

ORDINANCE NO. 2008-120

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, (ZONING ORDINANCE AMENDMENT NO. 34) AMENDING SARASOTA COUNTY ORDINANCE NO. 2003-052 (AS AMENDED FROM TIME TO TIME) CODIFIED AS APPENDIX A OF THE SARASOTA COUNTY CODE, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF SARASOTA COUNTY; PROVIDING FOR FINDINGS; AMENDING SECTION 3.15, RELATING TO BINDING CONCEPT PLANS; AMENDING SECTION 3.16, RELATING TO SPECIAL EXCEPTIONS; AMENDING SECTION 5.5, RELATING TO TEMPORARY USES; AMENDING SECTION 8.3 RELATING TO NONCONFORMING STRUCTURES; AMENDING SECTION 8.5, RELATING TO NONCONFORMING RESIDENTIAL DENSITY; PROVIDING FOR EFFECT ON OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. Findings. The Board of County Commissioners, hereinafter referred to as the “Board” hereby makes the following findings:

A. The Board has held the required public hearings on the proposed amendments described herein in accordance with the requirements of the Sarasota County Zoning Ordinance and has considered the information received at said public hearings.

B. The Board waived the requirement for a public hearing conducted by the Sarasota County Planning Commission.

C. The Board, sitting as the Sarasota County Land Development Regulation Commission, has reviewed the proposed amendments provided herein and has found that the amendments are consistent with the Sarasota County Comprehensive Plan.

Section 2. Amendment to Section 3.15 of Ordinance No. 2003-052, as amended, relating to Development Concept Plans.

Subsection 3.15.4 is hereby amended as follows:

3.15.4. Changes in Plans

- a. Changes in preliminary plans or site and development plans which are in substantial compliance with the approved development concept plan may be permitted by the Zoning Administrator with input from appropriate members of the Development Review Committee and County Attorney as required, on petition by the applicant or successors, but only upon making a finding that such changes are:
 1. In accord with all applicable regulations currently in effect; and
 2. In accord with all the conditions and requirements specified in the ordinance approving the rezoning.

- b. The Zoning Administrator is authorized to approve changes in the approved development concept plan, but shall not have the power to approve changes that constitute a substantial modification except as provided below. All other substantial modifications shall be processed by the Planning and Development Services Business Center as a rezoning request in accordance with Section 3.12.
 1. The following substantial modifications occurring within 100 feet of the parcel boundary may be approved by the Zoning Administrator in accordance with subsection a.1 above provided that notarized letters of no objection from all of the abutting property owners are included with the request:
 - (i) Decrease in building height;
 - (ii) Reduction in building square footage provided that there is no increase in the footprint of the building;
 - (iii) Modifications to the building shape provided that there is no increase in the footprint of the building;
 - (iv) Parallel shifting of a building(s) along a property line provided that the previously approved setback shown on the development concept plan is maintained;
 - (v) Modifications to off-street parking layouts, provided all other County requirements are met;
 - (vi) Creation of additional parking spaces, provided that the additional spaces do not exceed the maximum parking spaces required for the site; or

(vii) Additions to existing structures for uses approved on the development concept plan that do not intensify the use or increase the required parking requirements (e.g. storage areas, carports, porte cocheres). These additions may only be approved for parcels where, due to the narrowness of the property (e.g. 200 foot wide parcel) any proposed modification would fall within 100 feet of the parcel boundary.

2. The Zoning Administrator may deny any of the above modification requests if it is determined that the proposed modification would result in a significant departure from the intention of the Board in approving the development concept plan or would be contrary to the purposes of the zoning regulations.

If the request is denied by the Zoning Administrator, the applicant may submit a request to the Board of County Commissioners for review and approval of the modification. The Board, after a duly notice public hearing, may grant the request, grant the request with additional stipulations or safeguards, or deny the request if deemed necessary to prevent negative impacts on surrounding properties. Notice shall be provided as set forth in Section 3.1.10 for both the Planning Commission and Board of County Commissioners public hearings. They may also require that the request be processed by the Planning and Development Services Business Center as a rezoning request in accordance with Section 3.12.

c. Substantial Modifications

1. In reaching a decision as to whether or not proposed changes are to be considered a substantial modification, the Zoning Administrator shall, after reviewing the record of the project, determine if any of the following changes are proposed.

