

MEMORANDUM



**Building and Development
Services**

1112 Manatee Avenue W
Bradenton, FL 34205

MANATEE COUNTY
FLORIDA

Phone: 941-748-4501 x 6878

Fax: 941-749-3071

www.mymanatee.org

To: Robert Schmitt, AICP Planning Division Manager
From: Bobbi Roy, Planning Coordinator
Date: January 15, 2014
Subject: Agenda Update for the January 16, 2014 Planning Commission

Item 2 LDCT-13-04/ORDINANCE 14-02 – LAND DEVELOPMENT CODE AMENDMENT BONDS
Ordinance - see attached

Item 4 PDR-13-28(P) – LONG BAR POINTE, PHASE 1, PARCELS C & B2 (DTS #20130220)
Public Comment Letter – see attached

/br

cc: Planning Commissioners – 7
Clarke Davis, Transportation Planning Manager
Tom Gerstenberger, Stormwater Engineering Division Manager
Doug Means, Planning Division Manager
Joel Christian, Environmental Review Manager
Sarah Schenk, Assistant County Attorney
William Clague, Deputy County Attorney
Susan Angersoll, Development Review Specialist
Stephanie Moreland, Principal Planner
Kathleen Thompson, AICP Planning Manager
Shelley Hamilton, Principal Planner
Lisa Barrett, Planning Division Manager
Board Records
Counter Copy

LDCT-13-04/ORDINANCE 14-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AMENDING AND RESTATING SECTION 719.10; AMENDING CHAPTER 9 TO ESTABLISH SECTION 910 GOVERNING THE INSTALLATION OF SUBDIVISION IMPROVEMENTS; RENAMING SECTION 722; AND REPEALING SECTION 722.3 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings for the adoption of this ordinance:

1. Section 719 of the Manatee County Land Development Code ("the Code") and Section 722 of the Code refer to bonding of wetland protection and performance security respectively.
2. With the down turn in the economy and tighter lending regulations, developers are not able to secure a 200% security bond from financial institutions. To maintain consistency changes are being made to keep all bond amounts at the same percentage.
3. The procedural requirements for installation and bonding of subdivision improvements in Section 722.3 is being repealed and replaced with a new Section 910 *Installation of Required Improvements* in Chapter 9 - Subdivision Standards.
4. The Planning Commission as the County's Local Planning Agency has held a duly noticed public hearing on January 16, 2014 to review proposed Ordinance 14-02 and adopted a motion finding this proposed ordinance consistent with the Comprehensive Plan and recommending its adoption to the Board of County Commissioners; and
5. The Board of County Commissioners held a duly noticed public hearing on February 6, 2014 on proposed Ordinance 14-02 to receive public comment and review and consider the Staff Report and the report of the Planning Commission on this proposed ordinance.
6. The Board of County Commissioners after considering public comment, the recommendations of the Planning Commission and Planning staff, has found proposed Ordinance 14-02 consistent with the Comprehensive Plan, and in furtherance of the public health, safety and welfare and has adopted this ordinance as set forth herein.

Section 3. Amendment of Section 719

Section 719.6.7 is hereby amended to increase the security bond percentage to equal the percent required for public improvements. The changes are shown in underline or ~~strike-out~~ format:

Part 3. Wetland Security Percentage Increase

Section 719.6.7 Mitigation Security

719.6.7 Mitigation Security. For mitigation accepted by the County, pursuant to subsection 715.6.2(a) and (d) as a condition for approving wetland(s) alteration and accepting a Wetlands Mitigation Plan, the Board of County Commissioners shall require the posting of a security, bond, escrow or other means of guarantee to:

- a) Ensure that the applicant has carried out the approved mitigation project in accordance with the Wetlands Mitigation Plan, and that the project has met the success criteria specified in Section 719.9;
- b) Ensure that the applicant will correct any deleterious effects on wetlands or adjacent areas that may result from his/her non-compliance with the conditions of the approved Wetlands Mitigation Plan; and
- c) Enable the County to take steps to restore the site in the event that the developer/applicant/landowner defaults on the conditions of the Wetlands Mitigation Plan.

(d) Such mitigation security shall comply with Section 910.10 and shall comply with any additional requirements imposed pursuant to the Administrative Procedures be in a form and manner acceptable to the County. The amount of Security shall be equal to one hundred ~~fifteen~~ thirty (145 ~~30~~) percent of the estimated or actual costs and expenses of wetland mitigation construction, planting, maintenance and monitoring the County may incur in making good on non-compliance or non-performance of any requirements of the Wetland Mitigation Plan. The mitigation security shall be extended to cover the required monitoring period, after wetland mitigation has been deemed complete by the County

Section 4. Amendment of Section 722.

Section 722 is hereby renamed from *Installation of Required Improvements to Performance Standards for Required Improvements*. The changes are shown in underline or ~~strike-out~~ format:

Section 722 – ~~Installation of~~ Performance Standards for Required Improvements

Section 722.3 is repealed in its entirety and replaced with a new Section 910

There are no proposed changes to Sections 722.1 and 722.2

~~722.3. Installation of Improvements.~~

~~722.3.1. General Requirements.~~

~~722.3.1.1. Generally. Prior to approval of the final plat or final site plan where no plat is required, the developer shall install, at his sole expense, all improvements required under this Code in accordance with Construction Drawings approved under Section 904, Construction Drawings. In lieu of installation prior to final plat approval, the Board may permit the posting of performance security for such installation in accordance with Section 722.3.2 below, provided that an agreement acceptable to Manatee County is executed by the Board. Such agreement shall include the terms of such security and developer responsibility and liability for all such required improvements regardless of the amount of the security. For subdivisions with private improvements, this agreement shall also contain the following:~~

- ~~a. Authorizing County access to the property and use of construction plans and permits, as agent of the property owner, to complete any required improvements secured with the performance security if such improvements are not completed within one (1) year;~~
- ~~b. Providing indemnification for the County and holding the County harmless for any work performed in installing said improvements;~~
- ~~c. Agreeing that the County shall construct any of said improvements consistent with the approved construction drawings and that the property owner shall be responsible for any expenses incurred by Manatee County to complete such improvements, regardless of the amount of the security, and~~
- ~~d. Agreeing the County is not responsible to repair or replace improvements or landscaping which may be reasonably damaged or disturbed in performing said installation of improvements.~~

~~Said agreement shall apply to and be enforceable against the property owner and its heirs, assigns and successors in interest. The agreement shall be recorded in the Public Records of Manatee County Florida.~~

~~For all phased projects with public or private improvements, the property owner shall provide documentation of appropriate easements and adequate infrastructure capacity for access, drainage and utilities, to serve the phase under review and any subsequent phases of a project.~~

~~722.3.1.2. Development by Governmental Units. In lieu of requiring performance security for the installation of required improvements, the Board may permit governmental units to submit a certified resolution, ordinance, or other written assurance from its officers or agents, agreeing to install such improvements within a specified time.~~

~~722.3.1.3. Commencement of Construction. No clearing, grading, drainage, or other construction activities connected with the subdivision application, except brush removal in connection with surveying, shall commence on the site until all required Construction Drawings are approved and all applicable Federal, State and County permits are obtained. Authorized brush removal shall not be deemed to include removal or damaging of any trees protected by Section 714, Tree~~

~~Protection. Where any applicable Federal or State permit is associated with only a specific area of the site or component of development, work may proceed on the remaining portion of the development after written notification is made to all permitting authorities by the applicant with proof of notification to Manatee County Planning Department. If the developer elects to proceed with any construction and it is determined by any subsequent action or denial by a Federal or State agency having jurisdiction, all construction shall be immediately halted and all affected lands shall be restored to the original condition, and development plans shall be resubmitted to the County for approval, in accordance with the stipulations set forth by the Federal or State agency having jurisdiction. All construction commenced without the approvals of any applicable Federal or State agency shall be at the developer's risk and expense.~~

~~722.3.2. Performance Security.~~

~~722.3.2.1. Generally. Where the Board permits the posting of performance security for the installation of improvements, including public streets, drainage, landscaping, utilities, sidewalks and bikeways, or private streets, drainage, landscaping and utilities, in lieu of actual installation prior to final plat approval, the developer shall provide in his application for final plat approval evidence of security adequate to assure the installation of all required improvements including required survey under Section 907, for the subdivision. Sidewalks on individual lots shall be installed prior to issuance of a Certificate of Occupancy for the construction on that lot.~~

~~722.3.2.2 Form Amount. Such performance security shall comply with all statutory requirements and shall be satisfactory to the County as to form and manner of execution. The amount of such security shall be based upon an estimate by the engineer and surveyor of record, and shall be subject to approval of the Planning Department. The performance security shall be equal to the maximum cost, adjusted for inflation during the maximum effective period of the security, for the uncompleted portion of required improvements; provided, however, such amount shall be one hundred thirty (130) percent of the current construction costs of such improvements, for subdivisions with public improvements and two hundred (200) percent of the current construction costs, plus a three (3) percent administrative fee, for subdivisions with private improvements. The collection on such security shall be at a location within fifty (50) miles of the county seat of Manatee County. Such performance security shall include cash, letters of credit, surety bonds or other forms of security satisfactory to the county.~~

~~722.3.2.3. Effective Period. The performance security shall remain in effect until the required improvements are accepted or in the case of private improvements, approved by the County. Required improvements secured by performance security shall be completed within one (1) year~~

~~of the date of recording of the Final Plat, except for sidewalks and bikeways located in front of individual residential lots on local streets, shall be completed within three (3) years of the date of recording of the Final Plat. Performance security in lieu of the actual installation of sidewalks and bikeways will be accepted for a maximum of three (3) years from the recording of the Final Plat, at which time the uncompleted portion is required to be completed.~~

~~722.3.2.4. Approval. Performance security provided under this paragraph shall be subject to approval by the Board.~~

~~722.3.2.5. Default. Where approved performance security has been provided, and the required improvements have not been installed according to the terms of the performance security instrument, the County may, upon thirty (30) days written notice to the parties to the instrument, declare the performance security to be in default and exercise the County's rights thereunder. Upon default, no further County permits or approval shall be granted for the project until adequate progress toward completion of the remaining required improvements is shown as determined by the Board. The Board shall receive payment in full if the improvements are not completed or an extension has not been granted prior to the expiration of the performance security.~~

~~722.3.2.5.1. Default in Subdivisions with Private Improvements. Where approved performance security has been provided, and the required improvements have not been installed according to the terms of the performance security instrument, the County may, upon thirty (30) days written notice to the parties to the instrument, declare the performance security to be in default and exercise the County's rights thereunder. Upon default, no further County permits or approval shall be granted for the project until adequate progress toward completion of the remaining required improvements is shown as determined by the Board. The County shall have the right, based upon easements granted with the plat approval, to enter private property, complete the work to the standards approved on the construction drawings, and receive payment in full for the work completed.~~

~~722.3.3. Construction and Inspections. Upon approval of all Construction Drawings and the approval of any required performance security and written notification to the Planning Department, the developer may commence installation of the required improvements in accordance with such approved drawings, or approved written modifications thereto. Such installation shall be subject at all times to inspection by Federal, State and County agencies, and the developer shall employ an engineer, which need not be full time, for complete inspections and approval during such construction activities as necessary to assure compliance with the approved plans. All field and construction changes shall require approval of the Planning Department and shall be filed in such written form and detail as specified by the Planning Department; and incorporated into the record drawing as applicable.~~

~~The developer shall execute any and all documents, in a form approved by the Board for the purpose of transferring to the County without cost, valid unencumbered title to all fees in the ways, sanitary sewers, water mains, and appurtenances thereto, constructed and installed in the subdivision or approved portion thereof, and conveying to the County without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain such sanitary sewers and water mains, with any manholes, conduits, other appurtenances, and storm drainage lines, and to do all acts incidental thereto, in, through, and under the whole of all streets in the subdivision or approved portion thereof, and if any such sewers, water mains or storm drains have been constructed and installed in utility easements.~~

~~Stormwater retention and detention facilities within the One Hundred (100) Year Floodplain adjacent to a tidally influenced water body shall not be subject to this performance standard. All fill and earthmoving shall comply with all provisions of this Code and Earthmoving.~~

~~722.3.3.1. *Inspection and Control.*~~

~~722.3.3.1.1. *Posting of Permit.* Work requiring a development order, one set of approved plans, or permit shall not commence until the permit holder posts the development order one set of approved plans and permit card in a conspicuous place on the property. The permit placard for all inspection services will be issued by the Planning Department. The development order and permit card shall be protected from the weather and located in such position as to permit the Planning Department to conveniently make the required entries thereon. The development order and permit card shall be maintained in such position by the permit holder until the Certificate of Completion or final approval is issued in writing by the Planning Department.~~

~~722.3.3.1.2. *Survey Layout.* The developer shall establish lines and levels, to locate and layout, by instrumentation and similar appropriate means, all construction work required to be done under the development order. The physical laying out of the construction work shall be a prerequisite for any field inspection by the Public Works Department.~~

~~722.3.3.1.3. Inspections by County agencies and all other agencies having jurisdiction shall be permitted at all times during the installation of all improvements.~~

~~722.3.3.1.4. At each of the phases hereinafter indicated, inspections shall be requested by the applicant at least two (2) working days in advance by notice to the Planning Department.~~

~~Clearing, grubbing, filling, grading, and erosion control. (Spot inspection required at beginning and at completion. See also inspection required by Section 717.3.17.)~~

~~The installation of underground utilities and services including the storm drainage system. (Spot inspections required before the backfilling of trenches or other covering of structures.)~~

~~The storm water management system. (Spot inspection required at completion.)~~

~~All rights-of-way (inspections required at completion of the subgrade, subbase, base course, and curbing prior to the placement of the surface course).~~

~~All rights-of-way and easements (spot inspections required during completion of surface course, sidewalks, finish grading, stripping, traffic control and street signs, sodding, seeding and final cleanup).~~

~~Final inspection of all components required by Section 722.~~

~~722.3.3.1.5. Unless the approval of the work completed, including approval of type of materials specified on the approved plans, to each phase has been given by the Planning Department, no further work shall be done on that particular aspect of construction until such work is subsequently completed to the satisfaction of the Planning Department.~~

~~722.3.3.1.6. The applicant shall provide safe and convenient access to all parts of the work for inspections.~~

~~722.3.3.1.7. *Notice to Stop Work.* Upon notice by the Public Works Department that work at any stage is being done contrary to the provisions of this Code, the Public Works Development Standards, or in a dangerous or unsafe manner, the work shall immediately cease. Such notice shall be given in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Public Works Department shall not be required to give a written notice prior to stopping the work.~~

~~722.3.3.1.8. *Material Testing.* The Planning Department may require tests and test reports for any and all materials incorporated into the work, as proof of compliance. Required tests are to be made at the expense of the owner, by an approved testing laboratory or other approved agency.~~

~~722.3.3.1.9. *Correction or Removal of Defective Work.* If required by the Planning Department, the developer shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or if the work has been rejected by the Planning Department, remove it from the site and replace it with non-defective work. The developer shall bear all costs associated with the removal and replacement.~~

~~722.3.3.1.10. *Damage to Public Property.* It shall be the responsibility of the developer to restore and/or replace all public property damaged or destroyed which was caused by work of the developer. A pre-inspection of the contiguous and adjacent public property will be conducted by the Planning Department prior to the developer commencing any work of the development order. An inspection will be conducted by the Planning Department, as a prerequisite to the final approval, which inspection shall review~~

and observe the same contiguous and adjacent public property for possible damage thereto.

~~722.3.4. Completion and Acceptance of Improvements.~~

~~722.3.4.1. Record Drawings.~~ Upon the completion of any required improvements, the developer shall submit to the Planning Department high quality reproducible mylar "record" drawings prepared and certified by the engineer of record and a registered land surveyor in accordance with Chapter 21 HH6, Florida Administrative Code, showing the actual installation of all such improvements, as may be required by this Code. An informational copy of such drawings, which need not be reproducible mylar, shall also be submitted to the Planning Director. Record drawings shall be in accordance with Manatee County Planning record drawing requirements, latest revisions, and Section 722.3.4.3.1 Certificate of Completion.

~~722.3.4.2. Defect Security.~~ Prior to the issuance of a Certificate of Completion, the developer shall post security, in an amount equal to ten (10) percent of the actual installation costs of all required improvements, for the purpose of correcting any construction, design, or material defects or failures within public rights of way or easements in the development or required off site improvements. The form, and manner of execution of such security shall be subject to the approval of the Attorney for the County. The effective period for such security shall be thirty-six (36) months following the issuance of a Certificate of Completion and County acceptance of the installed improvements. Substitution of principal, sureties, or other parties shall be subject to the approval of the Board of County Commissioners, upon recommendation by the Attorney for the County. Upon default, the Board of County Commissioners may exercise its rights under the Defect Security instrument, upon ten (10) days written notice by certified mail, return receipt requested, to the parties to the instrument.

~~722.3.4.3. Acceptance Requirements.~~

~~722.3.4.3.1. Record Drawing Submission.~~ The engineer and professional land surveyor of record shall prepare and submit record drawings and certify that the required site improvements have been installed and completed in accordance with the original development approval and any authorized written modifications thereto. Record drawings shall be submitted to the Planning Department for approval. These drawings shall be signed and sealed by the engineer of record attesting to compliance with the development approval and by a registered land surveyor attesting to accuracy on location and elevations.

~~722.3.4.3.2. Certificate of Completion.~~ The Planning Department shall issue a Certificate of Completion for all required improvements only upon compliance by the developer with all of the following requirements:

~~722.3.4.3.2.1. Completion of satisfactory final inspections.~~

~~722.3.4.3.2.2. Submission and approval of a certification by the engineer and registered land surveyor of record, on forms prescribed by the County.~~

~~722.3.4.3.2.3. Posting and approval of the required defect security, in accordance with subsection 722.3.4.2 above, Defect Security.~~

~~722.3.4.3.3. Acceptance of Required Improvements. Upon the issuance of any Certificate of Completion for any required improvements, the County shall thereby accept responsibility for the maintenance of such improvements, provided such improvements are on land which the County owns, or for which it has accepted an offer of dedication. Unless and until the County acquires such interests; maintenance of such improvements shall remain the sole responsibility of the developer.~~

Section 4. Amendment of Section 910.

Section 910 is a new section for the Installation of Required Improvements as follows:

Section 910. Installation of Required Improvements

910.1. Certification, Approval of Plans. The engineer of record shall certify the design and inspection of the installation of all required improvements such as streets, drainage structures, bridges, bulkheads, and water and wastewater facilities. All construction drawings for improvements shall be prepared by such engineer in a form acceptable to the County Engineer and, prior to construction, must be approved by the County Engineer.

910.2. Construction. Upon approval of all construction drawings, and the approval of any required performance security and written notification to the County Engineer, the developer may commence installation of the required improvements in accordance with such approved drawings, or approved written modifications thereto, and the performance standards set forth in Section 722. Such installation shall be subject at all times to inspection by Federal, State and County agencies, and the developer shall employ an engineer, which need not be full time, for complete inspections and approval during such construction activities as necessary to assure compliance with the approved plans. All field and construction changes shall require approval of the County Engineer and shall be filed in such written form and detail as specified by the County Engineer; and incorporated into the record drawing as applicable.

910.2.1. Posting of Permit. Work requiring a development order, approved plans or permit shall not commence until the permit holder posts the development order, one set of approved plans and permit card in a conspicuous place on the property. The permit placard for all inspection services will be issued by the County Engineer. The development order and permit card shall be protected from the weather and located in such position as to permit the County Engineer to conveniently make the required entries thereon. The development order and permit card shall be maintained in such position by the permit holder until the Certificate of Completion or final approval is issued in writing by the County Engineer.

910.2.2. Survey Layout. The developer shall establish lines and levels, to locate and layout, by instrumentation and similar appropriate means, all construction work required to be done under the development order. The physical laying out of the construction work shall be a prerequisite for any field inspection by the County Engineer.

910.2.3. Access for Inspections. Inspections by County agencies and all other agencies having jurisdiction shall be permitted at all times during the installation of all improvements. The applicant shall provide safe and convenient access to all parts of the work for inspections.

910.2.4. Inspections During Construction. At each of the phases hereinafter indicated, inspections shall be requested by the applicant at least two (2) working days in advance by notice to the County Engineer.

910.2.4.1. Clearing, grubbing, filling, grading, and erosion control. (Spot inspection required at beginning and at completion. See also inspection required by Section 717.3.17.)

910.2.4.2. The installation of underground utilities and services including the storm drainage system. (Spot inspections required before the backfilling of trenches or other covering of structures.)

910.2.4.3. The storm water management system. (Spot inspection required at completion.)

910.2.4.4. All rights-of-way (inspections required at completion of the subgrade, subbase, base course, and curbing prior to the placement of the surface course).

910.2.4.5. All rights-of-way and easements (spot inspections required during completion of surface course, sidewalks, finish grading, stripping, traffic control and street signs, sodding, seeding and final cleanup).

910.2.4.6. Final inspection of all components required by Section 910.3.

910.2.5. Material Testing. The County Engineer may require tests and test reports for any and all materials incorporated into the work, as proof of compliance. Required tests are to be made at the expense of the owner, by an approved testing laboratory or other approved agency.

910.2.6. Correction or Removal of Defective Work. If required by the County Engineer, the developer shall promptly, as directed, either correct all defective work, whether or not fabricated, installed or completed, or if the work has been rejected by the County Engineer, remove it from the site and replace it with non-defective work. The developer shall bear all costs associated with the removal and replacement.

910.2.7. Construction Subject to Continued Compliance. Unless the approval of the work completed, including approval of type of materials specified on the approved plans, to each phase has been given by the County Engineer, no further work shall be done on

that particular aspect of construction until such work is subsequently completed to the satisfaction of the County Engineer.

910.2.8. Notice to Stop Work. Upon notice by the Public Works Department that work at any stage is being done contrary to the provisions of this Code, the Public Works Development Standards, or in a dangerous or unsafe manner, the work shall immediately cease. Such notice shall be given in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Public Works Department shall not be required to give a written notice prior to stopping the work.

910.2.9. Damage to Public Property. It shall be the responsibility of the developer to restore and/or replace all public property damaged or destroyed which was caused by work of the developer. A pre-inspection of the contiguous and adjacent public property will be conducted by the County Engineer prior to the developer commencing any work of the development order. An inspection will be conducted by the County Engineer, as a prerequisite to the final approval, which inspection shall review and observe the same contiguous and adjacent public property for possible damage thereto.

910.3. Final Inspection of Improvements. After all required improvements have been installed, the engineer of record shall submit certified record drawings, in a form acceptable to the County Engineer, to the County that the improvements have been constructed substantially according to approved plans and specifications. The County Engineer shall periodically inspect all construction subject to this Section. Noncompliance with approved plans or specifications or evidence of faulty materials or workmanship shall be immediately called to the attention of the developer or the engineer and, if not corrected in an expeditious manner, all work on the project will be suspended.

910.4. Performance Security. When platting is proposed prior to completion of construction, the developer shall:

910.4.1. Agreement. Record an agreement acceptable to the Board of County Commissioners which commits the developer and/or financial institution to comply with this Section 910; and

910.4.2. Security. Submit a performance security that satisfies the requirements of Section 910.10. Such performance security shall be in the penal sum of one hundred and thirty percent (130%) of the estimated cost of the required improvements. The performance security shall cover the cost of all improvements and may be adjusted by the County Engineer to reflect the completion or partial completion of such improvements.

In the event that the County Engineer determines that the developer has failed to complete required improvements, or has failed to provide the County with a substitute performance security in advance of expiration of a performance security, the County Engineer shall exercise the County's rights under the developer's agreement and performance security to assure the completion of such required improvements.

910.5. Defect Security. Before issuance of a certificate of completion, the developer shall submit to the County Engineer a defect security that satisfies the requirements of Section 910.10. Such defect security shall be in the penal sum of ten (10) percent of the actual construction cost of all the required improvements. The defect security shall have an expiration date of three (3) years from the date of issuance of the certificate of completion. The financial institution shall be responsible for notifying the County Engineer in writing of the expiration date no less than thirty (30) days before the expiration date. (The defect security shall be renewed for an additional ninety (90) days upon the written request of the County Engineer.)

910.5.1. Guarantee of Workmanship. The purpose of the defect security is to guarantee the materials, workmanship, structural integrity, functioning, and maintenance of the required improvements during the three-year period following issuance of the certificate of completion.

910.5.2. Determination of Defect. If the County Engineer determines after issuance of the certificate of completion that the materials, workmanship, structural integrity, functioning, or maintenance of any of the required improvements is unacceptable, or if he determines that the developer has failed to provide the County with a substitute defect security in advance of expiration of a defect security, he shall so notify the developer by registered mail of the unacceptable condition, and, subject to subsection 910.5.3 below, he shall afford the developer a reasonable period of time in which to correct the unacceptable condition. If the County Engineer thereafter determines that the unacceptable condition has not been corrected, the County may present to the financial institution a demand for payment on the defect security.

910.5.3. Expiration. The reasonable period of time referenced in subsection 910.5.2 above may be shortened or waived at the discretion of the County Engineer (a) if the defect security will expire before the end of a reasonable period of time, unless the defect security is renewed for an additional ninety (90) days before the expiration date, or (b) if the unacceptable condition poses a risk or danger to the health, safety, and welfare of the people of the County.

910.6. Certificate of Completion; Approval for Maintenance; Acceptance.

910.6.1. Maintenance Prior to Acceptance. The developer shall be responsible for the maintenance and operation associated with the public improvements facilities until approval for maintenance is issued.

910.6.2. Certificate of Completion. After successful completion of all improvements, and after receipt of the required documents, the County Engineer will provide a certificate of completion verifying the satisfactory construction of all required improvements. The required documents shall include the following:

910.6.2.1. Completion of satisfactory final inspections.

910.6.2.2. Submission and approval of a certification by the engineer and registered land surveyor of record, on forms prescribed by the County.

910.6.2.3. Posting and approval of the required defect security, in accordance with Section 910.5.

910.6.3. Acceptance of Public Required Improvements. Upon the issuance of any Certificate of Completion by the County Engineer for any public required improvements, the County shall thereby accept responsibility for the maintenance of such improvements, provided such improvements are on land which the County owns, or for which it has accepted an offer of dedication. Maintenance of improvements to be owned by a community development district or other government or private entity shall remain the responsibility of such district or entity.

910.7. Monuments.

910.7.1. Permanent reference monuments. Permanent reference monuments shall be placed as required by Ch. 177, F.S., as amended. Monuments shall be set in the ground so that the top is flush or no more than one (1) foot below the finished grade.

910.7.2. Permanent control points. Permanent control points shall be placed as required by Ch. 177, F.S., as amended. Points shall not be more than one (1) foot below finished grade.

910.8. Certified record drawings. Certified record drawings shall contain the following:

- i. Original approved design;
- ii. All field modifications;
- iii. Field verified elevations and locations as required under the engineer's certification of completion. Field elevations and locations shall be shown on the record drawings and denoted as such; and
- iv. Engineer's certification in accordance with Section 910.9.

910.9. Engineer's certification of completion. The engineer of record shall provide the following certification on certified record drawings:

In the professional opinion of _____, P.E., as a registered engineer in the State of Florida, I certify that the improvements for grading, paving, drainage facilities, water distribution system and wastewater collection system for the project (description of platted lands) have been completed substantially in compliance with the engineering plans approved by Manatee County and in compliance with the Manatee County Code and the Manual of Standards and Specifications for Wastewater and Water Main Construction. This determination is based on construction site observations and review of test reports by me or a representative under my direction. Enclosed are record drawings which I have reviewed prior to this certification. A separate certification for the underdrain construction will be made by the geotechnical engineer.

910.10. Requirements for Performance and Defect Securities. Each performance security posted in accordance with Section 910.04, and each defect security posted in accordance with

Section 910.05, shall be an irrevocable letter of credit or surety bond, in a form acceptable to, and issued by a financial institution acceptable to, the County Administrator.

910.10.1. *Replacement Security.* If, at any time after posting of a performance or defect security, a material change occurs in the condition of the financial institution, or if the financial institution fails to honor the posted security, and the developer fails to provide a replacement security in satisfaction of this Section 910, (a) the developer may be deemed in violation of this Code, and may be subject to a stop work order or any other remedy available hereunder, and (b) the County Engineer may draw upon the security.

910.10.2. *Cash Security.* The County Engineer may, in his or her discretion, accept cash in lieu of a performance security or defect security, to be held by the County in its depository accounts, if and only if (a) the amount to be secured by such cash deposit does not exceed twenty five thousand dollars (\$25,000), and (b) the total amount of improvements secured through cash deposits by the developer and its affiliates for all projects in the County does not exceed fifty thousand dollars (\$50,000).

910.11. *Designation of County Engineer.* The County Administrator shall designate an employee in the Public Works Department to serve as the County Engineer and carry out the functions set forth in this Section. The County Engineer may designate subordinate employees to carry out such functions under his authority and supervision.

Section 5. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the amendments in Sections 719, 722 and 910 of this ordinance into the Land Development Code, but shall not codify the remaining Sections.

Section 6. Applicability. The amendments set forth in this ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 7. 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 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 8. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 6th day of February, 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



To:
Cc:
Bcc:
Subject: Fw: Questions regarding : Fw: Long Bar Pointe

Dear Ms. Stahle:

On behalf of the Board of County Commissioners, thank you for your recent email regarding the Long Bar Pointe Text Amendment. Copies of your correspondence were forwarded to all commissioners, the County Attorney and the Director of Building and Development Services. Your comments will also be entered into the record for the Board of County Commissioners public hearings. You are encouraged to attend these hearings and offer your comments directly to the Board. Please know that your input is very important to them and your active participation in the political process is always encouraged and welcome.

Shirley Talley, Executive Assistant
Manatee County Government
Board of County Commissioners
1112 Manatee Avenue West, Suite 903
Post Office Box 1000
Bradenton, FL 34206-1000
Telephone: 941-745-3709
shirley.talley@mymanatee.org

"Stahle" I had been meaning to send you an email regard... 12/25/2013 08:31:59 PM

Long Bar Pointe

Stahle to: john.chappie 12/25/2013 08:31 PM

Please respond to "Stahle"

I had been meaning to send you an email regarding the Long Bar Pointe development, but then saw what I suppose is good news in the Bradenton Herald today. While I'm not sure what the withdrawal of the proposed Comprehensive Plan map amendment means in terms of the extent of the development, I still have concerns over the whole project.

Does this mean that unless the developer requests otherwise, they are allowed under res-9, 16 homes per acre plus office/retail space? What type and how much office/retail are they allowed? Is there a height maximum? Will they still be allowed a 300 room hotel and conference center? Something as big as the Hyatt (294 rooms) and Ritz Carlton (266 rooms) is frightening.

I, along with many others, feel that this is a special piece of land since it is probably the last undeveloped shoreline on Sarasota Bay. As the Audubon Society can attest after the last week or so, there are many, many birds (including bald eagles) in the area. While most other wildlife is not as evident, I am sure it

abounds. Just a few days ago, I did stop and pick up a huge turtle in the middle of the road. So many species are being squeezed out of their habitats due to development, this is the last place for them to go.

I know you will get a lot of pressure for more development with the expansion of IMG, but why is it necessary to develop every single inch of land? If you want chock to block development, you can go to Lakewood Ranch. That seems to be their mission in life. It is touted that West Manatee is so unique. Isn't there some way to maintain that atmosphere?

Thank you for your efforts. I'm sure you feel a great responsibility as our representative while at the same time protecting the rights of property owners. I just hope that you and the commission will be able to work with the developer in keeping our corner of the county special.

Judy Stahle
8704 54th Ave W

941-761-2229