

**ORDINANCE NO. 11-035**

FILED FOR RECORD  
R. B. SHORE

2011 SEP -1 AM 10:34

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING COMPREHENSIVE PLANNING; AMENDING MANATEE COUNTY ORDINANCE NO. 89-01, AS AMENDED, THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING A PURPOSE AND INTENT; PROVIDING FINDINGS; RESCINDING ORDINANCE NO. 10-02 APPLICABLE TO THE PROPERTY BEING GENERALLY LOCATED ON THE NORTH SIDE OF 9<sup>TH</sup> AVENUE NORTHWEST, APPROXIMATELY 600 FEET EAST OF 99<sup>TH</sup> STREET NORTHWEST AND SOUTH OF 17<sup>TH</sup> AVENUE NORTHWEST; RETAINING THE RES-1 (RESIDENTIAL-1 DU/GA) FUTURE LAND-USE CLASSIFICATION FOR SAID PARCEL; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT AND PROVIDING FOR AN EFFECTIVE DATE. (TOTAL 28± ACRES)

DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

2011 AUG 24 PM 12:10

FILED

**WHEREAS**, Manatee County Ordinance No. 89-01, as amended, was adopted pursuant to general law for the purpose of providing a framework for land use and development in the unincorporated area of Manatee County and established the Manatee County Comprehensive Plan; and

**WHEREAS**, Manatee County adopted Comprehensive Plan Amendment No. 10-02 ("Plan Amendment") by enacting Ordinance No. 10-02 on October 12, 2010; and

**WHEREAS**, the Plan Amendment proposed to amend the Future Land-Use Map from RES-1 (Residential-1 Dwelling Unit Per Acre) to the RES-3 (Residential-3 Dwelling Units Per Acre) for a ±28 acre parcel of land generally located on the north side of 9<sup>th</sup> Avenue Northwest, approximately 600 feet east of 99<sup>th</sup> Street Northwest and south of 17<sup>th</sup> Avenue Northwest within Manatee County; and

**WHEREAS**, on December 27, 2010, a petition for an administrative hearing contesting the proposed Plan Amendment was filed; and

**WHEREAS**, as a result of the pending administrative challenge, by the express terms of Section 5 of Ordinance No. 10-02 and by operation of law, Ordinance No. 10-02 has not yet become effective; and

**WHEREAS**, a new Storm Tide Atlas was adopted by the Tampa Bay Regional Planning Council on August 10, 2010 and formerly presented to the public at a meeting on August 26, 2010 (hereinafter "the Storm Tide Atlas 2010"); and

**WHEREAS**, on August 4, 2011, the Board of County Commissioners adopted Ordinance No. 11-01 to update the definition of the Coastal High Hazard Area (CHHA) and the Coastal Evacuation Area (CEA) and map amendments to the CHHA, CEA and Coastal Planning Area (CPA) located in the Coastal Element for consistency with the Storm Tide Atlas (2010); and<sup>1</sup>

<sup>1</sup> Ordinance No. 11-01 has not yet become effective. For purposes of this ordinance, all references to the Comprehensive Plan's goals, objectives and policies shall refer to those which are effective and currently in the existing Comprehensive Plan.

**WHEREAS**, the Storm Tide Atlas shows the entire Plan Amendment site in the Coastal Evacuation Area Zone "A"; and

**WHEREAS**, all Plan Amendments are required to be based on relevant and appropriate data and analysis and any analysis by the County may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the Comprehensive Plan amendment (Sec. 163.3177(1)(f), Fla. Stat.); and

**WHEREAS**, in order for a proposed Plan Amendment "to be based on data" means to react to the data in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the Plan Amendment at issue (Sec. 163.3177(1)(f), Fla. Stat.); and

**WHEREAS**, if Plan Amendment 10-02 became effective, the 28 acre parcel could contain a maximum of 105 dwelling units, 56 of which would be within the Coastal High Hazard Area (CHHA) and Coastal Evacuation Area (CEA); and

**WHEREAS**, Policy 2.2.2.4.5(a), Future Land Use Element, Comprehensive Plan provides as follows:

Development Restrictions/Conditions, (a): Prohibit any amendment to the Future Land Use Map which would result in an increase in allowable residential density on sites within the Coastal Evacuation Area.

**WHEREAS**, the Manatee County Comprehensive Plan, Coastal Element, provides in Objective 4.3.1 as follows:

Objective 4.3.1, Development Type, Density and Intensity: Limit development type, density and intensity within the Coastal Planning Area and direct population and development to areas outside of the Coastal High Hazard Area to mitigate the potential negative impacts of natural hazards in this area.

Policy 4.3.1.1, Direct population concentrations away from the Coastal Evacuation Area (CEA).

**WHEREAS**, after due public notice, the Board of County Commissioners of Manatee County on August 23, 2011 held a public hearing to adopt proposed Ordinance 11-35; and

**WHEREAS**, the Board of County Commissioners further considered all oral and written comments received during said public hearing; and

**WHEREAS**, the Board of County Commissioners has determined that the increase in residential density in the Coastal Evacuation Area of the Comprehensive Plan resulting from the approval of Plan Amendment 10-02 would be internally inconsistent with the above described Comprehensive Plan's goals, objectives and policies; and

**WHEREAS**, in the exercise of said authority, the Board of County Commissioners of Manatee County has determined it is necessary and desirable to adopt this ordinance to rescind Ordinance No. 10-02 pertaining to the 28 acre parcel of land and that such rescission would be in furtherance of the public interest.

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Manatee County that:

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, Chapter 163, Fla. Stat., as amended and retitled the Community Planning Act in House Bill 7207 (the "Act"), and Chapter 125, Fla. Stat., as amended.

Section 2. Findings: The recitals set forth in Whereas clauses above are true and correct and are hereby adopted as findings by the Board for the adoption of this Ordinance. Based upon these findings, the Board has determined that:

a. The Storm Tide Atlas, adopted in 2010 by the Tampa Bay Regional Planning Council (TBRPC), is relevant data to be considered by the Board in its deliberations on Plan Amendment PA-10-02.

b. Based upon the Storm Tide Atlas (2010), with the exception of a 4.68 acre portion in the northeastern area of the site, the remainder of the Plan Amendment property would be within the predicted storm surge for a Category 1 storm event (the CHHA) while the entire site would be within Evacuation Area "A" of the Coastal Evacuation Area (CEA) and Coastal Planning Area (CPA) of the Manatee County Comprehensive Plan.

c. Based upon the Storm Tide Atlas (2010), the increase in residential density to a maximum 105 dwelling units as proposed by Plan Amendment PA-10-02 could result in an increase in density in areas prone to coastal flooding.

d. The proposed Plan Amendment PA-10-02 is inconsistent with Policy 2.2.2.4.5, Future Land Use Element, Manatee County Comprehensive Plan, as it could result in an increase in allowable residential units within the Coastal Evacuation Area, which is prohibited by this policy.

e. Plan Amendment Application PA-10-02 would allow an increase of 56 dwelling units in the CHHA and the CEA and would be internally inconsistent with Objective 4.3.1 and Policy 4.3.1.1 of the Coastal Element, Manatee County Comprehensive Plan, due to the failure to direct population concentrations away from the Coastal Evacuation Area and to limit development within the Coastal High Hazard Area.

f. Based upon the foregoing, the Board of County Commissioners has determined that the proposed Future Land Use Map designation of the 28 acre parcel of RES-3 (Residential-3 Dwelling Units Per Acre) is no longer appropriate and Ordinance No-10-02 should be rescinded as described in Section 3 below and Exhibit A attached hereto.

Section 3. Rescission of Ordinance 10-02: The Board of County Commissioners hereby rescinds Ordinance No. 10-02 previously adopted on October 12, 2010, applicable to the 28 acre parcel of land generally located on the north side of 9<sup>th</sup> Avenue Northwest, approximately 600 feet east of 99<sup>th</sup> Street Northwest and south of 17<sup>th</sup> Avenue Northwest. The property described in Exhibit A hereto shall retain the RES-1 (Residential-1 Dwelling Unit per Acre) Future Land Use Classification.

Section 4. Repeal of Ordinances in Conflict: Any ordinances in conflict herewith are repealed to the extent of such conflict, including Ordinance No. 10-02 which is repealed in its entirety.

**Section 5. Severability:** If any part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared to be void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

**Section 6. 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**, in open session with a quorum present and voting this 23 day of August, 2011.

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

By: 

**Carol Whitmore, Chairman**

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

By:

  
**Deputy Clerk**



1 inch = 1,025 feet

LEGAL DESCRIPTION

PARCEL A:

(From Warranty Deed as shown in Official Records Book 1272, Page 2011 of the Public Records of Manatee County)

The East 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 24, Township 34 South, Range 18 East; LESS maintained right-of-way of 17th Avenue N.W., lying and being in Manatee County, Florida.

PARCEL B:

(From Warranty Deed as shown in Official Records Book 2148, Page 5344 of the Public Records of Manatee County)

The East 1/2 of the SW 1/4 of the SW 1/4 and the West 1/2 of the West 1/2 of the SE 1/4 of the SW 1/4 of Section 24, Township 34 South, Range 18 East, Manatee County, Florida.  
Less and except any right of way for 9th Avenue Northwest also known as Palma Sola South Loop Road.

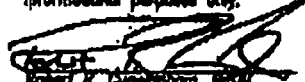
LESS AND EXCEPT those areas designated as Coastal High Hazard Areas as shown on Map E (Coastal High Hazard Area) dated 10/10/08.

NOTE: Coastal High Hazard Area taken from Manatee County Coastal High Hazard Map, effective October 10, 2008.

Notes:

This is a sketch only and does not represent a field survey.

Unless it bears the signature and the original rolled seal of a Florida Surveyor and Mapper, this sketch, drawing, plat or map is for informational purposes only.

  
Robert K. Cunningham, Surveyor  
Florida Registration No. 3624  
5/26/10  
Date of Signature


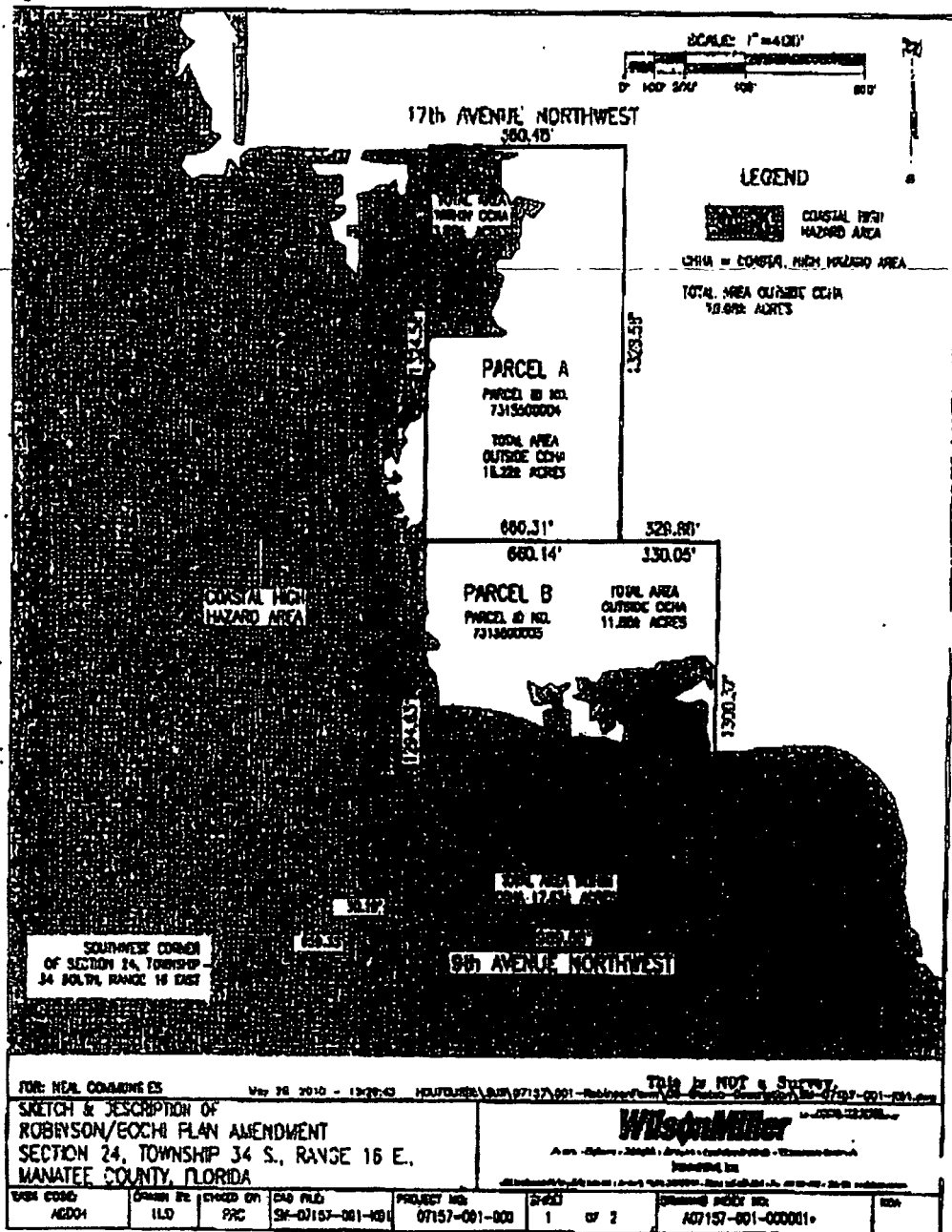
FOR REAL COMMISSIONERS		May 26, 2010 11:17:38 AM		RECEIVED BY: 07137-001-000		THIS IS NOT A SURVEY	
SKETCH & DESCRIPTION OF ROBINSON/BOCHI PLAN AMENDMENT SECTION 24, TOWNSHIP 34 S., RANGE 18 E., MANATEE COUNTY, FLORIDA							
DATE SUBMITTED	MAP NO.	COM NO.	PROJECT NO.	FILE NO.	DATE OF SUBMISSION	FILE NO.	FILE NO.
AD004	N/A	REC	07137-001-001	07137-001-000	2 of 2	07137-001-000000	REC

EXHIBIT A



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 23 day of August, 20 11

R.B. SHORR  
Clerk of Circuit Court

By: Vicki Jarratt D.C.



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**DIVISION OF LIBRARY AND INFORMATION SERVICES**

**KURT S. BROWNING**  
Secretary of State

August 30, 2011

FILED FOR RECORD  
R. B. SHORE

2011 SEP -1 AM 10:34

Honorable R. B. "Chips" Shore  
Clerk of the Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

Attention: Vicki Jarratt, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 23, 2011 and certified copies of Manatee County Ordinance No. 11-035, which was filed in this office on August 24, 2011.

As requested, one date stamped copy of each is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/vm

Enclosure



R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
Telephone: 850.245.6600 • Facsimile: 850.245.6282 • <http://info.florida.gov>  
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