

2008 MAY 19 AM 7:57

MANATEE COUNTY ZONING ORDINANCE
PDC-05-30(Z)(P) – DESSBERG/LIONEL CENTER (DTS #20050182)

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 0.386 ACRES ON THE WEST SIDE OF US 41, \pm 815 FEET SOUTH OF BRADEN AVENUE AT 8220 NORTH TAMiami TRAIL, SARASOTA FROM GC (GENERAL COMMERCIAL) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 13,825 SQUARE FEET OF COMMERCIAL SERVICES AND RETAIL SPACE, WITH UP TO 6,000 SQUARE FEET OF RESTAURANT SPACE; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Rodney Dessberg (the "Applicant") filed an application to rezone approximately 0.386 acres described in Exhibit "A", attached hereto, (the "property") from GC (General Commercial) to the PDC (Planned Development Commercial) zoning district; and

WHEREAS, the applicant filed a Preliminary Site Plan for 13,825 square feet of commercial services and retail space with up to 6,000 square feet of restaurant space (the "Project") on the property; and

WHEREAS, the applicant filed a request for Special Approval for a project: 1) exceeding a 0.25 FAR in the ROR Future Land Use Category; and 2) within an Entranceway; and

WHEREAS, the applicant filed a request for Specific Approval for alternatives to Sections 603.11.4.3, 710.16., 715.3.1., and 737.5.1.1 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Special Approval, and Specific Approval, subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on March 13, 2008 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval, received the staff recommendation, and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

WHEREAS, the Manatee County Planning Commission, as the County's Local Planning Agency, found the applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development

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Code and recommended approval of the applications, subject to the stipulations contained in the staff report.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. FINDINGS OF FACT. The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners after considering the testimony, evidence, documentation, application for amendment of the Official Zoning Atlas, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Board of County Commissioners received and considered the report of the Manatee County Planning Commission concerning the application for Official Zoning Atlas Amendment as it relates to the real property described in Exhibit "A" of this Ordinance from GC (General Commercial) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on April 22, 2008 and May 1, 2008 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code, and has further considered the information received at the public hearing.

C. The proposed amendment to the Official Zoning Atlas regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01, the 2020 Manatee County Comprehensive Plan.

D. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the Preliminary Site Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 603.11.4.3, the Board finds that the public purpose and intent of the Land Development Code regulations have been satisfied since the 15' rear and 10' side setbacks with the 8' buffer adequately separate the site from the adjacent mini-storage use.

F. Notwithstanding the failure of this plan to comply with the LDC Section 710 parking requirements for the proposed building and land uses, the Board finds that the parking study demonstrates that the public purpose and intent of the Land Development Code regulations have been satisfied to an equivalent degree.

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.1, regarding providing an 8' vehicular use area perimeter landscaping buffer, the Board finds that the public purpose and intent of the Land Development Code regulations have been satisfied to an equivalent degree since an adequate buffer is provided on the McDonalds property.

H. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 737.5.1.1. regarding providing a 20' roadway buffer in the Entranceway, the Board finds that the public purpose and intent of the Land Development Code regulations have been satisfied to an equivalent degree since the required number of plantings will not be reduced.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 13,825 square feet of commercial services and retail space, with up to 6,000 square feet of restaurant space on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Prior to Final Site Plan approval, no more than 10 percent of the approved number of parking spaces shall be compact parking spaces as defined by the LDC.
2. The building design shall be in substantial conformance with the elevation drawings entered into the record for this project.
3. No massage parlor establishment operated between 11:00 p.m. and 7:00 a.m.

B. INFRASTRUCTURE CONDITIONS:

1. Any changes to the Final Site Plan to comply with FDOT access permit requirements may be made administratively.
2. A pedestrian safety walkway or protected area shall be provided along the front of the building a minimum width of the doorway plus five (5) feet beyond the swing of the door per LDC Section 710.1.5.3. Pedestrian Safety.

C. STORMWATER CONDITIONS:

1. The Drainage Model and Construction Plan(s) shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site in respect to drainage routing, grading, and runoff.
2. Routing and modeling of the existing conditions shall be provided with the Drainage Model.

D. BUFFERS:

1. Landscape plantings in the roadway buffer along US 41 required by LDC Section 737 shall not be reduced and shall include a variety of canopy trees.
2. At least 75 percent of all new required trees, shrubs, and groundcover shall consist of native species as required by LDC Section 737.4.(h).

E. LAND ACQUISITION:

1. Prior to Final Site Plan approval the applicant shall provide a 10' right-of-way easement to the County to create a 70' half-width right-of-way.

F. ENVIRONMENTAL CONDITIONS:

1. Prior to Final Site Plan approval the applicant shall provide a hazardous materials assessment or more comprehensive report to staff for review and approval. Prior to Commencement of Construction, the applicant shall demonstrate that all remediation or mitigation activities, if required, have been completed. If required, the remediation plan shall be reviewed and approved by the Environmental Management Department Director with the Final Site Plan.
2. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted to the Planning Department for review prior to Final Site Plan approval.
3. Existing native vegetation within required landscape buffers shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or storm water facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.
4. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the Planning Department.
5. A Well Management Plan shall be submitted to the Planning Department and the Environmental Management Department for review and approval prior to Final Site Plan approval. The Well Management Plan shall include identification of which wells are to be retained or abandoned, the timing of abandonment, and

wellhead protection details for those wells to remain as well as a copy of all Water Use Permits, if applicable.

6. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for a project: 1) exceeding a 0.25 FAR in the ROR Future Land Use Category; and 2) within an Entranceway. This Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for alternatives to Sections 603.11.4.3., 710.16, 715.3.1, and 737.5.1.1, of the Land Development Code. This Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

Section 4. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County (Ordinance No. 90-01, the Manatee County Land Development Code) is hereby amended by changing the zoning district classification of the property identified in Exhibit "A" herein from GC (General Commercial) to the PDC (Planned Development Commercial) zoning district and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Planning Department, are hereby instructed to cause such amendment to the said Official Zoning Atlas.

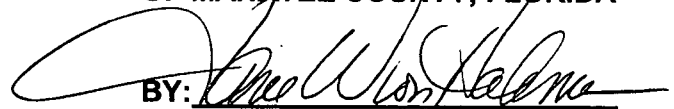
Section 5. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, clause, sentence, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 7. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 1st day of May, 2008.

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

BY: 
Chairman

ATTEST:

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



BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

FROM THE INTERSECTION OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 35 SOUTH, RANGE 17 EAST, WITH THE SOUTHWESTERLY LINE OF TAMiami TRAIL (U.S. HIGHWAY 41) (120 FEET WIDE), GO NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE OF TAMiami TRAIL A DISTANCE OF 650.98 FEET FOR A POINT-OF-BEGINNING; THENCE GO NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE OF TAMiami TRAIL A DISTANCE OF 430.11 FEET; THENCE GO SOUTH 67°30'44" WEST A DISTANCE OF 300.66 FEET; THENCE GO SOUTH 26°54' EAST A DISTANCE OF 90 FEET; THENCE GO SOUTH 73°15' EAST A DISTANCE OF 230 FEET, MORE OR LESS, TO A POINT WHICH IS 150 FEET SOUTHWESTERLY FROM SAID SOUTHWESTERLY LINE OF TAMiami TRAIL; THENCE GO SOUTH 26°54' EAST A DISTANCE OF 170 FEET, SAID LINE BEING PARALLEL TO AND 150 FEET SOUTHWESTERLY FROM SAID TAMiami TRAIL SOUTHWESTERLY LINE; THENCE GO NORTH 53°06' EAST A DISTANCE OF 150 FEET TO THE POINT-OF-BEGINNING; LESS HOWEVER ANY ADDITIONAL RIGHT-OF-WAY HELD BY THE STATE OF FLORIDA FOR USE AND BENEFIT OF THE STATE ROAD DEPARTMENT.

ALSO LESS THE PROPERTY CONVEYED IN WARRNTY DEED RECORDED IN OFFICIAL RECORDS BOOK 798, PAGE 347, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TRACT OF LAND LYING IN MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 35 SOUTH, RANGE 17 EAST, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE TAMiami TRAIL (U.S. 41) AS NOW LOCATED (1955), GO NORTH 26°54'00" WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 883.56 FEET TO THE POINT-OF-BEGINNING; THENCE CONTINUE NORTH 26°54'00" WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF DISTANCE OF 197.53 FEET; THENCE SOUTH 67°30'44" WEST, A DISTANCE OF 300.66 FEET; THENCE SOUTH 26°54'00" EAST, PARALLEL TO THE RIGHT-OF-WAY LINE OF THE TAMiami TRAIL, A DISTANCE OF 90 FEET; THENCE SOUTH 64°40'38" EAST, A DISTANCE OF 165.17 FEET (ACTUAL) (DEED = SOUTH 73°15'00" EAST 230 FEET MORE OR LESS); THENCE NORTH 63°06'00" EAST A DISTANCE OF 198.59 FEET TO THE POINT-OF-BEGINNING. LESS HOWEVER, ADDITIONAL RIGHT-OF-WAY HELD BY THE STATE OF FLORIDA FOR USE AND BENEFIT OF THE DEPARTMENT OF TRANSPORTATION.



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 8th day of May, 2008.
R.B. SHORE
Clerk of Circuit Court
By: Diane E. Vollmer, c.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA
KURT S. BROWNING
Secretary of State

May 12, 2008

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

Attention: Ms. Vicki Jarratt

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 8, 2008 and certified copies of Manatee County Ordinance Nos. 08-34, PDC-05-30(Z) (P), PDW-07-03 (Z) (P), Z-07-20, 08-20, and 08-21, which were filed in this office on May 12, 2008.

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

Sincerely,

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

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