

Manatee County Ordinance

PDR-19-09(P)(R)- RYE CROSSING / HIRSCH PSP AMENDMENT – FORESTAR (USA) REAL ESTATE GROUP, INC. (OWNER) – PLN2206-0140

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING AND RESTATING ZONING ORDINANCE NUMBER PDR-19-09(Z)(P) APPROVING THE FOLLOWING CHANGES TO THE PSP (PRELIMINARY SITE PLAN): 1) ADDING ONE 40-FOOT, REDUCED-WIDTH RIGHT-OF-WAY PROVIDING CONNECTIVITY AND CROSS-ACCESS ADJACENT TO THE PARCEL SOUTH OF THE PROJECT BOUNDARY; 2) MODIFYING ALL INTERNAL ROADWAYS FROM PUBLIC TO PRIVATE ROADWAYS IN ACCORDANCE WITH LAND DEVELOPMENT CODE (LDC) REQUIREMENTS; 3) REDUCING THE OVERALL NUMBER OF RESIDENTIAL LOTS FROM 118 TO 116; AND 4) REMOVING THE BUFFER PLANTINGS REQUIRED BY THE NC (NORTH CENTRAL) OVERLAY DISTRICT AND PROVIDE PLANTINGS IN ACCORDANCE WITH LDC REQUIREMENTS; FOR A PROPERTY THAT IS ZONED PDR (PLANNED DEVELOPMENT RESIDENTIAL) WITHIN THE UF-3 (URBAN FRINGE) FUTURE LAND USE CATEGORY (FLUC), ON APPROXIMATELY 39.65 ACRES, GENERALLY LOCATED 0.25 MILES NORTH OF UPPER MANATEE RIVER ROAD HAVING ROAD FRONTAGE ALONG THE EAST SIDE OF RYE ROAD NORTH, AND WITH THE ADDRESS OF 1234 NORTH RYE ROAD, PARRISH, (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Forestar (USA) Real Estate Group, Inc. (Owner) (the “Applicant”) filed an application for a amended Preliminary Site Plan for the following changes: 1) adding one 40-foot, reduced-width right-of-way providing connectivity and cross-access adjacent to the parcel south of the project boundary; 2) modifying all internal roadways from public to private roadways in accordance with Land Development Code (LDC) requirements; 3) reducing the overall number of residential lots from 118 to 116; and 4) removing the buffer plantings required by the NC (North Central) Overlay District and provide plantings in accordance with LDC requirements; for a property that is zoned PDR (Planned Development Residential) within the UFf-3 (Urban Fringe) Future Land Use Category (FLUC), on approximately 39.65 acres as described in Exhibit “A”, attached hereto, (the “Property”); and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on March 9, 2023, to consider the revised Preliminary Site Plan application 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 revised Preliminary Site Plan application consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code and recommended approval subject to the stipulations 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 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, after due public notice, held a public hearing on April 20, 2023, regarding the proposed Ordinance described herein in accordance with the requirements of the Manatee County Land Development Code and has further considered the information received at said public hearing.

C. The proposed Ordinance regarding the property described in Exhibit “A” herein is found to be consistent with the requirements of the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Land Development Code.

Section 2. REVISED PRELIMINARY SITE PLAN. The revised General Development Plan is hereby approved for the following changes: 1) adding one 40-foot, reduced-width right-of-way providing connectivity and cross-access adjacent to the parcel south of the project boundary; 2) modifying all internal roadways from public to private roadways in accordance with Land Development Code (LDC) requirements; 3) reducing the overall number of residential lots from 118 to 116; and 4) removing the buffer plantings required by the NC (North Central) Overlay District and provide plantings in accordance with LDC requirements; for a property that is zoned PDR (Planned Development Residential) within the UF-3 (Urban Fringe) Future Land Use Category (FLUC), upon the property, subject to the following Stipulations:

A. DESIGN AND LAND USE STIPULATIONS

1. No lots shall be platted through any landscape buffers, or retention ponds.
2. 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 to inform prospective homeowners of:
 - a. The presence of active agricultural operations in the nearby area and their potential impacts (noise and odor).
3. Any significant historical or archeological resources discovered during development activities shall be immediately reported to the Florida Department of State, Division of Historical Resources, and treatment of such resources shall be determined in cooperation with the Division of Historical Resources, and the County. The final determination of significance shall be made in conjunction with the Florida Department of State, Division of Historical Resources, and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Florida Department of State, Division of Historical Resources) must be completed before

resource disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Chapter 872, Florida Statutes (Offenses Concerning Dead Bodies and Graves) shall be followed.

4. All other applicable state or federal permits shall be obtained before commencement of the development.
5. A 2-foot separation from the internal edge of the sidewalk to the property line shall be provide for all proposed front-loaded garage units to ensure a 25-foot separation from the sidewalk to the garage.
6. Final Site Plan (FSP) review and approval is required for recreational area(s) and any proposed amenities. Any structures and/or uses shall comply with the LDC requirements for parking, screening buffer (recreational use to single family), structure height, signage, etc. Recreation Area structure(s) shall have a minimum setback of 20-feet from property lines.

B. ENVIRONMENTAL STIPULATIONS

1. All other applicable state or federal permits shall be obtained prior to commencement of construction.
2. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance; however, temporary wetland buffer impacts are proposed for final lot grading and side slope grading for the access road, not to exceed 700 sf in area. Temporary impacts to be replanted with native vegetation.
3. The developer shall provide an updated study, consistent with Policy 3.3.2.1 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. The Management Plan, and correspondence and permits, approved by the State (Florida Fish and Wildlife Conservation Commission) shall be submitted prior to the commencement of development for any listed species found on site. Evaluation of the proposed development site shall contain dates of field review, name and qualifications of individual(s) conducting the field review – including authorized Gopher Tortoise Agents, a statement of the methodology used to conduct the habitat assessment and biological survey, a map indicating where listed species (or nests or burrows) were observed on the site, a list of all species observed on site, and a habitat management plan describing measures proposed by the applicant to ensure non-disturbance, relocation or other acceptable mitigative measures.
4. A 100 percent Gopher Tortoise (*Gopherus polyphemus*) survey shall be conducted within 90 days of construction. Prior to commencement of construction, the applicant shall demonstrate there is no requirement to obtain permits for the relocation of Gopher Tortoises on-site, or, if there is a need to, provide copies of the proper Florida Fish and Wildlife Conservation Commission (FFWCC) permits, and maps showing locations of all burrows and any encounters, to Environmental Review Section staff.
5. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.

6. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 353.3 of the LDC.
7. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the County for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.
8. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

C. STORMWATER ENGINEERING STIPULATIONS

1. Pursuant to Section 801 and 802 of the Land Development Code and Code of Federal Regulations (CFR), Title 44, Section 60.3, the Construction Plan and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to proposed impacts to the FEMA 2014 FIRM 100-year floodplain and post-development discharge of runoff. Drainage Modeling shall be submitted to demonstrate compliance prior to commencement of construction.
2. Any fill within 100-year floodplain 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).

D. UTILITY ENGINEERING STIPULATIONS

1. Connection to the County potable water and wastewater systems is required pursuant to the Manatee County Comprehensive Plan. The cost of connection, including the design, permitting and construction of off-site extensions of lines, shall be the responsibility of the Applicant. Such off-site extension shall be designed and constructed in accordance with the appropriate County Master Plan. The connection shall be designed, engineered and permitted by the Applicant consistent with Manatee County Public Works Standards and approved by County Engineer through the construction plans review process for the project.

E. TRAFFIC ENGINEERING

1. Modifications to the previously approved Final Site Plan and Construction Plans will be required to adjust traffic signs and pavement markings and access configuration accordingly. Any additional access safety and operational improvements will be required to be analyzed at the time any additional units beyond this approval for 116 is applied for.

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 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. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

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 20th day of April 2023.



**BOARD OF COUNTY
COMMISSISONERS OF MANATEE
COUNTY, FLORIDA.**

BY: 

Kevin Van Ostenbridge, Chairman

**ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court**

BY: 

**Debi Jessman
Deputy Clerk**

Exhibit "A"

Legal Description

A PARCEL OF LAND LYING IN SECTION 13, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS;
COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE ALONG THE EAST LINE OF SAID SECTION 13, N.00°41'24"E., 1700.89' TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2511, PAGE 7743, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF SAID LANDS, N.88°25'41"W., 2745.38' TO THE POINT OF BEGINNING OF LAND BEING DESCRIBED: THENCE CONTINUE N.88°25'41"W., 1751.63' TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF NORTH RYE ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 1684, PAGE 6963, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA (BEING A VARIABLE WIDTH PUBLIC RIGHT OF WAY), SAID POINT ALSO BEING ON A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 3869.72' AND A DELTA ANGLE OF 02°54'40", WHOSE CHORD BEARS N.01°43'42"E.; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE IN A NORTHERLY AND COUNTER CLOCKWISE DIRECTION, A DISTANCE OF 196.62'; THENCE LEAVING SAID CURVE ON A NON TANGENT LINE, N.00°34'22"E., 203.52'; THENCE S.88°25'45"E., 1010.83'; THENCE N.02°25'57"E., 1091.57'; THENCE N.57°47'08"E., 423.72'; THENCE N.50°35'25"E., 538.88'; THENCE S.02°26'27"W., 2080.82' TO THE POINT OF BEGINNING AND CONTAINING 1,727,204.79 SQUARE FEET, OR 39.651 ACRES, MORE OR LESS;

SUBJECT TO EASEMENTS, RESTRICTIONS AND/OR RIGHTS OF WAY OF RECORD, IF ANY.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 24, 2023

Honorable Angelina Colonnese
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, FL 34206

Attention: Julissa Santana

Dear Honorable Angelina Colonnese:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. PDR-19-09(P)(R), which was filed in this office on April 21, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh