

Manatee County Ordinance

PDR-22-16(P) - MARIPOSA PROPERTY PRELIMINARY SITE PLAN - DUNE FL LAND I SUB, LLC (OWNER) - PLN2205-0119

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN ON A PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONED PROJECT FOR 146-SINGLE FAMILY ATTACHED RESIDENTIAL UNITS; THE PROPERTY IS APPROXIMATELY 21.1 ACRES AND IS GENERALLY LOCATED IN THE NORTHWEST CORNER OF US 41 AND BAYSHORE ROAD AND IS COMMONLY KNOWN AS 5121 US 41 NORTH, PALMETTO (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, Dune FL Land I Sub, LLC (the "Applicant") filed an application for a Preliminary Site Plan for 146 single family attached residential units in the PDR (Planned Development Residential) zoning district as described in Exhibit "A", attached hereto, (the "Property"); and

WHEREAS, the applicant also filed a request for Specific Approval for an alternative to Land Development Code Sections: 1) 403.8.F.2. Request to be exempt from requirement to preserve 50 percent of native habitat; 2) 1001.1.C to allow the required second means of access for the project to be by emergency access point; and 3) 1001.4.A. to allow two cul-de-sacs to exceed the 800-foot maximum; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on January 12, 2023, to consider the Preliminary Site 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 Preliminary Site Plan and Specific Approval 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 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 Preliminary Site Plan and Specific Approval 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 February 2, 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.

D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 403.8.F.2., the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the reduced native upland habitat preservation will be compensated by preserving/enhancing 30-foot vegetative buffers surrounding Gap Drain.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 1001.1.C, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because although the second means of access is emergency in nature, it still meets the original requirement by providing an access point.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 1001.4.A, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the alternative design has been approved by the Fire Marshal and provides the access and emergency turnaround features necessary to meet the original intent of this section.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 146 single family attached residential units, upon the property subject to the following Stipulations:

A. DESIGN AND LAND USE

1. 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.
2. Prior to approval of the Final Site Plan for the project, a Hurricane/Evacuation Plan shall be reviewed and approved by the Manatee County Public Safety Department and shall be implemented according to the applicable regulations of the Land Development Code and the Comprehensive Plan.

B. STORM WATER ENGINEERING

- 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 subsequent Final Site Plan submittal and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to impacts (fill)

within the 25-year County floodplain, 100-year floodplain pursuant to the FEMA 2021 effective FIRM, 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
100-year/24-hour	10 inches	FLMOD
100-year/72-hour	18 inches	FDOT-72

The comparison of existing pre-development condition versus the proposed post-development development condition shall include results in terms of runoff and staging.

- Any fill within the rainfall component of flooding with respect to the rainfall component of flooding associated with 25-year County floodplain, 100-year floodplain pursuant to the FEMA 2021 effective FIRM 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 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.
- A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan for Tampa Gap Drain (county-maintained drainage system IN-110 within the project boundaries). In addition, a Drainage-Maintenance Access Easement shall be provided along the top-of-bank of this drainage system. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

C. ENVIRONMENTAL

- All other applicable state or federal permits shall be obtained prior to commencement of development.
- There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.
- No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
- 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.
- 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.
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.

D. DEVELOPMENT REVIEW

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 Development Services review process for the project.
2. This project is in the coastal 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 coastal 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, and/or controlling the elevation that any at or above grade potable water, reclaimed water or sanitary sewer facility or appurtenance are installed.

Section 3. SPECIFIC APPROVAL. Specific Approval is hereby granted for alternatives to Land Development Code Sections: 1) 403.8.F.2. Request to be exempt from requirement to preserve 50 percent of native habitat; 2) 1001.1.C to allow the required second means of access for the project to be by emergency access point; and 3) 1001.4.A. to allow two cul-de-sacs to exceed the 800-foot maximum. 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. 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 5. 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.

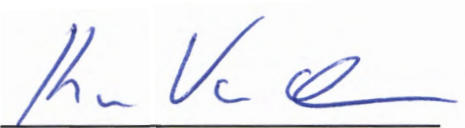
Section 6. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 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 2nd day of February 2023.



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

BY: 
Kevin Van Ostenbridge, Chairman

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court

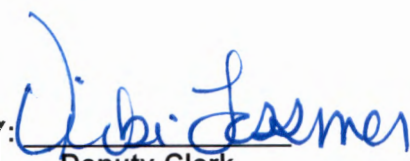
BY: 
Deputy Clerk

Exhibit "A"

Legal Description

BEGIN AT A CONCRETE MONUMENT MARKING THE OCCUPIED SOUTHWEST CORNER OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA; THENCE S89°10'24" E, 561.0 FEET; THENCE S 88°38'27" E 242.42 FEET; THENCE S 68°51'18" E, 454.09 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF OLD U.S. HIGHWAY 41 (STATE ROAD NUMBER 45), SAID POINT BEING A POINT ON A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 963.45 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 19°22'12", A DISTANCE OF 325.72 FEET (CHORD = 324.17 FEET; CHORD BEARING = N 12°04'02" E) TO THE POINT OF INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE AND THE WESTERLY RIGHT-OF-WAY LINE OF BAYSHORE ROAD, SAID WESTERLY RIGHT-OF-WAY LINE BEING A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 209.05 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 32°12'34", A DISTANCE OF 117.52 FEET (CHORD = 115.98 FEET; CHORD BEARING = N 16°56'12" W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N 00°49'55" W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 49.76 FEET; THENCE N 89°10'05" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 32.00 FEET; THENCE N 00°49'55" W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 367.34 FEET TO A POINT LYING N 89°41'12" W, 33.00 FEET FROM THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 36; THENCE N 00°49'55" W, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 10.15 FEET; THENCE N 89°54'42" W, 429.31 FEET; THENCE S 45°05'18" W, 9.15 FEET; THENCE N 89°45'15" W, 854.73 FEET; THENCE S 00°19'58" E, 675.85 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH NON-EXCLUSIVE EASEMENT AS CONTAINED IN THAT CERTAIN EMERGENCY ACCESS EASEMENT AGREEMENT BY AND BETWEEN BIG LAKE ESTATES, LLC, A WISCONSIN LIMITED LIABILITY COMPANY, ELIO COVELLI AND SUE A. COVELLI AND MARIPOSA, LLC, A FLORIDA LIMITED LIABILITY COMPANY, RECORDED IN OFFICIAL RECORDS BOOK 2179, PAGE 3367, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, FOR REASONABLE ACCESS, INGRESS AND EGRESS, BUT ONLY FOR GOVERNMENT EMERGENCY VEHICLES, OVER AND ACROSS THE AREA DESCRIBED IN EXHIBIT C THEREIN AND THROUGH ANY ROADS OR DRIVEWAYS OVER FROM PARCEL B TO PARCEL A, DESCRIBED THEREIN, TO ALLOW EMERGENCY VEHICLES TO PASS THROUGH TO THE PUBLIC STREETS.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

February 2, 2023

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

Attention: Vicki Tessmer

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-22-16(P), which was filed in this office on February 2, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/rra