MINOR MODIFICATION	SUBSTANTIAL MODIFICATION
GENERAL	
---	Any change in a stipulation or condition specifically required by the Board of County Commissioners.
---	Any alteration to uses approved in the development concept plan that lie within 100 feet of the parcel boundary, or within 100 feet of any part of the parcel boundary that has been constructed or sold to any owner or owners different from the applicant requesting the change, that is not specifically set forth in this table as a minor modification.
---	Any other modifications that affect the area depicted on the development concept plan or the perimeter of the proposed site that are not specifically set forth in this table as a minor modification.
USE	
A change from one permitted or limited use to another permitted or limited use.	---
A petition for a special exception.	---
In a PUD, a change from multifamily to single-family use.	In a PUD, a change from single-family residential use to multifamily residential use; from any residential use to internal commercial use; or a change in the location of an internal commercial component.

SITE CHARACTERISTICS	
A modification of the size and configuration of perimeter stormwater lakes or any internal lakes.	---
A decrease in the amount of open space of less than 5 percent, provided the remaining open space is not less than that required in the district, and further provided the land was not designated as conservation or preservation land (including native habitat) on the development concept plan.	A reduction in the amount of open space, recreation areas, preservation areas or buffer areas of more than five percent, or any change in the location of open space or recreational uses within 100 feet of the boundary of the planned district, or within 100 feet of any part of a nonresidential planned district that has been constructed or sold to any owner or owners different from the applicant requesting the change, or within 100 feet of the boundary of any portion of a residential planned district that has received final plat approval. Any change made to the boundaries of open space, recreation or preservations areas previously recorded shall be considered a substantial modification. The Zoning Administrator may request comments from other County Business Centers and other agencies, as appropriate, regarding these changes.
A modification to off-street parking layout, provided all other County requirements for such facilities are met, provided no modification is within 100 feet of any residentially-zoned property. Modifications to eliminate or reduce parking and replace with undeveloped open space areas or stormwater lakes are allowed within 100 feet of residentially-zoned property.	---
A modification to the configuration of lots in areas previously designated for outparcels, provided no modification is within 100 feet of any residentially-zoned property.	---

ACCESS	
A modification or addition to the external access points adjacent to nonresidential development or undeveloped residentially-zoned property, provided the applicant demonstrates that the spacing is appropriate, safe, does not adversely affect the operation of the adjacent public roadway, and is approved by the County Engineer.	Addition or substantial relocation of an access point as shown on an approved development concept plan.
A modification to internal access to outparcels, provided no modification is within 100 feet of any residentially-zoned property.	---
A modification to internal roads, internal bike lanes or sidewalks in residential projects, provided all other County requirements for such facilities are met.	---
BUILDING AREA/UNITS	
A decrease in total residential units or nonresidential square footage.	In CHI, CG, PID, PCD or OPI/PD an increase in floor area of five percent or more.
	An increase of five percent or less in residential units equal to a concurrent reduction in planned areas for parking or stormwater, provided the increase does not occur within 100 feet of the parcel boundary and the total number of dwelling units for the project does not exceed the maximum density allowed by the zoning district or the future land use category, whichever is more restrictive.
	An increase of five percent or less in the amount of nonresidential square footage equal to a concurrent reduction in planned areas for parking or stormwater, provided the increase does not occur within 100 feet of the parcel boundary.
<u>Modifications to building configuration not within 100 feet of the parcel boundary.</u>	

2. The measurement of distances in the table above shall include only abutting property, and shall not include any property across a street.

Section 3. Amendment to Section 3.16 of Ordinance No. 2003-052, as amended, relating to Special Exceptions.

Subsection 3.16.10 is hereby amended as follows:

3.16.10. Criteria for Evaluation of Conformity with Development Concept Plans

- a. No structure or use classified as a special exception in the district where the use or structure is located shall be expanded or enlarged except in accordance with a development concept plan approved in conjunction with the granting of the special exception and any conditions and stipulations approved with the special exception.
- ~~b. The Zoning Administrator shall review and evaluate the request considering the Comprehensive Plan, these zoning regulations, the Official Zoning Map, and other relevant codes and statutes, consult with the County Attorney or other affected County staff as necessary, and render an interpretation.~~
- ~~c. In reaching a decision as to whether or not proposed changes are to be considered a substantial modification, the Zoning Administrator shall, after reviewing the record of the project, determine if any of the following changes are proposed.~~
- b. Changes in preliminary plans or site and development plans which are in substantial compliance with the approved development concept plan may be permitted by the Zoning Administrator with input from appropriate members of the Development Review Committee and County Attorney as required, on petition by the applicant or successors, but only upon making a finding that such changes are:
 - 1. In accord with all other applicable regulations currently in effect; and
 - 2. In accord with all of the other conditions and requirements specified in the resolution approving the special exception.
- c. The Zoning Administrator is authorized to approve changes in the approved development concept plan, but shall not have the power to approve changes that constitute a substantial modification, except as provided below. All other substantial modifications shall be processed by the Planning and Development Services Business Center as a special exception request in accordance with Section 3.16.
 - 1. The following substantial modifications occurring within 100 feet of the parcel boundary may be approved by the Zoning Administrator in accordance with subsection a.1 above provided that notarized letters of no objection from all of the abutting property owners are included with the request:

