

MANATEE COUNTY ZONING ORDINANCE
PDR-06-29(Z)(P) -- AVIGNON HOLDINGS, LLC / MONTEUX AT VILLAGES OF AVIGNON

FILED FOR RECORD
R. B. SHORE

2007 FEB -5 PM 3:38

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 56.4 ACRES GENERALLY LOCATED AT THE NORTHEAST CORNER OF 29TH STREET EAST AND 24TH AVENUE EAST APPROXIMATELY ½ MILE WEST OF ELLENTON GILLETTE ROAD, APPROXIMATELY ½ MILE EAST OF 16TH AVENUE EAST (CANAL ROAD), AND 600 FEET SOUTH OF MENDOZA ROAD AT 3002, 3120, AND 3318 24TH AVENUE EAST, AND 2514 29TH STREET EAST, PALMETTO FROM THE A-1 (SUBURBAN AGRICULTURE, ONE DWELLING UNIT PER ACRE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT, APPROVING A PRELIMINARY SITE PLAN FOR 124 SINGLE-FAMILY ATTACHED UNITS AND 104 SINGLE-FAMILY DETACHED RESIDENCES WITH AT LEAST 25% OF THE UNITS DESIGNATED AS AFFORDABLE HOUSING SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Avignon Holdings, LLC (the "Applicant") has filed a rezone application to rezone approximately 56.4 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture, one dwelling unit per acre) zoning district to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the Applicant has also filed a Preliminary Site Plan application for 124 single-family attached units and 104 single-family detached residences with at least 25% of the units designated as affordable housing (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also filed a request for Special Approval for a project: 1) exceeding a gross density of 2 dwelling units per acre in the RES-3 Future Land Use Category; 2) exceeding a net density of 3 dwelling units per acre in the RES-3 Future Land Use Category; 3) exceeding a gross density of 3 dwelling units per acre in the RES-3 for affordable housing bonus; and

WHEREAS, the Applicant has also filed a request for Specific Approval for alternatives to the definition of "Alley" in the Land Development Code, Sections 907.9.3.1, and 722.1.4.3 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications, subject to the stipulations contained in the Planning Staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held public hearings on September 14, 2006 and October 12, 2006 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific 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, the granting of the Special Approval for a Project: 1) exceeding a gross density of 2 dwelling units per acre in the RES-3 Future Land Use Category; 2) exceeding a net density of 3 dwelling units per acre in the RES-3 Future Land Use Category; 3) exceeding a gross density of 3 dwelling units per acre in the RES-3 for affordable housing bonus, and granting the Specific Approval for alternatives to the definition of "Alley" in the Land Development Code, Sections 907.9.3.1, and 722.1.4.3 of the Land Development Code.

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-1 (Suburban Agriculture, one dwelling unit per acre) zoning district to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on October 5, 2006, November 2, 2006, and January 16, 2007, 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. Notwithstanding the failure of this plan to meet the LDC definition of "Alley", the Board finds that the public purpose and intent of the Land Development Code regulations are satisfied because the intent of the definition of "Alley" in the Land Development Code has been met and the 16' wide alleys will provide adequate access to rear garages and maneuverability for emergency vehicles.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.3.1, the Board finds that the public purpose and intent of the LDC regulations are satisfied

to an equivalent degree by the proposed design because a reduction of right-of-way width to 43 feet to preserve trees is an acceptable design for the area designated on the Preliminary Site Plan provided the pavement width is 24 feet.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 722.1.4.3, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree by the proposed design because no homes directly abut the stormwater facility in this area and sidewalks are proposed along the frontages of lots on the opposite side of the street.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved for 124 single-family attached units and 104 detached residences with at least 25% of the units designated as affordable housing upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval for a Project: 1) exceeding a gross density of 2 dwelling units per acre in the RES-3 Future Land Use Category; 2) exceeding a net density of 3 dwelling units per acre in the RES-3 Future Land Use Category; 3) exceeding a gross density of 3 dwelling units per acre in the RES-3 for affordable housing bonus, and GRANTS Specific Approval for alternatives to the definition of "Alley" in the Land Development Code, Sections 907.9.3.1, and 722-1.4.3 of the Land Development Code, with the following Stipulations:

STIPULATIONS

1. All lot owners shall be encouraged to participate in the Florida Yards and Neighborhoods Program. Information shall be provided in the sales office and provided to all lot purchasers.
2. The Notice to Buyers and Final Site Plan(s) shall include language informing prospective home buyers of the location of the following:
 - a) passive parks, open space, and active recreation areas;
 - b) railroad tracks to the east and the presence of possible noises and dangers associated with such use;
 - c) private airstrip to the east and noises associated with such use;
 - d) junk yard to the south and possible adverse impacts associated with such use; and
 - e) neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.
3. A minimum of 57 units (25%) shall be retained as affordable housing. This shall be ensured through the execution of the Land Use Restriction Agreement.
4. All driveways shall be a minimum of 16 feet wide to accommodate the parking of two vehicles side by side.
5. A non-ingress egress easement shall be recorded along the frontage of 29th St. E. and 24th Avenue East with the exception of access points, with the Final Site Plan.
6. A 6' high solid decorative fence (not wood) or wall shall be installed along the south and west perimeters of the project adjacent to 24th Ave E. and 29th St. E. at the locations

shown on the approved Preliminary Site Plan. All required landscaping shall be placed on the exterior side of the fence.

7. A 15-foot wide buffer with a 6' high solid decorative fence (not wood) or wall shall be installed along the north boundary adjacent to larger lots in A-1 zoning district.
8. Prior to Final Plat for Phase 1, 29th St. E. shall be constructed to a paved standard as approved by the Manatee County Transportation Department.
9. Prior to Final Plat for Phase 1, 24th Ave. E. shall be constructed to a paved standard from 28th St. Ct. E. (to the south) to Mendoza Road (to the north), as approved by the Manatee County Transportation Department.
10. The recreational facility shall provide a playground, benches, 5 shade trees, and picnic tables. The details of the type of equipment and layout shall be shown on the Final Site Plan.
11. All trails shall be a minimum 5 feet wide and have an acceptable material (excluding mulch) not likely to blow away or float.
12. All parking lots shall be paved or concrete.
13. Placement of a trail within the wetland buffer may be allowable if the design avoids adverse impacts to existing native vegetation. Locations and details shall be provided with the Final Site Plan and are subject to Planning Department approval.
14. Prior to Final Plat approval, a Conservation Easement for the areas defined as post-development jurisdictional wetlands or wetland buffers shall be dedicated to the County in accordance with LDC Section 719.11.1.3.
15. Final Site Plan or Construction Plan design shall include every effort to retain existing native vegetation within perimeter greenbelt buffers, the rear lots of Lots 101-105 (as shown on the Preliminary Site Plans), and adjacent to 24th Avenue E. Fill slopes and other proposed improvements shall be outside of the driplines of remaining trees where feasible.
16. Prior to Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (e.g., historical cattle dipping vats, underground or 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.
17. All trees within the area proposed for construction activities that are to be preserved shall have protective barricades constructed at their driplines prior to commencement of construction. No improvements, fill, grade changes, or compaction of soil due to heavy machinery will be permitted within the dripline of trees proposed to be preserved.
18. A Water Well Construction Permit must be obtained from the EMD prior to construction of the proposed well(s).

19. A Well Management Plan for the proper rehabilitation or abandonment of existing wells shall be submitted to the EMD for review and approval prior to Final Site Plan approval.
20. The developer shall provide an updated study, consistent with Policy 3.3.2.3 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. A Management Plan, approved by the appropriate State or Federal agency, shall be provided to the Planning Department for any listed species found on-site, prior to Final Site Plan approval.
21. Prior to development related land clearing activities, all applicable County approvals must be obtained through the Planning Department. If burning of trees or branches is required for land clearing, a burn permit must be first obtained from the Environmental Management Department.
22. 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.
23. An Exotic Plant Species Management Plan shall be approved prior to or concurrent with Final Site Plan or Construction Plan approval. The Management Plan shall provide for the continued, phased, removal of nuisance exotic plant species that become reestablished within upland common areas and upland open spaces for the life of the project. Initial removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the Final Plat approval. Exotic plant species removal from upland preserve areas shall be done in a manner which limits the impacts to desirable vegetation.
24. Tree barricades for trees to be preserved shall be located at the drip line unless otherwise approved. 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, and storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height. Alternative barricade methods may be approved with the Final Site Plan on a case by case basis.
25. The applicant shall be responsible for any additional on-site or off-site transportation safety improvements attributable to this project, as determined by the Planning Department.
26. The applicant shall be responsible for any additional on-site or off-site capacity related transportation improvements required as part of a CLOS for this project.
27. All lots shall be graded at minimum to provide positive drainage to the internal drainage system and retention ponds.

