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RESOLUTION R-92-170

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY ADOPTING AN AMENDMENT TO R-89-161(R), AN AMENDMENT TO THE DEVELOPMENT ORDER FOR THE CYPRESS BANKS DEVELOPMENT OF REGIONAL IMPACT.

WHEREAS, on November 16, 1989, the Board of County Commissioners of Manatee County (Board) issued a Development of Regional Impact (DRI) Development Order (the Development Order) to SMR Development Corporation.

WHEREAS, the applicant has requested that the Development Order be amended to allow a change to Exhibit D to allow the religious center to be constructed in Phase I instead of Phase II as approved.

WHEREAS, said Board of County Commissioners has considered all of the foregoing and has been advised and informed in the premises;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA; THAT, the Board finds that the proposed change to Exhibit D is not a substantial deviation and that Exhibit D is hereby amended as follows:

EXHIBIT D

**CYPRESS BANKS DEVELOPMENT
PROPOSED PHASING SCHEDULE**

| <u>PHASE***</u> | <u>COMMERCIAL USE</u> | <u>RECREATION USE</u> | <u>DWELLING UNITS</u> |
|------------------------|---------------------------------------|--|------------------------------|
| I (1990-1995) | Resort Center* | Tennis Complex First and Second Golf Course (18 Holes Each) Religious Center | 1405** |
| II (1995-2000) | 203,500 s.f. Community Shopping | Third Golf Course (18 Holes) Equestrian Center | 1405 |
| III(2000-2005) | | | 1406 |
| IV (2000-2009) | | | <u>1406</u> |
| | | TOTAL | 5622 |

- * Includes 27,000 s.f. of Specialty Retail
- ** 300 rooms in Resort Hotel - Hotel does not count as dwelling unit
- *** Phasing Schedule is based upon the projections in the ADA - with a completion date of 2006.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA; THAT, the Board finds that the amended Condition C.(3) adequately addresses the impact of the proposed change to Exhibit D and Condition C.(3) of the Cypress Banks DRI is hereby amended as follows:

CONDITION C.(3)

- C.(3) Approval of each Preliminary Development Plan* shall be contingent upon satisfaction of the following:
 - a. Approval and development of the Preliminary Development Plan* shall not generate traffic which, in conjunction with existing traffic

and traffic anticipated as a result of other Development Approvals*, will have the probable result of causing or contributing to the degradation of the Acceptable Level of Service* on roadway segments and intersections within the Transportation Impact Area*; OR

- b. For Phase I, with the exception of the religious center which shall comply with subparagraph C.(3)c. below, if approval and development of the Preliminary Development Plan* generates traffic which, in conjunction with existing traffic and traffic anticipated as a result of other Development Approvals*, will have the probable result of causing or contributing to a degradation of the Acceptable Level of Service* on roadway segments or intersections within the Transportation Impact Area*, one of the following conditions shall be met:

1. All of the Warranted* improvements to prevent degradation of Acceptable Level of Service* within the Traffic Impact Area* are scheduled for construction commensurate with the build-out schedule for Phase I through a funding mechanism and sources acceptable to Manatee County. Funding mechanisms and sources acceptable to Manatee County shall include state commitments to the improvements within a 5-year capital improvement program, other local government programming of construction of the improvements within a 5-year program, Manatee County's inclusion of construction of the improvements in the 5-year capital improvements program, or local development agreements pursuant to Section 5.1.6.2 of the Manatee County Comprehensive Plan; OR

2. The Developer* may elect, at the time of Phase I preliminary development plan submittal, to mitigate the transportation impacts of Phase I of the project through the payment to Manatee County of its proportionate share for transportation impacts which has been calculated pursuant to approved Subsection 380.06, Florida Statutes methodology as \$913,469.00 or the projected impact fees for the Transportation component for the entire first phase, whichever is greater. If the proportionate share is greater, it shall be adjusted annually based on Florida Construction Index until paid.

Manatee County shall utilize the Developer's payment to construct or obtain the construction of one or more improvements to State Road 70 in the area between U.S. 301 and Interstate 75 which area is identified in Exhibit "C" of the Development Order. The improvements constructed shall be at a cost equal to or greater than the Developer's proportionate share as adjusted. The timing of commencement of construction and completion of construction shall be

identified prior to or with the approval of the Preliminary Development Plan and the TBRPC and the DCA shall be notified of such schedule, provided that the improvements shall be completed by the buildout date of Phase I, or within five years of approval of the first preliminary development plan for Phase I, whichever is earlier.

Any payments due shall be paid in cash or by certified check under this subparagraph C.(3)b.2 and shall be paid on or before the earlier of the following:

- (i) at the time of the application for the first building permit for any building structure within the Phase; OR
- (ii) within thirty (30) days after notice to make payment from the County, which notice shall be given no earlier than ninety (90) days prior to the first advertising for bid(s) related to the selected Transportation Projects under subparagraph C.(3)b.2.

If payment has not been made previously, on or before the approval by the County of the Final Development Plan for Phase I or any subphase therein, Developer shall post an irrevocable letter of credit acceptable to County, to secure the full amount of the payment which shall be subject to being reduced to cash at such time as payments are required to be made for the project(s) as set forth above. Such letter of credit shall be from a federally insured bank or savings and loan association within one hundred (100) miles of Bradenton, Florida. the amount of the irrevocable letter of credit shall not have the effect of establishing the payment amount as being equal to the then existing impact fees due under Manatee County Ordinance 86-09. Revisions in the impact fee schedule set forth in said Ordinance shall apply to impact fees due herein, unless the impact fees are paid in cash pursuant to a Fee Agreement prior to any such revisions becoming effective.

- c. For all development after Phase I, and the religious center which is scheduled in Phase I, if approval and development of the Preliminary Development Plan* generates traffic which, in conjunction with existing traffic and traffic anticipated as a result of other Development Approvals*, will have the probable result of causing or contributing to a degradation of the Acceptable Level of Service* on roadway segments or intersections within the Transportation Impact Area*, one of the following conditions shall be met:
 - 1. All of the Warranted* improvements to prevent degradation of Acceptable Level

of Service* within the Traffic Impact Area* are scheduled for construction commensurate with the build-out schedule for the applicable phase through a funding mechanism and sources acceptable to Manatee County. Funding mechanisms and sources acceptable to Manatee County shall include state commitments to the improvements within a 5-year capital improvement program, other local government programming of construction of the improvements within a 5-year program, Manatee County's inclusion of construction of the improvements in the 5-year capital improvements program, or local development agreements pursuant to Section 5.1.6.2 of the Manatee County Comprehensive Plan; OR

2. For all development after Phase I, the Developer shall comply with C.(3)a. or C.(3)c.1, or the Developer shall submit a 380.06 traffic analysis to identify transportation impacts and shall amend the development order to incorporate the necessary mitigation requirements. The Developer shall be entitled to utilize any mitigation option deemed appropriate by Manatee County which is consistent with the requirements of Chapter 380 and the rules and policies of the TBRPC and DCA.
- d. Manatee County shall rely upon payments made and shall make financial, construction, and other commitments once payments are made by the Developer*. Prior to any payment made under Subparagraph C.(3)b.2., the Developer* shall enter into a written agreement with Manatee County, in a form acceptable to Manatee County, which shall provide that the Developer* understands, and agrees that, provided said payments are used as set forth in the written agreement, such payments made pursuant to C.(3)b.2.(i) and C.(3)b.2.(ii) above, shall be at Developer's risk and shall not be refundable regardless of the enforceability of any other provision contained herein. In the event that the Developer has posted a Letter of Credit, and no payment has been paid pursuant to Paragraph C.(3).b.2.i or C.(3).b.2.ii above, and if the Developer is legally prohibited from utilizing the mitigation option set forth in Subparagraph C.(3)b.2. above, then Manatee County shall release said irrevocable Letter of Credit. The County may withhold any development orders which may be issued in accordance with this subsection until said agreement has been executed by the Developer*, approved by the Board of County Commissioners, and recorded in the Public Records of Manatee County.
- e. In the event that Manatee County fails to construct or have constructed the Transportation Project(s) pursuant to the approved construction timing, all development activity including the issuance of building permits and certificates of occupancy, within Phase I of the Cypress Banks development shall cease and no development may proceed under this Development Order unless the requirements

of either subparagraphs C.(3)a. or C.(3)b.1. of stipulation C.(3) are met. This paragraph shall not be construed as a waiver or granting of any rights by or to the Developer against Manatee County for Manatee County's failure to construct the Transportation Project(s).

In the event the Developer* fails to pay his proportionate share as defined in subparagraph C.(3).b.2 in the time and manner set forth therein, the option to Developer* under subparagraph C.(3).b.2. shall terminate.

3. All other provisions of Development Order Resolution No. R-89-161(R) shall remain in full force and effect. In the event there is an inconsistency between the terms of this Resolution and the Resolution referred to above, the terms of this Resolution shall control.

ORIGINALLY ADOPTED AND APPROVED, by the Board of County Commissioners of Manatee County, Florida on the 23rd day of July, 1992.

THIS CORRECTIVE DOCUMENT IS PASSED AND DULY ADOPTED this 8th day of September, 1992.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: Kathy A. Snel
Chairman

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

[Signature]

THIS IS A CORRECTIVE DOCUMENT

RESOLUTION R-92-170

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2. The Developer* may elect, at the time of Phase I preliminary development plan submittal, to mitigate the transportation impacts of Phase I of the project through the payment to Manatee County of its proportionate share for transportation impacts which has been calculated pursuant to approved Subsection 380.06, Florida Statutes methodology as \$913,469.00 or the projected impact fees for the Transportation component for the entire first phase, whichever is greater. If the proportionate share is greater, it shall be adjusted annually based on Florida Construction Index until paid.

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- (i) at the time of the application for the first building permit for any building structure within the Phase; OR
- (ii) within thirty (30) days after notice to make payment from the County, which notice shall be given no earlier than ninety (90) days prior to the first advertising for bid(s) related to the selected Transportation Projects under subparagraph C.(3)b.2.

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2. For all development after Phase I, the Developer shall comply with C.(3)a. or C.(3)c.1, or the Developer shall submit a 380.06 traffic analysis to identify transportation impacts and shall amend the development order to incorporate the necessary mitigation requirements. The Developer shall be entitled to utilize any mitigation option deemed appropriate by Manatee County which is consistent with the requirements of Chapter 380 and the rules and policies of the TBRPC and DCA.
- d. Manatee County shall rely upon payments made and shall make financial, construction, and other commitments once payments are made by the Developer*. Prior to any payment made under Subparagraph C.(3)b.2., the Developer* shall enter into a written agreement with Manatee County, in a form acceptable to Manatee County, which shall provide that the Developer* understands, and agrees that, provided said payments are used as set forth in the written agreement, such payments made pursuant to C.(3)b.2.(i) and C.(3)b.2.(ii) above, and if the Developer is legally prohibited from utilizing the mitigation option set forth in Subparagraph C.(3)b.2. above, then Manatee County shall release said irrevocable Letter of Credit. The County may withhold any development orders which may be issued in accordance with this subsection until said agreement has been executed by the Developer*, approved by the Board of County Commissioners, and recorded in the Public Records of Manatee County.
- e. In the event that Manatee County fails to construct or have constructed the Transportation Project(s) pursuant to the approved construction timing, all development activity including the issuance of building permits and certificates of occupancy, within Phase I of the Cypress Banks development shall cease and no development may proceed under this Development Order unless the requirements of either subparagraphs C.(3)a. or C.(3)b.1. of stipulation C.(3) are met. This paragraph shall not be construed as a waiver or granting of any rights by or to the Developer against Manatee County for Manatee County's failure to construct the Transportation Project(s).

3. All other provisions of Development Order Resolution No. R-89-16 (R) shall remain in full force and effect. In the event there is an inconsistency between the terms of this Resolution and the Resolution referred to above, the terms of this Resolution shall control.

ADOPTED AND APPROVED with a quorum present and voting this 23rd day of July, 1992.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: Kathy A. Snel
Chairman

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

AFFIDAVIT OF POSTING OF PUBLIC NOTICE SIGN, AND
NOTIFICATION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
TO CONTIGUOUS PROPERTY OWNERS

STATE OF FLORIDA

COUNTY OF MANATEE

BEFORE ME, the undersigned authority, personally appeared
Rex E. Jensen, who, after having first been
duly sworn and put upon oath, says as follows:

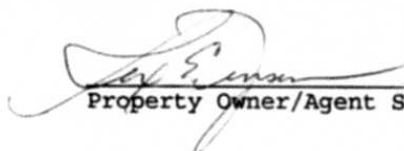
1. That he/she is the agent for owner
(owner, agent for owner, attorney in fact for owner, etc.) of the
property identified in the application for Amendment to Resolution
R-89-161(R), amending Exhibit "D" of approved DRI #17, to be heard
before the Manatee County Board of County Commissioners at a public
hearing to be held on July 23, 1992, and as such, is authorized to
execute and make this Affidavit and is familiar with the matters
set forth herein, and they are true to the best of his/her
knowledge, information and belief.

2. That the Affiant has caused the required public notice
sign to be posted pursuant to Manatee County Ordinance No. 90-01,
on the property identified in said application, and said sign was
conspicuously posted -0- feet from the front property line on the
26th day of May, 1992.

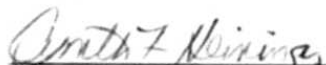
3. That the Affiant has caused the mailing of the required
letter of notification to contiguous property owners pursuant to
Manatee County Ordinance No. 90-01, by Certified Mail, Return
Receipt Requested, on the 26th day of May, 1992, and
attaches hereto, as a part of and incorporated herein, a complete
list of the names and addresses of the persons entitled to notice
and proof of the method of mailing.

4. That Affiant is aware of and understands that failure to
adhere to the provisions of Manatee County Ordinance No. 90-01, as
it relates to the required public notice, may cause the above
identified hearing to be postponed and rescheduled only upon
compliance with the public notice requirements.

FURTHER YOUR AFFIANT SAITH NOT.


Property Owner/Agent Signature

SIGNED AND SWORN TO before me on 6/10/92
(date) by Rex E. Jensen (name of
affiant). He/she is personally known to me or has produced
his driver's license (type of
identification) as identification and who did/did not take an oath.


Signature of Person Taking
Acknowledgement
Cynthia F. Heininger
Type Name

Notary Public
Title or Rank

SEAL

My Commission Expires:

Commission No.:

Notary Public
State of Florida at Large
My Commission Expires:
August 12, 1995

Serial Number, if any

2243



The Bradenton Herald

102 MANATEE AVE. WEST, P.O. BOX 921
BRADENTON, FLORIDA 34206
TELEPHONE (813) 748-0411

PUBLISHED DAILY
BRADENTON, MANATEE COUNTY, FLORIDA

STATE OF FLORIDA COUNTY OF MANATEE:

Before the undersigned authority person
Jill Rockefeller, who on oath says that she
Advertising Clerk and the official representative
Publisher of The Bradenton Herald, a newspaper
published at Bradenton in Manatee County,
the express, limited authority to execute the
the purpose of establishing proof of publication
public or legal notice and advertisement
attached hereto; that the attached copy of
being a legal advertisement in the matter of

Notice of Establishment

in the

was published in said newspaper in the issue
7/6/92

Affiant further says that the said The Bradenton
paper published at Bradenton, in said Manatee County
that the said newspaper has heretofore been continuing
in said Bradenton, Manatee County, Florida, each
entered as second class mail matter at the post office
said Manatee County, Florida, for a period of one year
the first publication of the attached copy of advertisement
affiant further says that she has neither paid nor
son, firm or corporation any discount, rebate, commission
for the purpose of securing this advertisement for
said newspaper.

Jill L. Rockefeller

Sworn to and subscribed before me this

7th day of July

A.D. 1992

John R. Baker

(REAL) Notary Public

Notary Public, State of Florida at Large

My Commission Expires July 24, 1995

**UNINCORPORATED
MANATEE COUNTY**

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of Manatee County will conduct a Public Hearing on Thursday, July 23, 1992 at 9:00 A.M. in the Chamber of the Board of County Commissioners, located at the Manatee County Administrative Center, 1112 Manatee Avenue West, 1st Floor, to consider, act upon the following matters:

PDR-92-04
Loren & Sherry Coddington
Approval of a private street for a four (4) lot subdivision. Located on the east side of Ry Bridge Road, approximately 167 feet north of Bradenton Arcadia Road. Present Zoning: (General Agriculture, 1 du/5 acres) (34.901 +/- acres).

PDR-92-05(P) Spring Lakes, Clusters VII & IX
Approval of a Preliminary Site Plan to allow 20 dwelling units at a density of 2.60 units per gross acre. Located on the south side of Spring Lakes Boulevard, approximately 290 feet west of 34th Street West. Present Zoning: PDR (Planned Development Residential) (7.7 +/- acres).

PDR-91-15(Z)(P)/91-5-25
Snead Island Estates West
(1) Approval of a 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, as amended, relating to zoning within the unincorporated area of Manatee County providing for the rezoning of certain land from RES-1/CH (Residential Single Family, du/acre/Coastal High Hazard Area) district to PDR/CH (Planned Development Residential/Coastal High Hazard Area) district; providing an effective date; and (2) Approval of a General Development Plan to Preliminary Site Plan/Preliminary Subdivision Plat Standard for a proposed 36 lot single family dwelling residential subdivision, at a density of .99 du/acre. Located on Snead Island approximately 1300 +/- feet west of intersection of 17th Street West (Emerson Point Road) and 44th Avenue West (Tarpon Road) on the north side of 17th Street West, immediately west of Gulf and Bay Estates Subdivision (34.33 +/- acres).

PDR-92-06(G)
River Harbor West
Approval of a General Development Plan to allow a docking facility for 13 boat davits/hoists in the Manatee River. Located on the north side of 21st Avenue NW approximately 1800 feet west of 83rd Street NW. Present Zoning: PDR/CH (Planned Development Residential/Coastal High Hazard Area Overlay) (10.0 +/- acres).

R-84-76(R) Creekwood
Approval of an amendment to Ordinance Z-84-76 as follows:
1. Revising the legal description to reduce acreage from 1090 +/- acres to 818.26 +/- acres;
2. Amending the site plan (Exhibit "H" revised) to dedicate a 25 acre community park at the northwest corner of the project;
3. Amending the site plan to reconfigure and relocate an approved 10.8 acre park located at the northeast corner of I-75 and State Road 70 to a 24.7 acre linear park located parallel and east of I-75;
4. Amending the site plan to relocate 7500 sq. ft. of approved commercial floor area from the interior of the project west of I-75, to the approved commercial area fronting State Road 70 west of I-75;
5. Amending the site plan to provide two additional access points onto State Road 70 and relocate existing access points on State Road 70;
6. Amending stipulation #2 of the Buffer Conditions to decrease the building setback distance to the power line easement from 50 feet to 10 feet;
7. Amending stipulation #4 of the Public Safety Conditions to allow limited use of street names within the project;
8. Revising the project phasing schedule to extend buildout for each phase by 4 years;
9. Amending the zoning and land use of a 23.4 +/- acre parcel located east of I-75 at approximately one mile north of S.R. 70 from PDR (Planned Development Residential) to PI (Planned Development Industrial) with no increase in the project's square footage;
10. Reduction of a 100 foot wide buffer to 30 feet in width adjacent to the east side of I-75 approximately one mile north of S.R. 70;
11. Redistribution of commercial square footage and residential densities as well as residential types within the boundaries of the project;
12. And other miscellaneous revisions to the Ordinance including but not limited to project phasing conditions, land use conditions, buffer conditions, water quality conditions, parks and recreation conditions, public education conditions, public safety conditions, transportation conditions, off-site facility development fee conditions, and general conditions;
Located on the northeast and northwest quadrant of State Road 70 and I-75. Present Zoning: PDR/CH/DC/PI/VP/VS/ST (Planned Development Residential/Planned Development Commercial/Planned Development Industrial/Watershed Protection Evers/Special Treatment overlay district) (1090 +/- acres); and

Amendment to a 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 two parcels of certain land from PDR (Planned Development Residential) to PDI (Planned Development Industrial) retaining the Evers Reservoir Watershed Protection Evers/Special Treatment Overlay District located 1) on the north side of State Road 70, approximately 1/2 mile west of I-75, containing 6.8 +/- acres and 2) on the west side of I-75, approximately 1/2 mile north of State Road 70, containing 16.1 +/- acres; and providing for the rezoning of an parcel of land from PDR (Planned Development Residential) to PDI (Planned Development Industrial) retaining the Evers Reservoir Watershed Protection Evers/Special Treatment Overlay Districts to certain land located at the northeast corner of I-75 and State Road 70 containing 16.8 +/- acres; providing an effective date; and approval of a General Development Plan to allow high industrial use.

PDR-91-18(Z)(P)
Stanley Township
Approval of a 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 lands from CRV (Commercial Recreational Vehicle) to PDR (Planned Development Residential), retaining the CH (Coastal High Hazard) overlay district and approval of a Preliminary Site Plan to allow 49 detached dwelling units at a density of 4.1 du/acre with Special Approval for a project (1) located in an Entranceway; (2) exceeding 1 du/acre in the RES-9 Future Land Use Category; and (3) located in the Coastal High Hazard Area. Located on the east side of Palm View Road approximately 300' north of U.S. 1 (7.96 +/- acres).

DBS #17 Cypress Roads
Approval of an amendment to Resolution R-89-161(R) to amend Exhibit D to change the timing for construction of the religious center from Phase II to Phase I, and determination of whether such amendment constitutes a substantial deviation pursuant to Section 301.06 Florida Statutes, for the Cypress Banks Development of Regional Impact. Located on the south side of State Road 70, approximately 2 miles east of I-75. Present Zoning: PDR/VP/ST (Planned Development Residential/Watershed Protection Evers/Special Treatment Overlay District) (1829.11 +/- acres).

All interested parties are invited to appear at this Hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Planning, Permitting and Inspections Department will be heard and considered by the Board of County Commission, and entered into the record.

Interested parties may examine the Official Zoning Atlas, the application and related documents and may obtain assistance regarding this matter from the Manatee County Planning, Permitting and Inspections Department, 1112 Manatee Avenue West, Suite 802, Bradenton, Florida, telephone number (813) 749-3070.

According to Florida Statutes, Section 218.6105, any person desiring to appeal any decision made by the Board of County Commissioners with respect to any matter considered at said Public Hearing will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY BOARD OF COUNTY COMMISSION

Manatee County Planning,
Permitting & Inspections
Department
Manatee County, Florida
7/6/92