- (i) Decrease in building height;
 - (ii) Reduction in building square footage provided that there is no increase in the footprint of the building;
 - (iii) Modifications to the building shape provided that there is no increase in the footprint of the building;
 - (iv) Parallel shifting of a building(s) along a property line provided that the previously approved setback shown on the development concept plan is maintained;
 - (v) Modifications to off-street parking layouts, provided all other County requirements are met;
 - (vi) Creation of additional parking spaces, provided that the additional spaces do not exceed the maximum parking spaces required for the site; or
 - (vii) Additions to existing structures for uses approved on the development concept plan that do not intensify the use or increase the required parking requirements (e.g. storage areas, carports, porte cocheres). These additions may only be approved for parcels where, due to the narrowness of the property (e.g. 200 foot wide parcel) any proposed modification would fall within 100 feet of the parcel boundary.
2. The Zoning Administrator may deny any of the above modification requests if it is determined that the proposed modification would result in a significant departure from the intention of the Board in approving the development concept plan or would be contrary to the purposes of the zoning regulations.

If the request is denied by the Zoning Administrator, the applicant may submit a request to the Board of County Commissioners for review and approval of the modification. The Board, after a duly notice public hearing, may grant the request, grant the request with additional stipulations or safeguards deemed necessary to prevent negative impacts on surrounding properties, or deny the request. Notice shall be provided as set forth in Section 3.1.10 for both the Planning Commission and Board of County Commissioners public hearings. They may also require that the request be processed by the Planning and Development Services Business Center as a rezoning request in accordance with Section 3.12.

MINOR MODIFICATION	SUBSTANTIAL MODIFICATION
GENERAL	
---	Any change in a stipulation or condition specifically required by the Board of County Commissioners.
---	Any alteration to uses approved in the development concept plan that lie within 100 feet of the boundary of the special exception, or within 100 feet of any part of the special exception that has been constructed or sold to any owner or owners different from the applicant requesting the change, that is not specifically set forth in this table as a minor modification.
---	Any other modifications that affect the area depicted on the development concept plan or the perimeter of the proposed site, that are not specifically set forth in this table as a minor modification.

USE	
Addition of any underlying permitted use in the structure(s) shown on the development concept plan.	Addition of any underlying permitted use on the site or within a structure not shown on the development concept plan.
BUILDING AREA/UNITS	
A decrease in total residential units or nonresidential square footage.	Any increase in building height.
Slight modification to building configuration not within 100 feet of the boundary of the special exception.	
	An increase of five percent or less in residential units equal to a concurrent reduction in planned areas for parking or stormwater, provided the increase does not occur within 100 feet of the boundary of the special exception and the total number of dwelling units for the project does not exceed the maximum density allowed by the zoning district or the future land use category, whichever is more restrictive.
	An increase of five percent or less in the amount of nonresidential square footage equal to a concurrent reduction in planned areas for parking or stormwater, provided the increase does not occur within 100 feet of the boundary of the special exception.
SITE CHARACTERISTICS	
A modification of the size and configuration of perimeter stormwater lakes or any internal lakes.	---
A decrease in the amount of open space of less than 5 percent, provided the remaining open space is not less than that required in the district, and further provided the land was not designated as conservation or preservation land (including native habitat) on the development concept plan.	---
A modification to off-street parking layout, provided all other County requirements for such facilities are met, provided no modification is within 100 feet of the special exception. Modifications to eliminate or reduce parking and replace with undeveloped open space areas or stormwater lakes are allowed within 100 feet of residentially-zoned property.	---

ACCESS	
A modification or addition to the external access points adjacent to nonresidential development or undeveloped residentially-zoned property, provided the applicant demonstrates that the spacing is appropriate, safe, does not adversely affect the operation of the adjacent public roadway, and is approved by the County Engineer.	Addition or substantial relocation of an access point as shown on an approved development concept plan.
A modification to internal bike lanes or sidewalks provided all other County requirements for such facilities are met.	---

- d. Proposed changes to uses or structures that are customarily accessory and clearly incidental and subordinate to permissible existing special exception uses and structures, or to permitted uses or structures, shall be construed as minor changes. All other changes shall not be considered minor changes.
- e. Where said use or structure is not subject to a special exception development concept plan, the existing use or structure shall not be expanded or enlarged unless a site plan approving the expansion is approved pursuant to the provisions of Section 3.16, except as provided below:
 - 1. Where any special exception has been approved without a development concept plan, the Zoning Administrator shall have the authority to approve minor changes to the existing uses or structures without the necessity of formal approval under the provisions of this Section, provided that the owner has filed a site plan with the Zoning Administrator showing the existing structures and uses. Upon filing, such plan shall be incorporated as part of the special exception approval and shall be binding upon the property.
 - 2. For the purposes of this subsection e., minor changes shall not include any alterations or expansions of uses within 100 feet of the boundary of the special exception approval except as provided in Section 3.16.10.c. Where the special exception was approved for less than an entire property now under unified control, the 100 feet shall be measured from the boundary of the entire property.
 - 3. Any change in a condition specifically required by the Board of County Commissioners as part of the approval of the special exception shall not be considered a minor change, unless no longer applicable.
 - 4. For purposes of this subsection e., proposed changes to uses or structures that are customarily accessory and clearly incidental and subordinate to permissible existing special exception uses and structures, or to permitted uses or structures, shall be construed as minor changes. All other changes shall not be considered minor changes.
 - 5. For transmission towers, see Article II, Chapter 118 of the Sarasota County Code, as may be amended.
 - 6. All changes approved by the Zoning Administrator under this paragraph shall otherwise be in conformance with all current standards provided in these zoning regulations.

Section 4. Amendment to Section 5.5. of Ordinance No. 2003-052, as amended, relating to Temporary Uses.

Subsection 5.5.3 is hereby amended as follows:

7. Farmers Market

Farmers' markets are intended to provide a location where agricultural and organic items and related goods and services may be offered for sale to residents of the community. These markets are not intended to be craft fairs or flea markets. Farmers' markets are allowed only on properties zoned Commercial General/Siesta Key Overlay District (CG/SKOD) on Siesta Key with approval of a temporary use permit (TUP) subject to the following standards:

i. ~~An application for a TUP must be submitted to the Zoning Administrator and approved by the Board of County commissioners. The Zoning Administrator shall review the application for thoroughness and adherence to standards set forth below and present the final application to Board of County Commission for approval at a duly advertised public hearing. It shall be the responsibility of the applicant to verify that market vendors have all of the licenses required below.~~ The application must include the following:

- (a) A map indicating the location of the market. The market may be located within parking areas, with notarized written consent of the property owner, provided that parking equaling one and one-half (1.5) spaces per vendor remains available on site;
- (b) The day(s) of the week and hours of operation for the market shall be included in the application. On Siesta Key, farmers' markets will only be allowed on Sunday mornings between the hours of 7 a.m. and 1 p.m.;
- (c) A site plan showing the layout and boundaries of the market;
- (d) The maximum number of vendors offering products for sale including the type of products or services proposed for sale. Any changes to the list of approved products and or services will required amendment of the permit by the Board at a duly noticed public hearing; and
- (e) Adequate pedestrian and vehicular access to the site to provide safe passage without endangering the citizens or property shall be demonstrated.

ii. The market shall not be located in the County right-of-way.

iii. ~~The temporary use permit TUP may be approved for up to 52 days per calendar year. A new temporary use Renewal TUP applications must be submitted to the Zoning Administrator at least 60 days prior to expiration. The renewal request requires approval by the Board at a duly notice public hearing. for review and approval annually.~~

- ~~iv. The use shall be limited to the sales of agricultural products. The sale of furniture and other non-agricultural products shall not be allowed.~~
- iv. Each vendor shall be responsible for securing and displaying all necessary licenses, including but not limited to any license/approval required when offering prepared food for consumption, etc. (i.e. Florida Department of Agriculture, Food Safety, and Department of Business and Professional Regulation, etc.)
- v. Allowed products and services shall be limited to:
- (a) Unprocessed agricultural products such as fruits, vegetables, grains, flowers, and plants;
 - (b) Processed agricultural products such as milk, cheese, oils, vinegars, meats, poultry, eggs, honey, spices, coffee, jams, nuts, sauces, pasta, soaps, ice cream, herbal preparations, jellies;
 - (c) Prepared foods such as ready-to-eat baked goods, breads, meats, cheeses, cakes, and pies;
 - (d) Food booths where preparation of food occurs on site;
 - (e) Agriculture-related crafts, such as handmade wreaths, swags, dry flower arrangements, pressed flowers, scented sticks and potpourri; candles, scented sticks;
 - (f) Items designed to promote water, soil, or energy conservation, such as rain barrels, organic fertilizer, compost boxes, and related educational materials;
 - (g) Miscellaneous vendors such as art works, healing arts products, massage, fitness, holistic healing may be allowed provided that no more than 10% of the total vendors/booths are comprised of these types of vendors;
 - (h) Musical entertainment may occur only at one location within the market area, may consist of no more than three performers, and must comply with the County noise ordinance; and
 - (i) Other goods and services determined by the Board of County Commissioners to be substantially similar to the above vendor types.
- vi. Prohibited Items and Vendors: Used goods, antiques, collectibles, and all other goods and services not expressly set forth above.

vii. The Board of County Commissioners shall have the authority to modify or revoke the farmers' market TUP upon a finding at a duly noticed public hearing of a violation of any condition of the TUP approval. Prior to revoking a permit, the permittee shall be given written notice of the violation and the action necessary to correct the same. The notice shall be delivered by U.S. certified mail, return receipt requested, or by hand delivery. The notice shall provide that failure to correct the violation shall result in the revocation of the TUP. Within five (5) working days of the receipt of the aforementioned notice, the permittee may request an opportunity to appear before the Zoning Administrator in order to show cause why the permit should not be revoked. However, such appearance shall not be required in the event that the permittee takes corrective action within the time designated. In the case of repeated violations, the Zoning Administrator may revoke the permit upon notice, subject to appeal to the Board of County Commissioners or application for a new TUP.

Section 5. Amendment to Section 8.3. of Ordinance No. 2003-052, as amended, relating to Nonconforming Structures.

Subsection 8.3.1. is hereby amended as follows:

8.3.1. Where a structure exists lawfully under these zoning regulations at the effective date of its adoption or amendment that could not be built under these zoning regulations by reason of restrictions on lot area, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. Any nonconforming structure or portion thereof shall not be enlarged or altered except as provided below:
 2. Enlargements or alterations to nonconforming single-family residential structures containing conforming uses shall be permitted provided that the enlargement or alteration to the structure complies with all required setbacks and other applicable regulations, does not create any additional dwelling units, and does not create new nonconformities or increase the extent of existing nonconformities.

Section 6. Amendment to Section 8.5. of Ordinance No. 2003-052, as amended, relating to Nonconforming Residential Density.

Subsection 8.5. is hereby amended as follows:

8.5. Nonconforming Residential Density

Where properties containing dwelling units that exceed the density allowed by these zoning regulations exist on the date of adoption or amendment of these zoning regulations, no structural additions or additional structures are permitted unless the

density of units is reduced in conformance with these zoning regulations, except as follows:

- a. Internal alterations to a structure containing dwelling units that exceed the density allowed in this Ordinance may be permitted, provided that the alterations do not increase the residential density.
- b. Congregate care facilities that exceed the density allowed in these zoning regulations may be physically expanded, provided that there is no increase in residential density.
- c. The addition of accessory structures, such as swimming pools, tool sheds, carports or garages, that do not add to the habitable square footage of the buildings on the site, are exempt from this provision.
- d. Nonconforming lots of record on barrier islands zoned RMF shall also comply with Section 8.4.5.
- e. Enlargements or alterations to a single-family residential dwelling on a nonconforming lot of record shall be permitted provided that the enlargement or alteration to the structure complies with all required setbacks and other applicable regulations, does not create any additional dwelling units, and does not create new nonconformities or increase the extent of existing nonconformities.

Section 7. Effect on Other Ordinances. The provisions of this Ordinance shall prevail in the event of conflict with the provisions of any existing ordinance.

Section 8. Severability. It is declared to be the intent of the Board of County Commissioners that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 9. Coding of Amendments. In this Ordinance, language added to an existing Ordinance is underscored and language deleted is typed in ~~strike through~~ type.

Section 10. Effective Date. This Ordinance shall take effect immediately upon filing with the Office of the Secretary of the State of Florida.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA this ____ day of _____ 2008.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: _____

Chair

ATTEST:
KAREN B. RUSHING, Clerk of
the Circuit Court and
Ex-Officio Clerk of the Board
of County Commissioners of
Sarasota County, Florida

By: _____

Deputy Clerk