

Manatee County Zoning Ordinance

PDR-21-04(Z)(G) – WESTOVER ESTATES / McADAM, EDMUND JAMES; McADAM, JACQUELINE; McADAM, EDMUND JAMES & JACQUELINE LIVING TRUST DTD 4-29-16; McINERNEY, RUSSELL A.; ANDROY, JOVONNIE A/K/A McINERNEY, JOVONNIE; ANDROY, JOVONNIE LYNN A/K/A McINERNEY, JOVONNIE LYNN (OWNERS)

PLN2103-0121

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 15-17, AS AMENDED, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 54.48 ACRES GENERALLY LOCATED WEST OF NORTH RYE ROAD, SOUTH OF GOLF COURSE ROAD AND NORTH OF RIVERS REACH BOULEVARD, PARRISH (MANATEE COUNTY), AND COMMONLY KNOWN AS 3155 NORTH RYE ROAD FROM A/NCO (GENERAL AGRICULTURE/NORTH CENTRAL OVERLAY) TO PDR/NCO (PLANNED DEVELOPMENT RESIDENTIAL/NORTH CENTRAL OVERLAY) ZONING DISTRICT; APPROVING A GENERAL DEVELOPMENT PLAN FOR A 162 LOT SINGLE-FAMILY RESIDENTIAL DEVELOPMENT; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, McAdam, Edmund James; McAdam, Jacqueline; McAdam Edmund James & Jacqueline Living Trust DTD 4-29-16; McInerney, Russell A.; Androy, Jovonnies a/k/a McInerney, Jovonnies; Androy, Jovannie Lynn a/k/a McInerney, Jovonnies Lynn (the "Applicants") filed an application to rezone approximately 54.48 acres described in Exhibit "A", attached hereto, (the "Property") from A/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district; and

WHEREAS, the applicant also filed a General Development Plan for a 162 lot single-family residential development (the "Project") on the property; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Land Development Code Sections: 1) 403.12.D.3.k to allow a reduction to the rear yard setback from 15-feet to 5-feet for accessory structures adjacent to roadway buffers; 2) 401.4 to allow a reduction from 25-feet to 20-feet for the front yard setback for homes from front loaded garages; and 3) 401.3.E.4 to allow a reduction to the secondary front yard setback from 20-feet to 15-feet (corner lots); and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on December 9, 2021, to consider the rezone, General Development Plan and Specific Approval applications 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/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district.

B. The Board of County Commissioners, after due public notice, held a public hearing on January 6, 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 403.12.D.3.K, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree by the proposed design as screening buffer details shall provide appropriate screening while preventing conflicts with accessory structures.

E. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 401.4, the Board finds that the purpose of the Land Development Code Section regulation is satisfied to an equivalent degree by the proposed design because the extra 5-feet between the front lot line and the internal edge of the sidewalk will make up for the 5-foot reduction to the front setback.

F. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 401.3.E.4, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree by the proposed design because a 15-foot side yard setback will still be provided, which is in excess of the 8-foot side yard setback required in the Planned Development Residential zoning district.

Section 2. GENERAL DEVELOPMENT PLAN. The General Development Plan is hereby approved for a 162-lot single-family residential development upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE

1. If the Project is to be developed in phases, a phasing plan shall be shown on the Final Site Plan.
2. 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.
3. In the event the internal roads are private, any gates shall be accessible to emergency providers in accordance with the requirements of all applicable County ordinances and regulations.
4. A 5-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.
5. The Notice to Buyers shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the Sales Contract, as well as in the Final Site Plan, and shall include language informing prospective homeowners in the Project of the following:
 - a. There is a planned thoroughfare adjacent to the Project (i.e. North Rye Road, a four-lane arterial roadway), and potential noise associated with this planned roadway.
 - b. The presence of potential/active agricultural operations in the nearby area and their potential impacts (noise and odor).
 - c. If the development will become a private community, the internal streets within this subdivision will be privately owned and maintained by the Homeowner's Association or other appropriate legal entity.

B. ENVIRONMENTAL

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. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas
4. 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.
5. 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); and
 - The final disposition of the well - used, capped, or plugged.
6. 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

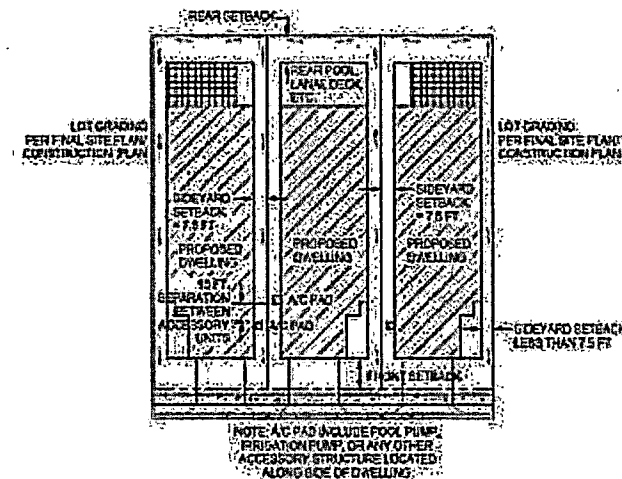
1. Pursuant to Section 801 Land Development Code, Manatee County Floodplain Ordinance (Ordinance #20-22, or as amended), and Code of Federal Regulations (CFR), Title 44, Section 60.3, the Construction Plan and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to proposed impacts to the 100-year floodplain as derived from the Gamble Creek Watershed Management Plan (WMP), the FEMA FIRM, effective August 10, 2021, and post-development discharge of runoff. The following storm frequency events, corresponding cumulative rainfall, and rainfall distribution shall be provided as a comparison of the existing pre-development condition versus the proposed post-development development condition:

Storm Frequency:	Cumulative Rainfall:	Rainfall Distribution:
10-year/24-hour	7 inches	FLMOD
25-year/24-hour	8 inches	FLMOD
50-year/24-hour	9 inches	FLMOD
100-year/24-hour	10 inches	FLMOD
100-year/72-hour	18 inches	FDOT-72

50-year storm event modeling applies to thoroughfare drainage systems only.

