

FILED FOR RECORD
R. B. SHORE

2008 AUG 25 PM 1:34

MANATEE COUNTY ZONING ORDINANCE

PDC-05-48(Z)(P) – MCILLWAINE / ERIE ROAD VILLAGES (DTS #20050165)

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 6 ACRES AT THE SOUTHEAST CORNER OF ERIE ROAD AND ERIE ROAD, SOUTH OF THE INTERSECTION OF 69TH STREET EAST, PARRISH FROM A/NCO (GENERAL AGRICULTURE/NORTH CENTRAL OVERLAY) TO THE PDC/NCO (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY; APPROVING A PRELIMINARY SITE PLAN FOR 28,200 SQUARE FEET OF RETAIL SERVICE, COMMUNITY SERVICE, AND RESIDENTIAL SUPPORT USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, McIlwaine (the "Applicant") filed an application to rezone approximately 6 acres described in Exhibit "A", attached hereto, (the "property") from A/NCO (General Agriculture/North Central Overlay) to the PDC/NDO (Planned Development Commercial) zoning district, retaining the North Central Overlay; and

WHEREAS, the applicant filed a Preliminary Site Plan for 28,200 square feet of retail service, community service, and residential support uses (the "Project") on the property; and

WHEREAS, the applicant filed a request for Specific Approval for an alternative to Section 604.10.3.4 of the Land Development Code, and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan 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 June 12, 2008 to consider the rezone, Preliminary Site Plan 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 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 A/NCO (General Agriculture/North Central Overlay) to the PDC/NDO (Planned Development Commercial) zoning district, retaining the North Central Overlay.

B. The Board of County Commissioners held a duly noticed public hearing on August 7, 2008 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance 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 89-01, the 2020 Manatee County Comprehensive Plan.

D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 604.10.3.4, the Board finds that the proposed buffer along Erie Road meets the intent of the regulation because the average buffer will be suitable and compatible with the surrounding development and satisfies the public purpose and intent of the LDC regulations to an equivalent degree.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 28,200 square feet of retail service, community service, and residential support uses subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. This project shall be limited to the following uses:
 - Retail Sales, Neighborhood Convenience (not to exceed 4,000 sq.ft.)
 - Eating Establishments (not to exceed 50 seats or 20% of the entire center)
 - Food Catering
 - Office and Professional Office
 - Veterinary Clinic

- Dry Cleaners (pick-up)
 - Small Printer
 - Business Service
 - Bank
 - Personal Service Establishment
 - School of Special Education
 - Day Care Center (small and medium)
 - Post Office
 - Police Substation
2. The design of all buildings shall be in substantial conformance with the elevations approved with this application. At time of Final Site Plan approval, the applicant shall provide elevations for all building facades to determine compliance with this stipulation.
 3. The middle section of the building shall be recessed from the outer two blocks of the building be at least 4 feet, consistent with Diagram 604.10.6.6(1) of the LDC.
 4. The maximum building height shall be 16'.
 5. All roof mounted H.V.A.C. mechanical equipment shall be screened from view from adjacent roadways and properties with a solid parapet wall or other noise deflecting materials, consistent with the exterior finish materials of the buildings. This requirement will be verified and shown on the FSP & Building Permits.
 6. Exhaust and other filtering systems in Food Service Establishments or uses shall adhere to the Best Available Control Technology to eliminate or reduce the emission of smoke, grease, and odor from cooking facilities.
 7. The hours of operation, including deliveries, shall be limited to 6:00 a.m. to 11:00 p.m. This condition does not apply to the police substation and post office uses.
 8. Trees within the future Erie Road ROW shall not be removed by the developer unless they conflict with driveway or sidewalk alignments.
 9. Retail or restaurant establishments shall be limited to exceed 4,000 sq. ft. each.
 10. Ground signs shall not exceed 8' in height.
 11. Prior to the first Certificate of Occupancy an 8' high wall as measured from the grade of the adjacent parking, shall be installed along the eastern property line. Part of the wall may be removed if cross access is

required in the future.

12. No light fixture shall exceed 20' in height on the site.

B. TRANSPORTATION CONDITIONS:

1. Prior to Final Site Plan approval a cross access easement for the property to the east shall be recorded for this site.
2. By January 1, 2009, the applicant shall dedicate additional right-of-way for Erie Road as shown on the Preliminary Site Plan. The right-of-way dedicated shall receive impact fee credits for fair market value not to exceed the value of the land on August 1, 2008 prior to rezone and site plan approval.
3. At the time of Final Site Plan and Construction Plan approval for each phase of the project the developer shall be responsible for any additional on-site or off-site transportation operational and safety improvements attributable to this project, as determined by the Public Works Department, and in accordance with LDC Section 722.1.3.4., as well as any capacity improvements associated with the issuance of a Certificate of Level of Service.
4. All traffic concurrency-related transportation improvements and required traffic safety and operational improvements shall be shown on the Final Site Plan(s) and Construction Plan(s).
5. The northeasterly driveway entrance from the project site onto Erie Road may be utilized for a full access to the project on a temporary basis only. The Public Works Department shall have the authority to restrict the access at the northeasterly driveway entrance, as depicted on the Final Site Plan to restricted turning movements consisting of only right-in and right-out, based upon the determination by the Public Works Department that such restriction is in furtherance of traffic and pedestrian safety and traffic circulation. The applicant shall record a Notice of Limited Access in the Public Records of Manatee County, in a form acceptable to the County Attorney's office, to inform future purchasers and tenants of the project site that the northeasterly access point on Erie Road will be restricted to right-in and right-out turning movements by Manatee County in the future and that the full access is temporary. The Notice of Limited Access shall state that the applicant or their successors and assigns, shall be responsible for the removal, at their sole expense, of any signs or other improvements indicating the northeasterly driveway entrance is full access.

C. STORMWATER CONDITIONS:

1. The developer shall provide an easement to Manatee County that would allow the County to utilize any excess capacity in developer's stormwater ponds located adjacent to Erie Road to accommodate future roadway expansion. The easement shall also provide the County with the right to modify the ponds to create additional capacity, at the sole cost of the County.
2. There shall be a full 25-year attenuation on all stormwater ponds within the development.
3. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Frog Creek. Modeling shall be used to determine pre- and post-development flows.
4. Routing and modeling of the existing conditions shall be provided with the Drainage Model and Construction Plan for all natural drainage systems within and surrounding this project taking into consideration all wetland storage and ground depressions.
5. The Drainage Model and Construction Plan shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.

F. ENVIRONMENTAL CONDITIONS:

1. 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.
2. Prior to Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (i.e., historical cattle dipping vats, underground or aboveground storage tanks, or buried drums), by a qualified environmental consultant. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation or mitigative measures.
3. A Well Management Plan shall be submitted to the Planning and Environmental Management Departments for review and approval prior to Final Site Plan approval. The Well Management Plan shall include identification of which wells are to be retained and abandoned; the timing of abandonment; wellhead protection details for those wells to remain and a copy of all Water Use Permits, if applicable.
4. No open burning for land clearing is allowed for this project.
5. The project shall use the lowest quality of water available for irrigation

purposes. Use of Manatee County public potable water supply shall be prohibited for in ground irrigation systems.

Section 3. SPECIFIC APPROVAL. Specific Approval is hereby granted for an alternative to Section 604.10.3.4 of the Land Development Code. The 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 A/NCO (General Agriculture/North Central Overlay) to the PDC/NDO (Planned Development Commercial) zoning district, retaining the North Central Overlay 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 7th day of August, 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

DESCRIPTION (OFFICIAL RECORD BOOK 1458 PAGE 4949)

FROM THE CENTER OF SECTION 35, TOWNSHIP 33 SOUTH, RANGE 18 EAST (AS OCCUPIED). RUN N00°07'12"E, A DISTANCE OF 100.00 FEET; THENCE N89°39'47"W, A DISTANCE OF 1303.92 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF ERIE ROAD; THENCE N00°45'12"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 1227.21 FEET; THENCE N00°44'23"E, CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 301.48 FEET TO THE POINT OF BEGINNING, THENCE CONTINUING NORTHERLY AND NORTHEASTERLY, ALONG THE RIGHT-OF-WAY LINE OF SAID ERIE ROAD. THE FOLLOWING THREE COURSES: THENCE N00°44'23"E, A DISTANCE OF 435.59 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT WHOSE RADIUS POINT LIES S89°15'37"E, A DISTANCE OF 105.72 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, A DISTANCE OF 115.70 FEET THROUGH A CENTRAL ANGLE OF 62°42'13" TO THE END OF SAID CURVE TO THE RIGHT, THENCE N63°26'39"E, A DISTANCE OF 402.31 FEET; THENCE S00°18'22"W, A DISTANCE OF 289.14 FEET; THENCE S04°42'51"E, A DISTANCE OF 428.72 FEET, THENCE N89°01'32"W, A DISTANCE OF 457.69 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTION 35, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.



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 15th day of August, 2008
R.B. SHORE
Clerk of Circuit Court
Spicerredo D.C.



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R. B. SHORE

2008 AUG 25 PM 1:37

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

August 20, 2008

RECEIVED

AUG 25 2008

BOARD RECORDS

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

Attention: Ms. Diane E. Vollmer, D.C.

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 15, 2008 and certified copies of Manatee County Ordinance Nos. 08-58, PDMU-07-23(Z)(P), Z-07-12, 08-64, PDC-05-48(Z)(P), PDPI-03-21(Z)(G)(R), PDMU-91-01(G)(R4), PDMU-92-01(Z)(G)(R12) and 08-16, which were filed in this office on August 20, 2008.

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/srd
Enclosure

DIRECTOR'S OFFICE

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