

**MANATEE COUNTY ZONING ORDINANCE
PDR-06-34(Z)(P) – THE PADDOCKS LAND VENTURE / THE PADDOCKS**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 82.04 ACRES ON THE SOUTHWEST CORNER OF THE INTERSECTION OF 36TH AVENUE EAST (ELLENTON-GILLETTE ROAD) AND 37TH STREET EAST (MENDOZA ROAD) AND EXTENDING SOUTH APPROXIMATELY ONE HALF (1/2) MILE TO 29TH STREET EAST AT 2904 & 2920 29TH STREET EAST AND 3503 37TH STREET EAST, ELLENTON FROM A-1 (SUBURBAN AGRICULTURE) TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 264 RESIDENTIAL UNITS, CONSISTING OF 48 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES, 104 SINGLE-FAMILY RESIDENCES ON A SINGLE PARCEL, AND 112 MULTI-FAMILY UNITS FOR A PROJECT DESIGNATED AS WORKFORCE HOUSING WITH AT LEAST 10% (26 UNITS) DESIGNATED AS WORKFORCE HOUSING; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Paddocks Land Venture (the "Applicant") filed an application to rezone approximately 82.04 acres described in Exhibit "A", attached hereto, (the "property") from A-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan application for 264 residential units, consisting of 48 lots for single-family detached residences, 104 single-family residences on a single parcel, and 112 multi-family units for a project designated as workforce housing with at least 10% (26 units) designated as workforce housing (the "project") on the property; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 710.1.5.2, 714.8.7, 715.3.2.C.1.A (adjacent to the railroad and airstrip only), 722.1.4.3, and 907.9.4.1 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, and Specific Approval 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 May 21, 2009 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval, 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 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 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, 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 A-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing June 4, 2009 on regarding the 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 comply with the requirements of LDC Section 710.1.5.2, the Board finds that the public purpose and intent of the LDC regulation is satisfied to an equivalent degree because residents will have control over their individual parking spaces.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 714.8.7, the Board finds that the public purpose and intent of the LDC regulation is satisfied to an equivalent degree because the required number of trees and canopy will be provided.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.2.C.1.A, the Board finds that the public purpose and intent of the LDC regulation is satisfied to an equivalent degree since the adjacent uses are a railroad and airfield which will not benefit from landscaping on the exterior of the wall or fence.

G. 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 this regulation has been satisfied to an equal degree because safe pedestrian access will be provided through the subdivision.

H. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.4.1, the Board finds that the public purpose and intent of the LDC regulation is satisfied to an equivalent degree because a turnaround is provided at 800' which will provide for efficient emergency service.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 264 residential units, consisting of 48 lots for single-family detached residences, 104 single-family residences on a single parcel, and 112 multi-family units for a project designated as workforce housing with at least 10% (26 units) designated as workforce housing upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. A minimum of 10% of the units shall be retained as workforce housing. This shall be ensured through execution of a Land Use Restriction Agreement.
2. The 25' front setback for all units, including multi-family units, shall be measured from the inside edge of the sidewalk (edge closest to the building) to the garage, with a 20' front yard setback to the house.
3. 16' wide driveways shall be provided for all units, including multi-family units.
4. At time of Final Site Plan submittal, a total of 8 surface guest parking spaces (exclusive of any required recreational amenity parking) shall be provided for multi-family buildings 1 through 10. At time of Final Site Plan submittal, a total of 8 surface guest parking spaces (exclusive of any required recreational amenity parking) shall be provided for multi-family buildings 1 through 10. These spaces shall be located generally at the western end of Driveway "L" (which road shall be extended to provide the additional spaces) or along Driveway "L" as parallel spaces between the two proposed lakes.
5. At time of Final Site Plan, the applicant may be required to provide a student pickup and drop off area (bus shelter and turn-around) for the subdivision near Driveway "A" and Ellenton-Gillette Road. The applicant shall coordinate with the School Board to discuss this requirement prior to Final Site Plan approval.
6. At time of Final Site Plan approval, the applicant may swap multi-family building #10 with the clubhouse and pool near multi-family building #11. An amendment to the Preliminary Site Plan will not be required. All provisions of the LDC shall be met at time of Final Site Plan approval.
7. Signs shall be posted at the future neighborhood tie north of multi-family building #14 identifying the future connection. Sign location and content shall be provided with the Final Site Plan for approval by the Planning Department.
8. In exchange for the elimination of the sidewalk on one side of the internal roadways in the multi-family phase and the single-family attached and detached units on one single parcel, the developer shall make a cash contribution in the amount of \$71,750.00, to the Sidewalk Fund, to be utilized by Manatee County to provide sidewalks in the vicinity.

This contribution shall be made prior to Final Plat Approval for the single-family phase.

B. STORMWATER CONDITIONS:

1. Any fill within the 25-year floodplain 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).
2. The ditch along the north side of 29th Street East from the east property line to the existing ditch crossing 29th Street to the west of the cul-de-sac entrance shall be piped.
3. 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 Big Chimney Drain. Modeling shall be used to determine pre- and post- development flows.

C. BUFFERS:

1. A fence or wall (meeting the requirements of Section 715.3.2 of the LDC) shall be installed along the west perimeter of the project from 29th Street East to the north side of multi-family building #3, just south of the stormwater pond. A gate shall be provided to allow pedestrian access to the future Ellenton-Willow Trail. The fence or wall may be placed as necessary to retain existing vegetation. In such instances, required plantings for this buffer may be on the interior of the fence or wall. The location of the fence or wall and landscaping shall be reviewed and approved by the Planning Department at time of Final Site Plan.
2. A fence shall be installed on both sides of the aircraft landing field with no trespassing or private property signs. The fence shall be constructed to prohibit small pets and children from entering the aircraft landing field.
3. A fence or wall shall be required within the greenbelt buffer extending from Mendoza Road to Ellenton-Gillette Road (northeast corner) and from Ellenton-Gillette Road (near Buildings S46 and 47) west and south to Lot #29 near 29th Street East. Landscaping shall be installed per the approved Preliminary Landscape Plans with all plantings on the exterior of the fence or wall. Posts for the fence or wall shall be a minimum of 8' on-center to minimize impacts to tree root zones. Trenching for any foundations for walls shall be avoided. The Planning Department shall review the location of the fence or wall in-relation to existing trees with the Final Site Plan.

D. ENVIRONMENTAL CONDITIONS:

1. Restoration of the preserve area as shown on the Preliminary Site Plan shall be in accordance with the Habitat Restoration Plan provided to EPD by Steinbaum and Associates, Inc. dated September 3, 2007. Changes to species in the plan may be made in the future subject to approval by EPD staff. The restoration activities shall be completed or bonded prior to Final Plat approval.

2. Tree replacement for this project shall be accomplished, to the greatest extent possible, within the revegetation area, through upsizing of canopy trees proposed in the “revegetation plan” to 3” caliper to meet the minimum replacement tree size as well as through planting of additional trees in this area, to be reviewed with the Final Site Plan and approved by staff.
3. Prior to Final Site Plan approval the applicant and staff shall assess the health and species of trees that fall at the backs of lots and between lots and storm water areas to allow for additional preservation of significant trees on-site. Adjustments to storm water ponds and use of stem wall or retaining walls along the backs of lots may be utilized to achieve this additional tree preservation and details of such shall be shown on the Final Site Plan.
4. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or storm water facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.
5. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. 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.
6. An ERP approved by SWFWMD shall be provided to the EPD for review prior to Final Site Plan approval.
7. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas shall be dedicated to the County prior to or concurrent with Final Plat approval.

E. RECREATIONAL:

1. A trail with signs to identify the trail location shall be provided north of multi-family building #3 to the west property line to provide connection to the future Ellenton-Willow Trail. The trail and signs shall be shown on the Final Site Plan.

F. NOTICES:

1. The Notice to Buyers 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, and shall include language informing prospective homeowners in the project of:
 - a. The location of the inter-neighborhood tie and the potential for future traffic through the subdivision;
 - b. The location of the airstrip and the potential for noise and dangers associated

- with such use;
- c. The location of the railroad and potential for noise;
- d. The location of the Ellenton-Willow Trail of the Manatee County Greenways Master Plan, on a map;
- e. The location of the 25-year floodplain relative to the project; and
- f. The potential uses associated with surrounding agriculture zoning which may have a negative impact on residences (e.g., noise and odor).

Section 3. SPECIFIC APPROVALS. Specific Approval is hereby granted for alternatives to Sections 710.1.5.2, 714.8.7, 715.3.2.C.1.A (adjacent to the railroad and airstrip only), 722.1.4.3, and 907.9.4.1 of the Land Development Code. This Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

Section 4. 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 classification of the property identified in Exhibit "A" herein from A-1 (Suburban Agriculture) 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 Official Zoning Atlas.

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, clause, sentence, 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. 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 7. 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 4th day of June, 2009.

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

BY: *Dr. Gwendolyn Y. Brown*
Dr. Gwendolyn Y. Brown, Chairman

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

BY: *Susan L. Romine*
Deputy Clerk

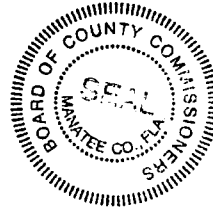


EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND LYING AND BEING IN SECTIONS 5, 6, 7, & 8, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE COMMON SECTION CORNER OF SAID SECTIONS 5, 6, 7, & 8; THENCE S00°35'37"E ALONG THE EAST LINE OF SAID SECTION 7 AND THE WEST LINE OF SAID SECTION 8, A DISTANCE OF 1216.99 FT. TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 29TH STREET EAST, SAID POINT BEING THE POINT OF BEGINNING; THENCE N89°50'38"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 77.00 FEET; THENCE N88°03'44"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 485.41 FEET; THENCE N00°34'48"W, 645.15 FEET; THENCE N89°57'01"E, 171.60 FEET; THENCE S00°31'26"E, 150.00 FEET; THENCE N89°52'27"E, 286.36 FEET; THENCE N00°53'36"W, 382.30 FEET; THENCE S89°45'36"W, 79.95 FEET, THENCE N21°23'24"W, 343.75 FT. TO A POINT ON THE NORTH LINE OF AFOREMENTIONED SECTION 8; THENCE N89°54'16"E, ALONG SAID NORTH LINE, A DISTANCE OF 320.05 FT. TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF ELLENTON-GILLETTE ROAD; THENCE N00°25'53"E, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1275.24 FT. TO A POINT, HEREINAFTER REFERRED TO AS POINT "A", ON THE SOUTH RIGHT-OF-WAY LINE OF MENDOZA ROAD; THENCE S90°00'00"W, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 782.89 FT. TO THE EAST LINE OF A 105 FT. WIDE LANDING STRIP; THENCE S19°02'44"W, ALONG THE SAID EAST LINE, A DISTANCE OF 2750.12 FT. TO A POINT ON THE AFOREMENTIONED NORTH RIGHT-OF-WAY LINE OF 29TH STREET EAST; THENCE N89°20'01"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 478.15 FT.; THENCE N45°38'24"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 96.93 FT. TO A POINT ON THE AFOREMENTIONED EAST LINE OF SECTION 7; THENCE N00°35'37"W, ALONG SAID EAST LINE, A DISTANCE OF 36.00 FT. TO THE POINT OF BEGINNING.

LESS A CERTAIN PARCEL, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT AFORESAID POINT "A" FOR A POINT OF BEGINNING; THENCE S90°00'00"W, ALONG THE SOUTH RIGHT-OF-WAY LINE OF MENDOZA ROAD, A DISTANCE OF 300.01 FT.; THENCE S00°25'53"W, A DISTANCE OF 300.01 FT.; THENCE N90°00'00"E, A DISTANCE OF 300.01 FT TO THE INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF ELLENTON-GILLETTE ROAD; THENCE N00°25'53"E, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 300.01 FT. TO THE POINT OF BEGINNING.

TOGETHER WITH:

THAT PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF ABANDONED SEABOARD COAST LINE RAILROAD.

TOGETHER WITH:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 7, TOWNSHIP 34 SOUTH, RANGE 18

EAST, MANATEE COUNTY, FLORIDA; THENCE S89°36'13"W, ALONG THE NORTH LINE OF SAID SECTION 7, A DISTANCE OF 188.13 FT. TO THE WESTERLY RIGHT-OF-WAY LINE OF A LANDING STRIP FOR A POINT OF BEGINNING; THENCE CONTINUE S89°36'13"W, ALONG SAID NORTH LINE, A DISTANCE OF 471.87 FT, TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7; THENCE S00°14'44"E, A DISTANCE OF 1323.00 FT. TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE S89°57'47"E, ALONG SAID SOUTH LINE, A DISTANCE OF 8.34 FT. TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED LANDING STRIP; THENCE N19°02'44"E, ALONG THE WESTERLY BOUNDARY LINE OF SAID LANDING STRIP, A DISTANCE OF 1403.06 FT. TO THE POINT OF BEGINNING.

SUBJECT TO

AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY: COMMENCE AT THE COMMON SECTION CORNER OF SECTIONS 5, 6, 7 AND 8, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE S00°35'37"E, ALONG THE EAST LINE OF SAID SECTION 7, A DISTANCE OF 1216.99 FT. TO A CONCRETE MONUMENT; THENCE CONTINUE S00°35'37"E TO THE NORTH RIGHT-OF-WAY LINE OF 29TH STREET EAST, A DISTANCE OF 36.00 FEET; THENCE S45°38'24"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 96.93 FT.; THENCE S89°20'01"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 564.69 FT. FOR A POINT OF BEGINNING; THENCE CONTINUE S89°20'01"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 25.00 FT.; THENCE N19°02'44"E, 74.12 FT.; THENCE S00°39'59"E, 69.78 FT. TO THE POINT OF BEGINNING.

ALL OF THE ABOVE BEING AND LYING IN SECTIONS 5, 6, 7 AND 8, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA AND CONTAINING 82.04 ACRES, MORE OR LESS.