

MANATEE COUNTY ZONING ORDINANCE
PDR-13-43(Z)(P) – PHILIP S. AND ROSEMARY L. STEWART REZONE/STEWART GROVE
SUBDIVISION – B258 – DTS20130485

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 39.71 ACRES LOCATED ON THE NORTH SIDE OF UPPER MANATEE RIVER ROAD, APPROXIMATELY 1,800 FEET WEST OF THE INTERSECTION OF RYE ROAD AND UPPER MANATEE RIVER ROAD AT 1064 AND 1805 169TH STREET NORTHEAST, BRADENTON (SOUTH COUNTY) FROM A (GENERAL AGRICULTURE – ONE DWELLING UNIT PER FIVE ACRES) AND RSF-1 (RESIDENTIAL SINGLE-FAMILY, ONE DWELLING UNIT PER ACRE) TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 76 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Philip S. and Rosemary L. Stewart and John Neal Homes/Neal Communities (collectively the “Applicants”) filed an application to rezone approximately 39.71 acres described in Exhibit “A”, attached hereto, (the “property”) from A (General Agriculture – one dwelling unit per five acres) and RSF-1 (Residential single-family, one dwelling unit per acre) to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan for 76 lots for single family detached residences (the “project”) on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) exceeding a gross density of one dwelling unit per acre in the UF-3 Future Land Use Category; 2) adjacent to a perennial stream; and 3) partially in the Coastal High Hazard Area; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 714.8.7, 715.3.4, and 715.3.2.c.1 of the Land Development Code; and

WHEREAS, Building and Development Services staff recommended approval of the rezone, Preliminary Site Plan, Special Approval and Specific Approval applications subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on March 13, 2014 to consider the rezone, Preliminary Site Plan, Special Approval and Specific Approval applications, received the staff recommendation 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 (General Agriculture – one dwelling unit per five acres) and RES-1 (Residential Single-Family, one dwelling unit per acre) to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on April 3, 2014 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements 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.

D. The Board finds that the purpose of the Special Approval regulation is satisfied by the analysis provided in the staff report and proposed design which indicates the proposed project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

E. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 714.8.7, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

F. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 715.3.4, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

G. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 715.3.2.c.1, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree, because view corridors of the stormwater pond and native habitat north of the pond are provided.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 76 lots for single family detached residences upon the property subject to the following Stipulations:

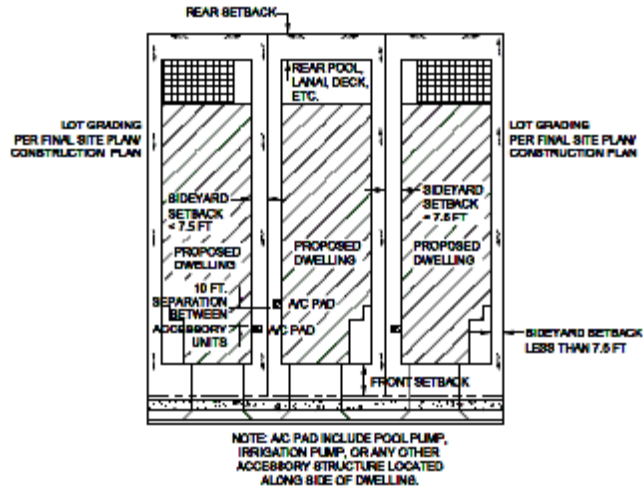
STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. 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 shall include the following language to inform prospective homeowners:
 - a. Of the presence of neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.
 - b. That the banks of the Manatee River are prone to severe erosion and washouts. Manatee County shall not be responsible for any property damage caused by severe rain events and shall not be responsible for repairing erosion or washouts caused by such events."
2. Walls or fences within roadway or perimeter buffers shall be measured from the finished grade of the adjacent roadway or lot (exclusive of any swales), whichever elevation is greater. This requirement shall be verified with a cross-section detail on the Final Site Plan.
3. All other applicable state permits shall be obtained before commencement of the development.
4. If an adjoining agricultural operation to the east is no longer in effect at the time of Final Site Plan submittal, then the requirements of LDC Section 702.6.7 shall no longer apply and the 35-foot wide agricultural buffer may be reduced to a 15-foot wide perimeter buffer.
5. Prior to approval of the Final Plat which includes Lots 1 and 8, Stewart Subdivision (Parcels 5 and 6), as described within Exhibit A, the Applicants shall demonstrate a legal instrument has been executed in accordance with applicable law to enable the replatting of the existing Stewart Subdivision.

B. STORMWATER CONDITIONS:

1. An Exclusive Common Area Tract shall be provided for areas within the FEMA Floodway which are not associated with stormwater or floodplain compensation areas. No vertical construction shall be allowed within the Exclusive Commons Areas unless a no-rise permit has been submitted and approved.
2. 100-year and 25-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
3. There shall be a minimum of ten (10) foot separation between accessory equipment and structures alongside adjoining houses with 5 foot side yard setbacks.



C. FLOODPLAIN MANAGEMENT:

1. Any encroachment, including fill, within the floodway will require No-Rise Certification. If Lot 49 encroaches within the floodway, any structure within 50' will require a letter of mitigation.

D. ENVIRONMENTAL CONDITIONS:

1. 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. A Management Plan, approved by the appropriate state or federal agency, shall be provided to the Building and Development Services Department for any listed species found on-site, prior to commencement of construction.
2. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas shall be dedicated to the County prior to or concurrent with Final Plat approval.
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 LDC section 519.
5. 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.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Specific Approval is hereby granted for alternatives to Sections 714.8.7, 715.3.4 and 715.3.2.c.1 of the Land Development Code. The Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Special Approval is hereby granted for a project: 1) exceeding a gross density of one dwelling unit per acre in the UF-3 Future Land Use Category; 2) adjacent to a perennial stream; and 3) partially in the Coastal High Hazard Area. The Special 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. 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 classification of the property identified in Exhibit “A” herein from A (General Agriculture – one dwelling unit per five acres) and RSF-1 (Residential, single-family, one dwelling unit per five acres) 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 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, clause, sentence, 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. 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 April, 2014.

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

BY: _____
Larry Bustle, Chairman

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

BY: _____
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1: PI#5229.0000/0

Commencing at a CM located at the NW corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 14, Township 34 South, Range 19 East; thence S $0^{\circ}22'45''$ East along the Westerly line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, 138.05 feet to a CM for a Point of Beginning; thence continue South $0^{\circ}22'45''$ East along said Westerly line, 114.46 feet to a CM; thence North $61^{\circ}43'30''$ East (paralleling Manatee River, more or less, 535.57 feet to a CM located on the Northerly line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence south $89^{\circ}50'07''$ West along said northerly line 199.02 feet to a CM; thence continue South $89^{\circ}50'07''$ West along said Northerly line 37 feet, more or less to its intersection with the Southerly shore line of Manatee River; thence Southwesterly along said Southerly shore line to its intersection with the Westerly line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$; thence South $0^{\circ}22'45''$ East along said Westerly line of the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, 14 feet, more or less to the Point of Beginning. Lying and being in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 14, Township 34 South, Range 19 East.

Parcel 2: PI#5246.1000/3

That part of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 14, Township 34 South, Range 19 East, Manatee County, Florida, lying South of the Manatee River.

Parcel 3: PI#5244.1000/8

Commence at the SE corner of Section 14, Township 34 South, Range 19 East, Manatee County, Florida; thence West, along the South line of said Section 14, a distance of 1437.45 feet; thence N $0^{\circ}07'17''$ W, 35 feet to the North R/W line of the Upper Manatee River Road; thence continue N $00^{\circ}07'17''$ W, 590.95 feet; thence N $5^{\circ}13'29''$ W, 91.24 feet; thence N $61^{\circ}17'54''$ W, 271.65 feet; thence N $22^{\circ}31'27''$ W, 298.92 feet for the Point of Beginning; thence continue N $22^{\circ}31'27''$ W, 216.52 feet to a point on the North line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 14; thence N $89^{\circ}40'15''$ E, along said North line, 265.55 feet to a concrete monument; thence continue, along said North line, 1 foot more or less, to the waters of the Manatee River; thence meander South and East, along

said waters, 200 feet, more or less to its intersection with a line that bears N $89^{\circ}40'15''$ East from the Point of Beginning; thence S $89^{\circ}40'15''$ West, along said line 220 feet, more or less to the Point of Beginning.