The comparison of existing pre-development condition versus the proposed post-development development condition shall include results in terms of runoff and staging. Drainage Modeling (utilizing best available information from Gamble Creek Watershed Management Plan) shall be submitted to demonstrate compliance prior to commencement of construction.

2. The Engineer of Record (EOR) shall submit drainage modeling to demonstrate the allowable pre-development rate of discharge has been reduced by fifty (50) percent for Gamble Creek Watershed.
3. Any fill within the 100-year floodplain with respect to the rainfall component of flooding 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). Alternatively, the applicant can utilize drainage modeling (submitted for review to the Public Works Department with subsequent Final Site Plan and/or Construction Plan submittal) to demonstrate no adverse drainage impacts are created for design storm frequency events to a no-rise condition.
4. A Flowage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan for the tributary Gamble Creek (located in the northern portion of the proposed development) within the Project boundaries. Manatee County is only responsible for maintaining the free flow of drainage through these systems.
5. Ten (10) feet separation shall be provided between accessory structures (i.e., Heat Pumps, A/C Handlers, pool pumps, etc.) along the side yards of properties with a side yard setback of less than 7.5 feet.



D. INFRASTRUCTURE

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.

Section 3. SPECIFIC APPROVAL. Specific Approval is hereby granted for alternatives to Land Development Code Section(s): 1) 403.12.D.3.k to allow a reduction to the rear yard setback from 15-feet to 5-feet for accessory structures adjacent to roadway buffers; 2) 401.4 to allow a reduction from 25-feet to 20-feet for the front yard setback for homes from front loaded garages; and 3) 401.3.E.4 to allow a reduction to the secondary front yard setback from 20-feet to 15-feet (corner lots).

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 from A/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential/North Central Overlay) zoning district 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 6th day of January 2022.



**BOARD OF COUNTY
COMMISSONERS 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: (Fee Simple Estate)

Begin at a 1" iron pipe at the S.W. corner of the S.E. ¼ of Section 2, Township 34 South, Range 19 East; thence run N 00°18'26" E 887.84 feet; thence S 85°44'23" E a distance of 801.91 feet; thence S 00°18'26" W a distance of 414.22 feet; thence N 77°02'02" E a distance of 144.76 feet; thence S 00°10'45" W a distance of 249.96 feet; thence S 89°49'15" E a distance of 1153.00 feet to the West maintained right-of-way of Rye Road; thence S 03°48'30" E along said maintained right-of-way of Rye Road a distance of 200 feet; thence N 89°49'15" W a distance of 2108.81 feet to the Point of Beginning.

Lying and Being in Section 2, Township 34 South, Range 19 East, Manatee County, Florida

PARCEL 2: (Fee Simple Estate)

The South 1/2 of the North 1/2 of the NW 1/4 of the NE 1/4 of Section 11, Township 34 South, Range 19 East, Manatee County, Florida.

PARCEL 3: (Fee Simple Estate)

The North 1/2 of the North 1/2 of the NW 1/4 of the NE 1/4 of Section 11, Township 34 South, Range 19, East, Manatee County, Florida.

PARCEL 4: (Fee Simple Estate)

Commence at the NE corner of Section 11, Township 34 South, Range 19 East, Manatee County, Florida; thence N 89°49'15" W, along the North line of said Section 11, a distance of 561.13 feet for the Point of Beginning; thence continue N 89°49'15" W along the North line of said Section 11, a distance of 773.53 feet; thence S 00°09'44" W, a distance of 278.25 feet; thence S 89°49'15" E, a distance of 795.11 feet to point on the Westerly right of way line of Rye Bridge Road; thence N 04°16'18" W, along said right of way line, a distance of 279.09 feet to the Point of Beginning.

PARCEL 5: (Fee Simple Estate)

Commence at the Northeast corner of Section 11, Township 34 South, Range 19 East, Manatee County, Florida; thence N 89°49'15" W, along the North line of said Section 11, a distance of

561.13 feet; thence S 04°16'18" E, along the Westerly right-of-way line of Rye Bridge Road, a distance of 279.09 feet for a Point of Beginning; thence continue S 04°16'18" E, along said right-of-way line, a distance of 301.80 feet; thence N 89°49'15" W, a distance of 818.44 feet; thence N 00°09'44" E, a distance of 300.89 feet; thence S 89°49'15" E, a distance of 795.11 feet to the Point of Beginning.

PARCEL 6: (Non-Exclusive Easement Estate)

TOGETHER WITH: Non-Exclusive Easement(s) as set forth and created by that certain Private Street Application recorded July 17, 1985 in Official Records Book 1118, Page 397, Public Records of Manatee County, Florida, over, under and across the lands described therein.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

January 7, 2022

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

Attention: Vicki Tessmer

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-21-04(Z)(G), which was filed in this office on January 6, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb