative to Section 604.10.3.3 design standards in the North Central Overlay for a 12 foot high berm and wall combination in the buffer adjacent to Carter Road, with 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. Prior to the first Final Plat approval, the Developer shall enter into an agreement with the School Board to assure that either 1) the then projected impact fees for the project can be used to bond construction financing by the School Board, or 2) that the then projected impact fees for the project will be pre-paid, with the pre-payment acting as a credit against future fees, without locking in the amount of impact fees when actually assessed.
16. The project will be subject to school concurrency requirements as applicable upon adoption.

**Section 3. AMENDMENT OF THE OFFICIAL ZONING ATLAS.** The Official Zoning Atlas of Manatee County, Ordinance No. 90-01, the Manatee County Land Development Code, is hereby amended by changing the zoning district classification of the Property identified in Exhibit "A" herein from the A/NCO (General Agriculture/North Central Overlay) zoning district to the PDR/NCO (Planned Development Residential, retaining the North Central Overlay) zoning district and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Planning Department, are hereby instructed to cause such amendment to the said Official Zoning Atlas.

**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 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 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 1<sup>st</sup> day of June, 2006, as amended on 24<sup>th</sup> day of Oct, 2006.



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

BY: *Joe McClure*  
Chairman

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

BY: *Susan L. Shore*  
Deputy Clerk

EXHIBIT "A"  
LEGAL DESCRIPTION OF THE PROPERTY BEING REZONED

A PARCEL OF LAND LYING IN SECTIONS 10 AND 11, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID SECTION 10; THENCE N.89°16'41"W., ALONG THE SOUTH LINE OF SAID SECTION 10, A DISTANCE OF 49.57 FEET TO A POINT ON THE WESTERLY MAINTAINED RIGHT-OF-WAY LINE FOR CARTER ROAD AS RECORDED IN ROAD PLAT BOOK 1, PAGE 167, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE ALONG SAID WESTERLY MAINTAINED RIGHT-OF-WAY FOR THE FOLLOWING FIVE (5) CALLS; (1) THENCE N.13°20'34"E., A DISTANCE OF 21.40 FEET; (2) THENCE N.00°20'02"W., A DISTANCE OF 443.35 FEET; (3) 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; (4) THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 50°51'19", AN ARC LENGTH OF 464.17 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 7,869.44 FEET AND A CENTRAL ANGLE OF 11°08'35"; (5) THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 1,530.47 FEET TO THE END OF SAID CURVE; THENCE S.00°08'42"E., A DISTANCE OF 1,960.28 FEET TO A POINT ON THE SOUTH LINE OF THE ABOVE MENTIONED SECTION 11; THENCE N.89°30'38"W., ALONG SAID SOUTH LINE, A DISTANCE OF 1,226.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 37.65 ACRES, MORE OR LESS.

A PARCEL OF LAND LYING IN SECTION 11, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 11; THENCE S.00°35'36"W., ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 11, A DISTANCE OF 310.21 FEET TO THE POINT OF BEGINNING; THENCE S.00°38'52"W., A DISTANCE OF 50.00 FEET; THENCE N.89°41'04"E., A DISTANCE OF 23.17 FEET; THENCE S.01°04'07"W., A DISTANCE OF 1,029.71 FEET; THENCE N.89°00'11"E., A DISTANCE OF 30.00 FEET; THENCE S.01°04'06"W., A DISTANCE OF 618.71 FEET; THENCE S.15°39'42"W., A DISTANCE OF 396.82 FEET; THENCE N.01°04'08"E., A DISTANCE OF 2,080.33 FEET; THENCE S.89°30'38"E., A DISTANCE OF 46.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.57 ACRES, MORE OR LESS.

A PARCEL OF LAND LYING IN SECTION 14, 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 1,349.57 FEET; THENCE N.00°28'17"E., A DISTANCE OF 36.57 FEET TO THE NORTH RIGHT-OF-WAY LINE OF MOCCOSIN 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 THE ABOVE MENTIONED NORTH RIGHT-OF-WAY LINE OF MOCCASIN WALLOW ROAD, 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 EASTERLY MAINTAINED RIGHT-OF-WAY OF CARTER ROAD AS RECORDED IN ROAD PLAT BOOK 1, PAGE 167, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE N.01°12'56"E., ALONG SAID EASTERLY MAINTAINED RIGHT-OF-WAY LINE, A DISTANCE OF 527.30 FEET; THENCE S.89°33'31"E., A DISTANCE OF 3,507.97 FEET; THENCE S.00°08'59"E., A DISTANCE OF 1,529.99 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 73.69 ACRES, MORE OR LESS.

EXHIBIT "B"

LEGAL DESCRIPTION OF ENTIRE PROPERTY

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 27<sup>th</sup> day of

October, 2008

R.B. SHORE  
Clerk of Circuit Court

By: W. J. [Signature] D.C.





STATE OF FLORIDA  
DEPARTMENT OF STATE  
STATE LIBRARY AND ARCHIVES OF FLORIDA

JEB BUSH  
Governor

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R. B. SHORE

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CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA  
SUE M. COBB  
Secretary of State

October 30, 2006

Honorable R. B. "Chips" Shore  
Clerk of Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206  
Attention: 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 October 27, 2006 and certified copies of Manatee County Ordinance Nos. PDR-04-55(Z)(P) and PDR-05-63(P), which were filed in this office on October 30, 2006.

As requested, the date stamped copies are being returned for your records.

Sincerely,

*Liz Cloud* (AK)

Liz Cloud  
Program Administrator

LC/bpn  
Enclosures

DIRECTOR'S OFFICE  
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
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