

**MANATEE COUNTY ZONING ORDINANCE
PDR-17-07(Z)(P) MCCLURE PROPERTIES / BRADEN RIVER SHORES
(DTS20170242 / MEPS690)**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 15-17, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO THE ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 78.97 ACRES OF A TOTAL 140.47± ACRE SITE (61.50± ACRES ALREADY ZONED PDR) GENERALLY LOCATED ± 1.94 MILES EAST OF US 301, ± 2.8 MILES WEST OF I-75, ON THE SOUTH SIDE OF THE BRADEN RIVER AND NORTH OF 34TH AVENUE EAST AT 3900 26TH AVENUE EAST, 3905 26TH AVENUE EAST, 3110 39TH STREET EAST AND 2600 39TH STREET EAST, BRADENTON, MANATEE COUNTY FROM A-1 (SUBURBAN AGRICULTURE) TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVE A PRELIMINARY SITE PLAN FOR 417 SINGLE-FAMILY RESIDENTIAL DETACHED UNITS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, McClure Properties, LTD. (the “Applicant”) filed an application to rezone approximately 78.97 acres of a total 140.47± acre site (61.50± acres already zoned PDR) described in Exhibit “A”, attached hereto, (the “property”) from A-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan for 417 single-family residential detached units (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 2 dwelling units per acre in the RES-3 Future Land Use Category, 2.) exceeding a net residential density of 3 dwelling units per acre in the RES-3 Future Land Use Category, 3.) adjacent to a perennial stream, 4.) partially within the Coastal High Hazard Area Overlay District, 5.) within the Coastal Evacuation Area Overlay District, and 6.) structures located within the 25-year floodplain: and

WHEREAS, the applicant also filed a request for Specific Approval for an alternative to Land Development Code Section 1001.6.A.1.a requiring new developments to construct 5’ sidewalks along both sides of all new or existing Major Thoroughfares; 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 January 4, 2018 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-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on February 1, 2018 and March 1, 2018 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance No. 15-17, 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 Manatee County Ordinance No. 89-01, the Manatee County Comprehensive Plan.

D. For the purposes of granting Special Approval, 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 1001.6.A.1.a, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed stipulation.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 417 single-family residential detached units, upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE STIPULATIONS

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 language to inform prospective homeowners of:
 - a. The presence of light, glare and traffic noises from 26th Avenue East and 39th Street E;
 - b. The location of an eagle's nest; and
 - c. A Hurricane Evacuation Plan has been reviewed and approved by the Manatee County Public Safety Department, and shall be implemented according to the applicable regulations of the LDC and the Comprehensive Plan.
2. Any significant historical or archeological resources discovered during development activities shall be immediately reported to the Florida Department of State, Division of Historical Resources, and treatment of such resources shall be determined in cooperation with the Division of Historical Resources, and the County. The final determination of significance shall be made in conjunction with the Florida Department of State, Division of Historical Resources, and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Florida Department of State, Division of Historical Resources) must be completed before resource disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Chapter 872, Florida Statutes (Offenses Concerning Dead Bodies and Graves) shall be followed.
3. Final Site Plan (FSP) review and approval is required for any recreational area / amenity area. The actual number of parking spaces required will be determined at FSP based on the type and square feet of the recreational uses, any recreation or amenity area structures shall have a minimum 20-foot setback from all property lines.
4. All other applicable state or federal permits shall be obtained before commencement of the development.

B. ENVIRONMENTAL STIPULATIONS

1. Prior to Preliminary Site Plan/Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (i.e. historical cattle dipping vats, underground/above ground storage tanks, or buried drums) by a qualified environmental consultant. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation/mitigative measures. Sec.542.7.J of the LDC (formerly Sec. 723.3.7.10)

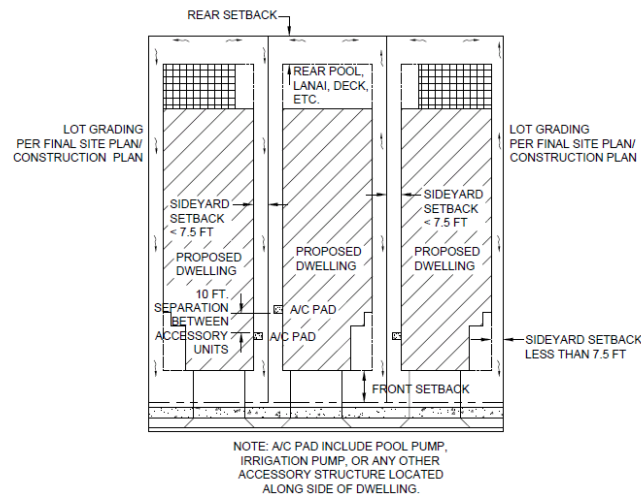
2. Other than a launch area for canoes or kayaks, railings and “No Mooring”/ “Manatee Awareness” signs shall be installed on the proposed pier. Details shall be included in the Final Site Plan.
3. The applicant shall demonstrate that all permits, if required, are obtained from FWC regarding construction adjacent to the bald eagle’s nest, prior to commencement of construction.
4. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas that are provided as wetland mitigation shall be dedicated to the County prior to or concurrent with Final Plat approval.
5. The developer shall provide an updated study, consistent with Policy 3.3.2.1 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. The Management Plan approved by the State shall be submitted prior to the commencement of development for any listed species found on site.
6. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
7. 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 355 (formerly Sec. 519) of the LDC.
8. 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.
9. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

C. STORMWATER ENGINEERING STIPULATIONS

1. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Sugarhouse Creek watershed. Modeling shall be used to determine pre- and post-development flows.
2. Any impacts (fill) within the Riverine 100-floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year

floodplain impacts shall be mitigated in sole use compensation areas, not dual-use stormwater facilities (i.e. stormwater attenuation and floodplain compensation).

3. A no-rise permit will be required for any encroachment within the FEMA 100-year floodway of the Braden River. Any existing or proposed structures within the floodway shall be modeled.
4. There shall be a minimum of ten (10) foot separation between accessory equipment and structures alongside adjoining houses with 5-foot side yard setbacks.



5. In the event, the Applicant's request for Specific Approval is granted by the Board of County Commissioners to not construct the sidewalk along both the North and South shoulders of 26th Avenue East from 39th Street East to the East Project boundary, then the Applicant shall enter into a Sidewalk Agreement to provide for a payment to the County as a payment-in-lieu of the construction of said sidewalk in an amount to be calculated in the Agreement. Should the Applicant fail or refuse to make the aforesaid payment-in-lieu, nothing in this Ordinance shall be construed as affecting the County's right to require construction of said sidewalk and to pursue any and all legal and equitable remedies against the Applicant.

D. FLOODPLAIN MANAGEMENT STIPULATIONS

1. Any encroachment, including fill, in the floodway will require No-Rise Certification.

E. UTILITY ENGINEERING STIPULATIONS

1. Connection to the County potable water and wastewater systems 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 appropriate County Master Plan. The connection shall be designed, engineered and permitted by the Applicant consistent with Manatee County Public Works Standards

and approved by County Engineer through the construction plans review process for the project.

2. Water, sewer, and reclaimed water infrastructure at or above ground level (i.e. water meters, fire hydrants, blow-off assemblies, backflow devices, sewer cleanouts, manholes, lift stations) dedicated to Manatee County shall be elevated above the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. Prior to or concurrent with the Construction Plan review of the project, a SLOSH model specific to the Braden River Shores project area shall be provided to the Manatee County Public Works and Utilities Departments verifying the minimum required infrastructure elevation.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for a project: 1.) exceeding a gross density of 2 dwelling units per acre in the RES-3 Future Land Use Category, 2.) exceeding a net residential density of 3 dwelling units per acre in the RES-3 Future Land Use Category, 3.) adjacent to a perennial stream, 4.) partially within the Coastal High Hazard Area Overlay District, 5.) within the Coastal Evacuation Area Overlay District, and 6.) structures located within the 25-year floodplain. Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for an alternative to Section 1001.6.A.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.

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 classification of the property identified in Exhibit “A” herein from A-1 (Suburban Agriculture) 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 1st day of March, 2018.

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

BY: _____
Priscilla Trace, Chairman

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court and Comptroller

BY: _____
Deputy Clerk

EXHIBIT “A”

LEGAL DESCRIPTION

PID #: 1418600001

LOTS 84, 86, 91, 92, 93, 94 & 96 OF ELWOOD PARK, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 76, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PID#: 1538400001

NE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PID #: 1538310002

THE N $\frac{3}{4}$ OF THE W $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$, SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PID#: 1528300005

LOT 90 OF ELWOOD PARK, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 76, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PID#: 1538300003

THE N $\frac{3}{4}$ OF THE E $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST; LESS ROAD RIGHT-OF-WAY TO COUNTY DESCRIBED IN OFFICIAL RECORDS BOOK 93, PAGE 444, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.