28. Any fill within the 25-year floodplains of the Big Chimney Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 25-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
29. There shall be a full 25-year attenuation on all stormwater ponds within the development.
30. The existing 25-year flood elevation from the Big Chimney Drain Study shall be utilized as tailwater condition.
31. All residential lots shall be located outside of the post-development 25-year floodplain.
32. A Drainage Easement from top of bank to top of bank shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat along the lateral canal of Big Chimney Drain within the project boundaries. In addition, a Drainage-Maintenance Access Easement shall be provided along lateral canal of Big Chimney Drain as follows:
 - South of lot 62, as depicted on the PSP, to the southern property line, a 25' Drainage-Maintenance Access Easement from the western top of bank of the Big Chimney Drain westward 25'. This easement is non-exclusive, which allows for the greenbelt buffer to be located with the same easement.
 - North of lot 62 northward to the 90 degree bend, as depicted on the PSP, a 20' Drainage-Maintenance Access Easement from the western top of bank of the Big Chimney Drain westward 20'. This easement is non-exclusive, which allows for the greenbelt buffer to be located with the same easement.
 - Along the east-west lateral Canal of Big Chimney Drain, a 25' Drainage-Maintenance Access Easement shall be provided from the southern top of bank southward for a distance of 25'. This easement shall be on clear and level ground, free of obstructions including landscaping.
 - Along the north lateral canal of Big Chimney Drain north of the east-west lateral canal and south of the wetland buffer, a 25' Drainage-Maintenance Access Easement shall be provided from the western top of bank westward for a distance of 25'. This easement shall be on clear and level ground, free of obstructions including landscaping.

Annual maintenance is the responsibility of the Villages of Avignon Community Development District. A cost estimate for annual maintenance of the above mentioned portions of the lateral canal of Big Chimney Drain will be submitted to Manatee County before final platting. The Community Development District will collect funds equal to or in excess of this estimate to be used for annual maintenance. Manatee County will have no maintenance responsibility for these sections of the drainage system.
33. Existing storage volume in existing wetlands and drainage ditches that are proposed to be permanently impacted shall be compensated with equal or greater volume in the proposed stormwater retention pond.

34. Routing and modeling of the existing conditions shall be provided with the Drainage Model and Construction Plan for all natural drainage systems within and surrounding this project taking into consideration all wetland storage and ground depressions.
 35. This project shall be required to reduce the calculated pre-development flow rate by up to fifty percent (50%) for all stormwater outfall flow directly or indirectly into Big Chimney. Modeling shall be used to determine pre- and post-development flows.
 36. The Drainage Model and Construction Plans shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and site runoff.
 37. A separate plan sheet depicting signing and marking (speed limit, stop, and street name signs, etc.) shall be submitted prior to Final Site Plan or Construction Plan approval.
 38. Prior to Final Plat or Final Site Plan if a Final Plat is not required, the applicant shall enter into a Local Development Agreement or other binding agreement acceptable to the County Attorney for improvements to the intersection of US 301 and Ellenton-Gillette Road and/or improvements to the intersection of US 301 and Canal Road. Said agreement shall provide for mutually agreeable apportionment of costs.
- Staff is authorized to maintain the application of Monteux at the Villages of Avignon in line for concurrency.
39. Prior to or simultaneous with the agreement required by # 38, the applicant or Community Development District shall provide a public access easement or commit to provide such public access easement for recreational purposes in the areas determined by the County as appropriate for connectivity in the areas designated for drainage easements.

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-1 (Suburban Agriculture, one dwelling unit per acre) zoning district to the PDR (Planned Development Residential) 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. 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. 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 6. 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 16th day of January, 2007.



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

BY: *Guendolyne B. Brown*
2ND VICE-**Chairman**

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

BY: *Russell Shore*
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$, SECTION 7, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, LESS RAILROAD AND LESS LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1250, PAGE 737, OFFICIAL RECORDS BOOK 1281, PAGE 379, AND OFFICIAL RECORDS BOOK 1579, PAGE 3359, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

LOT 15, PATTEN'S SUBDIVISION, OF SECTIONS 7 AND 8, TOWNSHIP 34 SOUTH, RANGE 18 EAST, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, ALSO A STRIP OF LAND 1.13 CHAINS WIDE OFF THE EAST SIDE OF LOT 16 OF SAID PATTEN'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 136 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

LOT 16, LESS 1.13 CHAINS OFF THE EAST SIDE, PATTEN'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 136 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LYING AND BEING IN SECTION 7, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

THE NORTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 7, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

THE SOUTH $\frac{1}{2}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 6, TOWNSHIP 34 SOUTH, RANGE 18 EAST, 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 24th day of

January, 2007

R.B. SHORE
Clerk of Circuit Court

By: Robert Shore D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

January 31, 2007

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R. B. SHORE

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

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

Attn: Maggie Hamilton, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 24, 2007, and certified copy of Manatee County Ordinance No. PDR-06-29(Z)(P), which was filed in this office on January 29, 2007.

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

Sincerely,

Liz Cloud
Program Administrator

LC/jru
Enclosures

DIRECTOR'S OFFICE

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