

Manatee County Zoning Ordinance

PDR-21-03(Z)(G) – MANGROVE COVE – MANGROVE COVE PROPERTIES, LLC **(OWNERS) – PLN2103-0043**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 15-17, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO THE ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 57.55 ACRES GENERALLY LOCATED APPROXIMATELY 0.19 MILES WEST OF PALMA SOLA BOULEVARD ON THE NORTH SIDE OF CORTEZ ROAD HAVING ADDRESSES COMMONLY KNOWN AS 4322 91ST STREET WEST AND 9000 CORTEZ ROAD WEST, MANATEE COUNTY, FROM PDR/NC-M/RSF-4.5/A-I/CPA/CEA (PLANNED DEVELOPMENT RESIDENTIAL/NEIGHBORHOOD COMMERCIAL – MEDIUM/SINGLE-FAMILY RESIDENTIAL/AIRPORT IMPACT/COASTAL PLANNING AREA/COASTAL EVACUATION AREA OVERLAY DISTRICTS) TO THE PDR/A-I/CPA/CEA (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT AND RETAINING THE AI (AIRPORT IMPACT AREA)/CPA (COASTAL PLANNING AREA/AND CEA (COASTAL EVACUATION AREA OVERLAY DISTRICTS); APPROVING A GENERAL DEVELOPMENT PLAN FOR ONE-HUNDRED AND FORTY-EIGHT (148) MULTI-FAMILY RESIDENTIAL DWELLING UNITS WITH AMENITY CENTER; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Mangrove Cove Properties, LLC (Owners) (the “Applicant”) filed an application to rezone approximately 57.55 acres described in Exhibit “A”, attached hereto, (the “Property”) from PDR/NC-M/RSF-4.5/A-I/CPA/CEA (Planned Development Residential/Neighborhood Commercial – Medium/Single-Family Residential/Airport Impact/Coastal Planning Area/Coastal Evacuation Area Overlay Districts) to the PDR/A-I/CPA/CEA (Planned Development Residential) zoning district, retaining the AI (Airport Impact Area)/CPA (Coastal Planning Area/CEA (Coastal Evacuation Area Overlay Districts); and

WHEREAS, the applicant also filed a General Development Plan for one-hundred and forty-eight (148) multi-family residential dwelling units with amenity center (the “project”) on the property; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Land Development Code Sections: 1) 1001.1.C.3 to allow the one-hundred and four (104) apartments to utilize a single access connection to Cortez Road, subject to FDOT approval; and 2) 1001.6.A.1.c.i to allow the required five (5) foot sidewalks to be located on one side of internal roadways and drive aisles for projects located within two (2) walking miles of a public elementary school; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on January 13, 2022, to consider the rezone, General Development Plan and Specific Approval applications, received the staff report and supporting documents, 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 PDR/NC-M/RSF-4.5/A-I/CPA/CEA (Planned Development Residential/Neighborhood Commercial – Medium/Single-Family Residential/Airport Impact/Coastal Planning Area/Coastal Evacuation Area Overlay Districts) to the PDR/A-I/CPA/CEA (Planned Development Residential) zoning district, retaining the AI (Airport Impact Area)/CPA (Coastal Planning Area/CEA (Coastal Evacuation Area Overlay Districts).

B. The Board of County Commissioners, after due public notice, held a public hearing on February 3, 2022, regarding the proposed Official Zoning Atlas Amendment 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 amendment to the Official Zoning Atlas 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.

D. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 1001.1.C.3 the Board finds that the purpose of the LDC regulation is/is not satisfied to an acceptable degree because the site will have an operationally sufficient primary access to Cortez Road with the inclusion of site security provisions to allow for secondary ingress and egress by emergency vehicles.

E. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 1001.6.A.1.c.i, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree since the site plan illustrates that the proposed sidewalks will provide for safe and convenient access to pedestrians.

Section 2. GENERAL DEVELOPMENT PLAN. The General Development Plan is hereby approved for one-hundred and forty-eight (148) multi-family residential dwelling units with amenity center, upon the property subject to the following Stipulations:

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. Until such time as an agreement is recorded, the 104 multi-family units located within “Parcel 2” of the GDP boundary does not have access to 43 Terrace West, a privately owned and maintained roadway.
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. Final Site Plan (FSP) review and approval is required for any recreational area/amenity center. Required number of parking spaces will be determined at FSP based on the type and square footage of the recreational uses. Any recreation or amenity structure shall have a minimum 20-foot setback from all property lines.
5. All other applicable state or federal permits shall be obtained before commencement of the development.
6. The project shall initially be designed such that only the 44 townhome units will have access to Cortez Road through the Rinascita (aka Cortez Subdivision).
7. The 104 apartment-units primary access will require improvements permitted and approved by the Florida Department of Transportation (FDOT).

B. ENVIRONMENTAL STIPULATIONS

1. All other applicable state or federal permits shall be obtained prior to commencement of development.
2. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.

3. A Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers, and upland preservation areas that will serve as wetland mitigation areas shall be dedicated to Manatee County prior to, or concurrent with, Final Plat approval or Certificate of Occupancy or Certificate of Completion issuance.
4. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas. Before Final Site Plan approval, lots will need to be drawn so they do not encroach into the wetlands or wetland buffers. Buffer encroachments and buffer restoration plans will be addressed during Final Site Plan to ensure consistency with the County's variable width buffer requirement per LDC Section 706.4.C and buffer restoration requirements per LDC Section 706.4.D.
5. Pursuant to the Environmental Narrative prepared by Ardurra 100% survey of suitable habitat for gopher tortoises shall be conducted as recommended. If evidence of gopher tortoises is found, a FWC permit will be obtained for relocation and/or management of tortoises.
6. 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.
7. If wells are encountered, a Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the EPS for review and approval prior to recommencing construction activities. 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. The proposed internal roadway shall be constructed as to be above the six (6) feet contour elevation or at the same elevation as Cortez Road, whichever is greater. The design elevation must be coordinated with Public Works and Public Safety Departments.
2. 150% water quality treatment shall be provided within the internal stormwater management system with respect to the direct discharge of post-development runoff into Palma Sola Bay.

D. UTILITY ENGINEERING STIPULATIONS

1. Connection to the County water and wastewater system 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 applicable 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.
2. Because this project is in the costal high hazard area the potable water and reclaimed water shall be master metered. All potable water and reclaimed water facilities downstream of the master meter and all sanitary sewer facilities within the development shall be privately owned and maintained. Furthermore, the applicant shall adhere to any special construction requirements for utilities within the costal high hazard area that are in place at the time of Final Site Plan submittal. Such special construction requirements may include but are not limited to installation of leak proof manhole covers or controlling the elevation that any at or above grade potable water, reclaimed water or sanitary sewer facility or appurtenance is installed.

Section 3. SPECIFIC APPROVAL. Specific Approval is hereby granted for alternatives to Land Development Code Sections: 1) 1001.1.C.3 to allow the one-hundred and four (104) apartments to utilize a single access connection to Cortez Road, subject to FDOT approval; and 2) 1001.6.A.1.c.i to allow the required five (5) foot sidewalks to be located on one side of internal roadways and drive aisles for projects located within two (2) walking miles of a public elementary school.

Section 4. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County (Ordinance No. 15-17, the Manatee County Land Development Code) is hereby amended by changing the zoning district classification of the property described in Exhibit "A", incorporated by reference herein, Ordinance from PDR/NC-M/RSF-4.5/A-I/CPA/CEA (Planned Development Residential/Neighborhood Commercial – Medium/Single-Family Residential/Airport Impact/Coastal Planning Area/Coastal Evacuation Area Overlay Districts) to the PDR/A-I/CPA/CEA (Planned Development Residential) zoning district, retaining the AI (Airport Impact Area)/CPA (Coastal Planning Area/CEA (Coastal Evacuation Area Overlay Districts), and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Building and Development Services 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, 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.

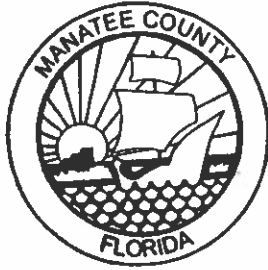
Section 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 7. 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 8. 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 3rd day of February 2022.



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

BY: 
Kevin Van Ostenbridge, Chairman

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court

BY: 
Deputy Clerk

Exhibit "A"

Legal Description

PARCEL 1

THE S 600 FT OF THE E 380 FT OF THE W 1140 FT OF LOT 2 U S LESS R/W FOR STATE H/W OFF S TOGETHER WITH INGRESS/EGRESS EASMT DESC IN OR 2089/3491 AS FOLLOWS: A 15 FT WD ACCESS EASMT LYING IN U.S. GOVT LOT 2 OF SEC 1, TWN 35S, RNG 16E BEING DESC AS FOLLOWS: COM AT THE INT OF THE W LN OF SD GOVT LOT 2 & THE N R/W LN OF SR 684 (CORTEZ RD, [PER SEC 1304-201]); TH ALG SD W LN N 00 DEG 29 MIN 20 SEC E A DIST OF 646.02 FT TO THE N BDRY OF A FDOT STORM WATER MANAGEMENT FACILITY (PER SEC 13040-2518); TH ALG SD N BDRY N 80 DEG 57 MIN 38 SEC E A DIST OF 246.76 FT; TH CONT ALG SD N BDRY S 89 DEG 24 MIN 42 SEC E A DIST OF 516.10 FT TO THE E BDRY OF SD FDOT STORM WATER MANAGEMENT FACILITY (PER SEC 13040-2518) FOR A POB; TH ALG SD E BDRY S 00 DEG 32 MIN 52 SEC W A DIST OF 317.29 FT TO THE S BDRY OF SD FDOT STORM WATER MANAGEMENT FACILITY (PER SEC 13040-2518); TH ALG SD S BDRY N 89 DEG 24 MIN 42 SEC W A DIST OF 15.00 FT; TH N 00 DEG 32 MIN 52 SEC E A DIST OF 317.29 FT TO SD N BDRY; TH ALG SD N BDRY S 89 DEG 24 MIN 42 SEC E A DIST OF 15.00 FT; TO THE POB. PI#75004.0000/2

PARCEL 2

BEGIN 300 FEET WEST FROM THE SE CORNER OF GOVERNMENT LOT 1, WEST 1580 FEET, NORTH TO NORTH BOUNDARY OF GOVERNMENT LOT 2 EASTERLY ALONG NORTH BOUNDARY OF GOVERNMENT LOTS 2 AND 1 TO POINT NORTH OF POINT OF BEGINNING, SOUTH TO POINT OF BEGINNING, WITH RIPARIAN RIGHTS; LESS BEGIN 300 FEET WEST OF SE CORNER WEST ALONG SECTION LINE 600 FEET, NORTH 400 FEET, EAST 600 FEET, SOUTH 400 FEET TO POINT OF BEGINNING, EXCEPT 1/4 ACRE, MORE OR LESS, IN NW CORNER DESCRIBED AS: COMMENCE AT SW CORNER OF ABOVE DESCRIBED TRACT, NORTH 175 FEET TO POINT OF BEGINNING; NORTH 225 FEET, EAST 110 FEET, SOUTHWESTERLY IN STRAIGHT LINE TO POINT OF BEGINNING, AND BEING IN SHAPE OF R/A TRIANGLE, LESS BEGIN 760 FEET EAST FROM SW COMER OF LOT 2, U S N 600 FEET, EAST 380 FEET, SOUTH 600 FEET, WEST 380 FEET TO THE POINT OF BEGINNING, DESCRIBED IN O. R. BOOK 253, PAGE 44, LESS PARCEL 80 X 100 TO MANATEE COUNTY DESCRIBED IN O. R. BOOK 614, PAGE 928. ALSO, EASEMENT AS DESCRIBED IN O. R. BOOK 1057, PAGE 1305; LESS LAND AS DESCRIBED IN O. R. BOOK 1057, PAGE 1304; ALSO, EASEMENT AS DESCRIBED IN O. R. BOOK 1073, PAGE 3821, ALL LYING AND BEING IN SECTION 1, TOWNSHIP 35 SOUTH, RANGE 16 EAST, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

February 4, 2022

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

Attention: Quantana Acevedo

Dear Ms. 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-21-03(Z)(G), which was filed in this office on February 3, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb