

FILED FOR RECORD
R. B. SHORE

2007 JUN -7 PM 2:47

**MANATEE COUNTY ZONING ORDINANCE
PDR-06-55(Z)(P) – ELLENTON LANDINGS**

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 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 15.17 ACRES AT THE SOUTHWEST CORNER OF 36TH AVENUE EAST (ELLENTON-GILLETTE ROAD) AND 29TH STREET EAST AT 2803 36TH AVENUE EAST, ELLENTON FROM THE A-1 (SUBURBAN AGRICULTURE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 136 MULTI-FAMILY UNITS, WITH AT LEAST 25% OF THE UNITS DESIGNATED AS AFFORDABLE HOUSING AND 25% OF THE UNITS DESIGNATED AT WORKFORCE 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, Ellenton Landings, LLC (the "Applicant") has filed a rezoning application to rezone approximately 15.17 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture) zoning district to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the Applicant has also filed a Preliminary Site Plan application for 136 multi-family units, with at least 25% of the units designated as affordable housing and 25% of the units designated at workforce 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 4.5 dwelling units per acre in the RES-6 Future Land Use Category; 2) exceeding a net density of 6 dwelling units per acre in the RES-6 Future Land Use Category; and 3) exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category for an affordable housing project, and

WHEREAS, the Applicant has also filed a request for Specific Approval for alternatives to Sections 710.1.5.2 and 728.5.1.2 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezoning, 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 a public hearing on April 12, 2007 to consider the rezoning, 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 4.5 dwelling units per acre in the RES-6 Future Land Use Category; 2) exceeding a net density of 6 dwelling units per acre in the RES-6 Future Land Use Category; 3) exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category for an affordable housing project, and granting the Specific Approval for alternatives to Sections 710.1.5.2 and 728.5.1.2 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) zoning district to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on May 3, 2007 and May 24, 2007 regarding said proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance 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 89-01, the 2020 Manatee County Comprehensive Plan.

D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 728.5.1.2, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree by the proposed design because the dumpsters will be screened from 29th Street East.

E. 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 regulations are satisfied to an equivalent degree because the proposed design appears to provide sufficient parking.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved for 136 multi-family units, with at least 25% of the units designated as affordable housing and 25% of

the units designated as workforce 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 4.5 dwelling units per acre in the RES-6 Future Land Use Category; 2) exceeding a net density of 6 dwelling units per acre in the RES-6 Future Land Use Category; 3) exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category for an affordable housing project, and GRANTS Specific Approval for alternatives to Sections 710.1.5.2 and 728.5.1.2 of the Land Development Code, with the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS

1. A minimum of 25% of the units shall be retained as affordable housing. Another 25% of the units shall be retained as workforce housing. This shall be ensured through execution of a Land Use Restriction Agreement.
2. Palm trees may be utilized as canopy trees when grouped in two. No more than 40% of required trees may be palms. This shall be verified with the Final Site Plan.
3. Landscaping (canopy trees, understory trees, and shrubs) shall be provided around the dumpster and dumpster enclosures to provide 80% opacity at a height of 6 feet prior to issuance of first C.O. Landscaping shall be shown on the Final Site Plan.
4. To the maximum extent possible, existing indigenous vegetation shall remain with required landscape buffers and be utilized to meet the buffering and screening requirements.
5. No detention or retention ponds shall be constructed within landscape buffers or greenbelts.
6. The details of the type of play equipment and layout shall be shown on the Final Site Plan. The play area shall include the play equipment, a bench, and a bicycle rack.
7. The buildings shall be in substantial compliance with the photographs entered into the record. Building elevations shall be provided with the Final Site Plan for review and approval by the Planning Department.
9. A non-ingress egress easement shall be recorded along the frontages of 29th Street East and Ellenton-Gillette Road, with the exception of the access points, with the Final Plat.
10. A five feet (5') wide mulch or shell trail (defined with landscaping timbers) shall be provided from Building #12, west to the tot lot. The location shall be shown on the Final Site Plan and approved by the Planning Department.
11. All buildings, except #1, #3, and #5, shall be setback 10' from the required perimeter and roadway buffers. Buildings #1, #3, and #5 shall be setback 8' from the required buffers. Any patios or lanais shall be setback a minimum of 5' from these buffers except for

buildings #1, #3, and #5 which shall have no setback from the buffers or lanais, but the lanai doors shall not open into the buffer. The lanais for Buildings #1, #3, and #5 shall not exceed 8' X 12'. The rear corner of Building #9 shall be setback a minimum of five feet (5') from the south buffer (as shown on the PSP). The setbacks shall be shown on the Final Site Plan.

B. ENVIRONMENTAL CONDITIONS

1. The Final Site Plan shall be designed so that no less than 85% of the actual dripline is preserved for trees 1, 3, 4, 6, 8, 12, 13, 19, 20.
2. Trees proposed for preservation, with the exception of those listed above, shall have tree barricades located at the drip line, unless otherwise approved by the Planning Department at Final Site Plan approval. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the barricades, except the proposed tot-lot area, shall remain undisturbed and shall be clearly shown on the Final Site Plan. The following activities are prohibited within the barricades 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.
3. Prior to Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (i.e., 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 and mitigative measures.
4. A Water Well Construction Permit must be obtained from the EMD prior to construction of the proposed well(s).
5. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
6. An ERP approved by SWFWMD shall be provided to the Planning Department prior to Final Site Plan approval.
7. Underground or aboveground pollutant storage tank installation or removal must conform to the requirements of Chapters 62-761, Florida Administrative Code.
8. There shall be no burning of trees or branches for land clearing.
9. A Certified Arborist shall be employed to monitor construction activities and tree protection barriers adjacent to preserved trees during site development. Additionally, the Arborist shall prune, using clean cuts, roots over 1" in diameter, a minimum of 12" in depth from the soil surface, when encountered during site development for trees scheduled for preservation as shown on the approved site plans.

10. The 72" d.b.h. tree in the tot lot, listed as #13 on the site plan, shall have a protection zone of 30' plus or minus 5' along the east side of the tree in order to protect the root system. This protection zone shall be shown on the Final Site Plan.

C. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS

1. Prior to issuance of first CO, the applicant shall construct the portion of 29th Street East adjacent to the project to align with 29th Street East on the east side of Ellenton-Gillette Road. Turn lanes (west to south and west to north lanes) shall be provided. The realignment and turn lanes shall be shown on the Final Site Plan and Construction Plans and approved by the Transportation Department.
2. The applicant shall smooth the curve at the railroad crossing to the greatest extent possible using standard curve data for 35 MPH. This plan shall be approved by the Transportation Director prior to Final Site Plan and Construction Plan approval. Said improvements as approved by the Transportation Department, shall be completed by the applicant prior to issuance of the first CO.
3. Prior to issuance of the first CO, the applicant shall construct north to west turn lanes on Ellenton-Gillette Road at 29th Street East. This shall be shown on the Final Site Plan and Construction Plans and approved by the Transportation Department.
4. The applicant shall install adequate stormwater pipeline along the south side of 29th Street East from Ellenton-Gillette intersection to the final outfall along the west side of project boundary.
5. Prior to issuance of the first CO, a minimum 100' long, right-hand turn lane (east to south) on 29th Street East, at the project entrance, shall be provided for additional queuing if entrance is to be gated. Turn lane can be eliminated if entrance is not gated. This shall be shown on the Final Site Plan and Construction Plans and approved by the Transportation Department.
6. Prior to Final Site Plan approval, the applicant shall be responsible for any additional on-site or off-site transportation safety improvements attributable to modifications of the approved PSP, as determined by the Transportation Department.
7. Prior to Final Site Plan approval, the applicant shall be responsible for the on-site and off-site capacity related transportation improvements.
8. Any gates or emergency access points for this project shall be accessible to emergency service providers by either a remote control or siren activated system in accordance with Section 2-28-2 of the Manatee County Code of Ordinances. Prior to Final Site Plan approval, the applicant shall receive written approval from EMS and the Fire Marshall approving the proposed system. If gates are provided, sufficient stacking per the LDC shall be provided and shown on the Final Site Plan.
9. Prior to Final Site Plan approval, all sidewalks adjacent to the drive aisle must be elevated above the roadway elevation for public pedestrian safety purposes.

10. Prior to Final Site Plan approval, all internal and external sidewalk handicap ramps are to be designed to FDOT Design Standards Index No. 304 and to Manatee County Transportation Department Detail 301.0 and 301.1. The location of the ramps shall be shown on the Final Site Plan and Construction Drawings.

D. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS

1. 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 Drain. Modeling shall be used to determine pre- and post-development flows.
2. Existing storage volume in existing wetlands and drainage ditches shall be compensated with equal or greater volume in the proposed stormwater retention pond.
3. Routing and modeling of 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.
4. There shall be a full 25-year attenuation on all stormwater ponds within the development.
5. The existing 25-year flood elevation along the Big Chimney Drain shall be utilized as tailwater condition.
6. 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.
7. Stormwater treatment and attenuation capacity shall be provided within this project for the widening and intersection improvements at 29th Street East and Ellenton-Gillette Road. A right of access easement for this stormwater capacity shall be provided and shown on the Final Site Plan and Construction drawings.
8. Swales must allow the positive flow of water without any obstruction. Staff will evaluate the location of the existing and proposed trees within the south drainage swale at time of Final Site Plan submittal.

E. OTHER:

1. The lowest quality water possible shall be used for irrigation. In ground irrigation using Manatee County public potable water supply shall be prohibited.
2. The developer is put on notice that the County and School Board are required to establish school concurrency. Until such time as the details of that program are adopted, this approval does not guarantee capacity under the terms of the future program, to the extent school concurrency is legally applicable to the project.

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) 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 24th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

BY:


Vice-Chairman

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

BY: 
Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

LOT 12 AND THE WEST TWO-THIRDS OF LOT 11 PATTEN'S SUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 136 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. LESS THE RIGHT OF WAY OF TAMPA ROAD (ELLENTON GILLETTE ROAD)

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE MOST NORTHEASTERLY CORNER OF OAKVIEW, PHASE I, A SUBDIVISION AS RECORDED IN PLAT BOOK 46, PAGES 103 THROUGH 112 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. SAID POINT IS LYING ON THE SOUTHERLY MAINTAINED RIGHT OF WAY LINE OF 29TH STREET EAST, THE FOLLOWING EIGHT (8) CALLS ARE ALONG SAID SOUTHERLY MAINTAINED RIGHT OF WAY LINE; THENCE N.73°37'01"E., A DISTANCE OF 65.82 FEET; THENCE N.89° 59'02"E., A DISTANCE OF 127.54 FEET; THENCE S.80° 51'12"E., A DISTANCE OF 38.51 FEET; THENCE S.89°06'46"E., A DISTANCE OF 266.37 FEET; THENCE S.88°43'43"E., A DISTANCE OF 201.09 FEET; THENCE S.86°39'57"E., A DISTANCE OF 105.16 FEET; THENCE N.87°36'30"E., A DISTANCE OF 96.80 FEET; THENCE S.88°43'43"E., A DISTANCE OF 201.09 FEET TO THE INTERSECTION OF SAID SOUTHERLY MAINTAINED RIGHT OF WAY LINE AND THE WESTERLY MAINTAINED RIGHT OF WAY LINE OF TAMPA ROAD (ELLENTON-GILLETTE ROAD), THE FOLLOWING THREE (3) CALLS ARE ALONG SAID WESTERLY MAINTAINED RIGHT OF WAY LINE; THENCE S.00°51'00"E., A DISTANCE OF 209.01 FEET; THENCE S.00°00'55"E., A DISTANCE OF 200.00 FEET; THENCE S.00°33'25"W., A DISTANCE OF 197.75 FEET TO THE SOUTHERLY LINE OF LOT 11, PATTEN'S SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 136 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.; THENCE S.89°41'10"W., ALONG SAID SOUTHERLY LINE A DISTANCE OF 1077.97 FEET TO A POINT WHICH LIES ON THE WESTERLY LINE OF SAID OAKVIEW PHASE I, A SUBDIVISION, SAID LINE ALSO BEING THE WESTERLY LINE OF LOT 12, OF SAID PATTENS SUBDIVISION; THENCE N.00°50'23"E., ALONG SAID WESTERLY LINE A DISTANCE OF 610.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 660,856 SQUARE FEET OR 15.171 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 19 day of June, 2007

R.B. SHORE
Clerk of Circuit Court
By: E. Colorado D.C.



FILED FOR RECORD
R. B. SHORE

2007 JUN -7 PM 2: 41

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

June 4, 2007

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

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 1, 2007, and certified copies of Manatee County Ordinance Nos. PDR-05-37(Z)(P), PDR-06-75(Z)(P), PDR-06-55(Z)(P) and PDMU-07-07(Z)(P), which were filed in this office on June 4, 2007.

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

Sincerely,

Liz Cloud
Program Administrator

LC/lbh
Enclosures

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
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282