

MARCH 21, 2000

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, March 21, 2000, at 6:04 p.m.

Present were Commissioners:

Stan Stephens, Chairman
 Gwendolyn Y. Brown, First Vice-Chairman (entered during meeting)
 Patricia M. Glass, Second Vice-Chairman
 Jonathan Bruce, Third Vice-Chairman
 George L. Harris
 Joe McClash
 Amy Stein

Also present were:

Jeffrey Steinsnyder, Assistant County Attorney
 Nancy Harris, Deputy Clerk,
 representing R. B. Shore, Clerk of Circuit Court

(Mary Frances Schultz, Court Reporter present)

HERITAGE SOUND (DRI 24)

Public hearings (continued from 1/27/00 and Notice in the Bradenton Herald 3/6/00) were held to consider

PDMU-98-08(Z)(G) [incorrectly advertised as PDMU-98-08(Z)(P)]
 RIVER VALLEY LAND TRUST AND LEESBURG TRUST/HERITAGE SOUND (DRI 24)

Request: Zoning Ordinance of the County of Manatee, Florida, amending the Official Zoning Atlas of Manatee County, Ordinance 90-01, the Manatee County Land Development Code, relating to zoning within the unincorporated area of Manatee County; providing for the rezoning of certain land from **A** and **A-1** to **PDMU**; retaining the CH overlay district; providing an effective date, and General Development Plan, proposed in two phases to commence in 2000 and be completed in 2009, to allow:

1. 5,000 residential units (single- and multifamily units);
 2. 797,000 square feet of retail commercial;
 3. 170,000 square feet of office;
 4. 300 hotel rooms;
 5. 600-bed group care facilities (assisted living);
 6. a marina for 162 boat slips in the Manatee River and 300 dry storage slips in a building adjacent to the river;
 7. 45-hole golf course;
 8. accessory residential support and public community uses of 10.3 acres (advertised as 8.2 acres); and,
 9. 40.2 acres of park (advertised as 34.2 acres)
- on 2,495 acres, located at the northeast intersection of I-75 and State Road (S.R.) 64, extending northward to the Manatee River and eastward 1½ miles from the interchange.

If approved, staff recommended Conditions as outlined in proposed Ordinance **PDMU-98-08(Z)(G)**;

GRANTING Special Approval for a project located in the Mixed Use Future Land Use Category; a multiple-use project in the UF-3 Future Land Use Category; a project located adjacent to a perennial stream; a project exceeding a gross density of 1 dwelling unit per acre and net density of 3 dwelling units per acre in the UF-3 future land use category; a project involving the siting of a marine-type use; and a project partially located within the Coastal Evacuation Area (CEA) and Coastal Storm Vulnerability Area (CSVA) overlay districts;

ADOPTION of the Findings for Specific Approval; and,

GRANTING Specific Approval of alternatives to Sections 724.6.4.1.8.4.9 and 724.6.2.7 of the Land Development Code.

and

RECORD S47-1255

ORDINANCE 00-19 (f/k/a ORDINANCE 99-43) HERITAGE SOUND (DRI 24)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RENDERING A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL (ADA), FILED BY U.S. HOME CORPORATION FOR HERITAGE SOUND; TBRPC DRI 240; PROVIDING FOR DEVELOPMENT RIGHTS; CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Request: Approval of a new Development of Regional Impact, proposed in two phases (2000-2009), to allow:

1. 5,000 residential units (single- and multifamily units);
2. 797,000 square feet of retail commercial;
3. 170,000 square feet of office;
4. 300 hotel rooms;
5. 600-bed group care facilities (assisted living);
6. A marina for 162 boat slips in the Manatee River and 300 dry storage slips in a building adjacent to the river;
7. 45-hole golf course;
8. Accessory residential support and public community uses of 10.3 acres (**advertised as 8.2 acres**); and,
9. 40.2 acres of park (**advertised as 34.2 acres**) on 2,495.8 acres, located at the northeast intersection of I-75 and S.R. 64, extending northward to the Manatee River and eastward 1½ miles from the interchange, with a small portion of the project located west of I-75, at the southeast intersection of I-75 and Kay Road.