and

Commence at the SE corner of Section 14, Township 34 South, Range 19 East, Manatee County, Florida; thence West along the South line of said Section 14, a distance of

1437.45 feet; thence N 0°7'17" West, 35 feet to the North R/W line of the Upper Manatee River Road for the Point of Beginning; thence continue N 0°07'17" W, 590.95 feet; thence N 5°13'29" W, 91.24 feet; thence 61°17'54" W, 271.65 feet; thence N 22°31'27" W, 298.92 feet; thence N 89°40'15" E, 21.65 feet; thence S 22°31'27" E, 284.08 feet; thence S 61°17'54" E, 277.19 feet; thence S 5°13'29" E, 101.54 feet; thence S 0°07'17" E, along a line lying 105 feet East of and parallel to the East line of the SW ¼ of the SE ¼ of said Section 14, a distance of 592.79 feet; thence West along the North R/W line of the Upper Manatee River Road, 20 feet to the Point of Beginning, all lying in Manatee County, Florida.

Parcel 4: PI #5244.0005/9

SW ¼ of SE ¼ of Section 14, Township 34 South, Range 19 East, Manatee County, Florida, LESS a strip 35 yards East and West by 300 yards North and South off the NE corner; AND LESS property described in Deed dated June 10, 1959, recorded in Deed Book 407, Pages 193 and 194, and in Deed dated August 10, 1982, recorded in Official Record Book 1032, Page 2530, and in Deed dated October 15, 1999, recorded in Official Records Book 1614, Page 7611.; AND LESS, all of STEWART SUBDIVISION, according to the plat thereof as recorded in Plat Book 41, Pages 23 through 26, all in the Public Records of Manatee County, Florida, AND LESS any portion lying within the Right of Way of Upper Manatee River Road.

Together with the following described lands:

Begin at the SW corner of the SE ¼ of SE ¼, Section 14, Township 34 South, Range 19 East, Manatee County, Florida, thence go North 420 feet; thence East 660 feet, thence South to South line of Section 14, thence West to Point of Beginning, LESS any portion lying within the Right of Way of Upper Manatee River Road.

Parcel 5: PI #5244.1150/9

Lot 1, of STEWART SUBDIVISION, according to the plat thereof as recorded in Plat Book 41, Pages 23 through 26, of the Public Records of Manatee County, Florida.

LESS commence at the Southwest corner of Lot 1, of Stewart Subdivision, as recorded in Plat Book 41, Pages 23 through 26, Public Records of Manatee County, Florida for a Point of Beginning; thence N 00°22'45" W, along the westerly line of said Lot 1, a distance of 240.01 feet; thence S 89°50'57" E, a distance of 125.00 feet to the Northwest corner of Lot 2 of said Stewart Subdivision; thence S 00°22'45" E, along the westerly line of said Lot 2, a distance of 240.01 feet to the Southwest corner thereof; thence N 89°50'57" W, along the southerly line of said Lot 1, a distance of 125.00 feet to the Point of Beginning, being and lying in Section 14, Township 34 South, Range 19 East, Manatee County, Florida.

Parcel 6: PI#5244.1140/9

Lot 8 of STEWART SUBDIVISION, according to the plat thereof as recorded in Plat Book 41, Pages 23 through 26, of the Public Records of Manatee County, Florida, LESS the South 240.01 feet thereof lying adjacent to Lot 7 of said Stewart Subdivision, being an area approximately 125.00 feet in width and 240.01 feet in length.