If approved, staff recommended Conditions as outlined in proposed **Ordinance 00-19**. RECORD S47-1256

(Enter Ms. Brown)

Norm Luppino, Planning Department, reviewed the site plan and surrounding uses. The applicant is proposing commercial, institutional and residential uses with a marina on the northern portion of the property. He stated due to the small lots proposed, staff recommended additional park sites, a ten-acre park north of the future Kay Road extension and any development which contains smaller lots would also be required to provide additional neighborhood park areas.

Mr. Luppino stated the applicant is proposing: single-family development; multifamily buildings up to four stories; a group care home; a 45-hole golf course along the Manatee River; a 36-acre park, which will be dedicated to the County; and a neighborhood park on the eastern portion of the property.

Mr. Luppino addressed the issues as follows:

Buffering

A portion of residential development abuts S.R. 64 and I-75 and staff is stipulating buffering with trees, berms and a golf course.

Visibility of Multifamily Development

He displayed a drawing (Option Number Three) depicting the four-story buildings, as they would be seen from the main channel of the Manatee River. To address visibility of the buildings, staff is stipulating that within two years of approval the applicant provide additional trees within designated areas, after removal of exotic vegetation. He reviewed a map (Exhibit 11) and stated there are areas that are heavily forested which staff is stipulating be preserved. He stated even after the trees are planted, the third and fourth floors of the multifamily buildings would be visible.

Marina

The proposal includes a 162 wet-slip marina developed in Phase I and a man-made basin and 300 dry slips in Phase II. Staff is including Condition C-6 which requires the applicant to provide a Manatee Protection Plan to be reviewed by the Southwest Florida Water Management District (SWFWMD) and the Environmental Management Department (EMD); provide channel markers; establish a maximum draft not greater than 2½ feet unless approved otherwise for boats; and establishing, posting, maintaining and enforcing speed zones on the river. Staff is stipulating (Condition M(7) in the PDMU) that the site plan for the dry storage facility go through the public hearing process.

Transportation

Mr. Luppino noted that the applicant would be required to dedicate right-of-way on the northern side of S.R. 64 for widening. The applicant will be required to: four-lane S.R. 64 to Lena Road; extend Kay Road eastward connecting to Kay Road in Waterlefe; and re-route Kay Road to align with a road that currently accesses the fire station, west of I-75.

MARCH 21, 2000

(Continued)

Environmental

Mr. Luppino stated the applicant is proposing to preserve 94 percent of the herbaceous and forested wetlands. Additionally, the applicant is proposing a 50-foot buffer. He displayed a map showing the upland areas to be preserved.

Coastal Area

Mr. Luppino noted that Condition C(4) requires that all infrastructure including manholes be at least 12 inches above the 25-year floodplain or 4 inches above the 100-year floodplain.

Schools

Condition L(1) requires that the applicant mitigate school impacts through financing construction of an elementary school or making a payment of \$825,000 to the School Board.

Mr. Luppino submitted new Stipulations K(3) and K(4) along with letters from the DCA; Hugh McGuire, representing Timberlane RV Park; and letters in opposition from Russell W. Owens and Karen Ciemniecki.

Stephen Thompson, attorney for U. S. Home Corporation (proposed developer), stated they are in substantial agreement with the Conditions as presented in the staff report. He stated the Harllee family has owned the property for many years.

John Harllee, Trustee for River Valley and the Leesburg Land Trusts, stated the beneficiaries of the Trusts wanted to develop the property under one plan, with a developer capable of financing the plan.

Jim Curry, U. S. Home Corporation, reviewed the plans for the site.

Georgianne Ratliff, Wilson, Miller, Inc., representing the applicant, referred to a revised Map H, General Development Plan; an aerial view of the river; and a map of active approved developments. She noted that 36 percent, approximately 890 acres, would remain as open space. The site plan was developed with three emphases: sensitivity to the river and consideration of views from the river; compatibility with adjacent uses; and, recognition that this site lies within an entranceway as defined and regulated by the Comprehensive Plan.

Ms. Ratliff addressed: buffering visibility of the buildings from the river; hurricane preparedness; and adequate shelter capacity.

Ms. Ratliff reviewed a site plan locating the already-approved areas of Waterlefe and Cypress Creek Estates, and discussed compatibility. She also stated U. S. Home has worked with the Florida Department of Transportation (FDOT) to form a SEIR (State Environmental Impact Report) which is a Pre-Planning Design and Engineering (PD&E) study.

Dana West, Biological Research Associates, Inc., representing the applicant, referred to an aerial of the site. He stated the plan: preserves the shoreline of the Manatee River; places a 50-foot buffer along the river; sets back the residential development from the river protecting the natural vista; enhances every wetland on the project; and will protect the habitat on the site.

Discussion: Density; comparable development; four-story buildings; Comprehensive Plan methodology allowing density; etc.

(Depart Mrs. Stein)

Kent Cudney, representing KC²S RiverLodge, submitted two letters to Sheriff Charlie Wells addressing enforcement on the river, and spoke in opposition to the proposed 162 boat slips and excessive speeds on the river. He also addressed the endangerment to the manatees.

(Enter Mrs. Stein)

Arlene Sweeting, representing the Sierra Club, addressed concerns regarding: density in an evacuation area; portions of site in hurricane vulnerability zone; development in the 100-year floodplain; project not consistent with upland preservation goals in Comprehensive Plan; ability to enforce manatee protection; will increase the need for schools; preserve the pine mesic oak community, creating a conservation easement on the islands off shore; safe bike and pedestrian traffic on S.R. 64; negotiating impact fees to cover the cost of the development; etc.

Hugh McGuire, representing Timberlane, Inc., stated his client does not object to the project provided it is made whole in the area of access from S.R. 64 and improvements adjacent to Timberlane RV Park. He stated staff advised a Condition would be required for an agreement as to location of a frontage road, structure and time frame for construction, etc.

Roger Musgrave, property owner to the south, raised the issue of the frontage road, which will affect all of the property owners on the south side of S.R. 64.

Karen Ciemniecki, resident of Upper Manatee River Road, expressed concern whether the area can handle a development of this magnitude with crowded roads and schools at this time. She submitted six pictures of the Manatee River and stated several golf courses are along the river, which allow runoff of chemicals into the river.

Linda Francis spoke in opposition to approving a marina of this size in shallow water, which is a manatee birthing area. She suggested: limiting the boats to kayaks, canoes, pontoons; limit the buildings to two-story; keep development out of 25-year floodplain; instead of golf courses have more open space; a Condition to prevent construction on the islands; and protecting the scenic vista along the river, etc.

Mary Sheppard expressed concerns of allowing golf courses and a marina by the river and not enough recreation area for families.

Recess/Reconvene. All members present.

Discussion: Marina is within the subdivision with channel to river; possible to have golf courses without toxins discharged into water system; timing of transportation improvements to S.R. 64; developer assistance in enforcement of manatee protection plan; seagrass protection; reduction in nitrogen loading from golf course; compatibility of four-story buildings; number of students; frontage road; impacts of development and funding for transportation; stormwater retention; impact fee credits; enforcement of ordinances coordinated with the Sheriff; size and location of marina, type of boats; size of buildings; quality of park facilities; 33.8 acres of mitigation; greenways trail, pedestrian and bike paths; public and private streets within same development; are hours specified for school tie adequate; with traffic on S.R. 64, why require bike paths; money for school system; Kay Road; protecting property owners south of S.R. 64, etc.

Mr. Luppino addressed the concerns and questions regarding density, multifamily development, removal of exotic vegetation, private and public roads, School Board negotiations, bicycle and pedestrian systems.

Discussion: Improvements along S.R. 64 subject of the public hearings from the PD&E; set a development stipulation; FDOT will permit what they want in the right-of-way; separate sidewalk from bike path; when PD&E study comes back could increase from four- to eight-foot, etc.

Bob Rutlege, County transportation consultant, stated that state roads are required to have a four-foot bike lane. He stated S.R. 64 from Morgan Johnson Road to Lakewood Ranch Boulevard is functioning at an acceptable Level of Service (LOS) D; however, it will fail when this project traffic is added. He stated it is stipulated that S.R. 64 be reconstructed immediately upon funding.

Mr. Luppino displayed a graphic (Figure 37-2) of the conceptual marina design features. Additionally, he displayed a parcel map showing the frontage road along the south side of S.R. 64.

Doug Means, Environmental Management Department, responded to the issues of the golf course, buffers, nitrogen loading, and the marina. He stated nitrogen loading would be addressed by buffers and a monitoring program. He stated there are Conditions with regard to manatee protection. Mr. Means stated that to his knowledge there is no

MARCH 21, 2000

(Continued)

direct impact to the seagrass from the marina. Additional staffing for enforcement will be paid by the applicant. He addressed wetland mitigation and stated Condition C(1)h indicates a "not to exceed" amount of wetland impact (25 acres). He stated the size of the boats entering the marina could be limited by the permitting process and the regulatory agencies.

(Depart Mrs. Stein)

Discussion: Staffing and Inspectors are part of infrastructure, controlled growth, County Administrator to look into because fees that are charged should pay for those things; do not have mechanism for funding inspections; amending fee resolutions to include environmental inspections; need worksession to explain the accountability of the tax dollars, fees, fines, etc.

(Enter Mrs. Stein)

Mr. Rutlege displayed a transportation study (Figure 21-1) and stated an analysis has been performed on I-75 ramps at S.R. 64, S.R. 70 and U.S. 301. He stated the frontage road was required by the County to protect Timberlane RV Park, or the developer would be required to have the western-most access line up with the RV Park. The Musgrave property to the west will have a full-access signal paid by the developer. S.R. 64 would not need to be four lanes until initiation of Phase II development. Before proceeding with Phase II, they will have to do a detailed transportation, air quality and wastewater analysis. The Kay Road extension will be a public road and will be County-maintained.

Discussion: Certificate of Concurrence for Phase I valid through December 31, 2004; U. S. Home may not be developer of site; rely on Conditions in zoning ordinance and DRI ordinance to make decision; etc.

Jeffrey Steinsnyder, Assistant County Attorney, stated the applicant is requesting, and he concurs, in Conditions K(3) and K(4) the **Tampa Bay Regional Planning Council** be deleted as an approval authority. He also stated another request was to add a sentence that "**the DCA shall have 45 days to comment on this plan.**"

Randy Coen, Wilson, Miller, Inc., on behalf of the applicant, stated the cost of the transportation improvements would be several million dollars more than the transportation impact fees for Phase I. He stated the SEIR and PD&E studies conclude that S.R. 64 will need to be six lanes by 2025. The developer will fund the design, permitting, right-of-way acquisition and the construction of S.R. 64 from I-75 to Lena Road with the transition to two-lane S.R. 64 to the east of Lena Road. Prior to the first vertical permit, all improvements will be bonded.

(Depart Mrs. Glass)

Ms. Ratliff stated the 36-acre community park will be centrally located, with ball fields and tennis courts, and the park will be open to the public. Additionally, there will be a ten-acre park north of Kay Road; a four-acre neighborhood park south of Kay Road and to the eastern boundary of the site. She stated that there are also tot-lots proposed which are small one-half acre lots. The marketing plan presumes that Heritage Sound will be a retiree community but planning and analysis was done as though it would be occupied by families.

(Enter Mrs. Glass)

Ms. Ratliff stated that it was presumed that every unit would house a family with school-age children. The School Board has requested \$825,000, which equates to all impacts of development, elementary, middle and high school sites.

Discussion: Whether developer is paying fair share; only partial mitigation; cannot build school unless five-year plan allows; etc.

Tom Fraser, W. Dexter, Bender & Associates, Inc., on behalf of the applicant, stated a marina would be better than to break the project into single-family parcels with individual docks. Mr. Fraser stated Condition C(6)8. states the developer will be involved with enforcement of the speed zone. He stated they have used the DEP marina program so

that no water goes directly into the marina basin. The pilings will be wrapped with a polyvinyl chloride wrapping to address copper issues. The boat size will be pontoon-type boats and fishing skiffs.

Mr. West, referring to photographs previously submitted, stated the grass is Black Needle Rush, which only grows in tidal areas, and it is in the wetland. The mangroves are at a higher elevation than the grass in the foreground. In the background of the photograph are oak trees, which would be in the buffer and would be preserved. He stated there is not a single-family residence that backs up to the river or to the buffer on the river for approximately three miles.

Mr. Thompson requested additional language in Condition K(4), mitigation plan timing, "The plan shall be submitted to the DCA, the TBRPC, and the County for review and approval before approval of Final Site Plan for habitable construction." For consistency, he requested that the same language in K(3) be used in K(4), that "requires the submission of an evacuation plan be submitted for a site located either completely or partially within a Coastal Planning Area." Mr. Steinsnyder agreed.

Discussion: Developer does not object to adding signage requirement in C(1)e.; can multifamily buildings be less intensive; whether buildings will be visible from river; approval of previous projects with potential of four stories; number of units affected; etc.

Mike Kennedy, Wilson, Miller, Inc., on behalf of the applicant, stated the elevation along the river is 5 to 6 feet and flood elevation is 10 to 10½, with an additional foot, making the total approximately 11 feet.

Recess/Reconvene. All members present.

Mr. Luppino presented a picture of the river illustrating the view as it exists without the addition of trees and the removal of the exotics. He stated that when going south some of the buildings would be visible.

Carol Clarke, Planning Director, addressed the changes to the Conditions as follows:

Table 2, B(1), Intersection Improvement a., should read, "I-75 west ramp" for the Zoning Ordinance and DRI.

Table 2, B(1), Intersection Improvement b., should read, "I-75 east ramp" for the Zoning and the DRI.

Table 2, B(1), Roadway Improvement c., should read, "S.R. 64 from Kay Road to Lena Road" for the Zoning Ordinance and DRI.

Table 2, B(1), Roadway Improvement, b., ...from the West access to the Timberlane RV Park delete "eastern boundary." and add "to driveway." in the Zoning Ordinance and the DRI.

Condition B(4), delete reference to Table 3, the Impact Fee and Reimbursement Agreement between the County and Developer, should read "Table 2" in the Zoning and the DRI.

Condition B(5), change the reference to Table 3 to "Table 2" and strike the end of the sentence "the impact Fee and Reimbursement Agreement between the County* and the Developer*." in the Zoning Ordinance.

Mr. Steinsnyder read changes to the Conditions as follows:

Condition C(1)e., prior to the last sentence, add "All wetland buffers shall have signage posted depicting the purpose and intent of the buffer signage and intent of the buffer. Signage, text and location shall be approved by the Director of Environmental Management Department." in the Zoning Ordinance and the DRI.

Conditions K(3) and K(4), the changes previously dictated, which strike the reference to the Tampa Bay Regional Planning Council (TBRPC), add before the last sentence, "DCA shall have forty-five days to comment on this plan." In K(4), the first sentence is modified to read, "Prior to the first Final Site Plan approval for any site located either completely or partially within the coastal planning area for habitable construction...". Add before the last sentence, "DCA shall have forty-five days to comment on this plan."

These changes should be in the Zoning Ordinance and the DRI.

MARCH 21, 2000

(Continued)

Motion

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Ms. Brown moved to adopt Manatee County Zoning Ordinance **PDMU-98-08(2)(G)**; and approve the General Development Plan with Conditions (as amended at this meeting); Grant Special Approval for a project located in the Mixed Use Future Land Use Category, for a multiple-use project in the UF-3 future land use category, for a project located adjacent to a perennial stream, for a project exceeding a gross density of 1 dwelling unit per acre and net density of 3 dwelling units per acre in the UF-3 future land use category, for a project involving the siting of a marine-type use, and for a project partially located within the CEA and CSVA overlay districts; Adopt the Findings for Specific Approval; and Grant Specific Approval of alternatives to Sections 724.6.4.1.8.4.9 and 724.6.2.7 as recommended by staff and modified at this meeting. Motion was seconded by Mrs. Glass.

Discussion: Language deleted from Condition N(2)f.4. (prior to this meeting) regarding visual impacts of larger buildings; applicant requested to plant trees in advance; whether newly planted trees would have visual impact; etc.

Amended Motion - Defeated

Motion was made by Mr. McClash and seconded by Mr. Bruce to amend the motion to include the language in N(2)f.4, covering the visual impacts of the larger buildings. The motion was defeated 3 to 4, with Mrs. Glass, Mr. Harris, Ms. Brown and Mr. Stephens voting nay.

Motion - Carried

Motion carried 4 to 3, with Mr. Bruce, Mrs. Stein and Mr. McClash voting nay. RECORD S47-1257

Motion

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission and finding the request to be consistent with the Manatee County Comprehensive Plan, the Manatee County Land Development Code, Chapter 380, *Florida Statutes*, and Rule 9J-2.025 Florida Administrative Code, subject to the Conditions of approval established in the Development Order, handed out at this meeting, together with the changes made at this meeting, Mrs. Glass moved to approve DRI 24 and adopt Manatee County **Ordinance 00-19** (f/k/a Ordinance 99-43). Motion was seconded by Mr. Harris and carried 4 to 3, with Mr. McClash, Mrs. Stein and Mr. Bruce voting nay. RECORD S47-1258

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:



Clerk



Chairman 7/25/00

Adj: 11:15 p.m.
/jk

