

FILED FOR RECORD
R. B. SHORE

2008 JUN 23 PM 12: 31

CLERK OF THE CIRCUIT COURT
MANATEE CO., FLORIDA

MANATEE COUNTY ZONING ORDINANCE

PDC 06-58(Z)(P) – GERALD SAPP / COMFORT INN (DTS #20060335)

FILED
2008 JUN 16 PM 12: 21
DEPT. OF REVENUE
TALLAHASSEE, FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 4.06 ACRES AT THE NORTHEAST CORNER OF U.S. 41 (1ST STREET EAST) AND 30TH AVENUE EAST, BRADENTON FROM GC (GENERAL COMMERCIAL) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR A 66,528 SQ. FT. 112-ROOM HOTEL; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Gerald Sapp (the "Applicant") filed an application to rezone approximately 4.06 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 also filed a Preliminary Site Plan for a 66,528 sq. ft. 112-room hotel (the "Project") on the property; and

WHEREAS, the applicant file a request for Special Approval for a project exceeding a 0.35 Floor Area Ratio in the ROR FLUC; and

WHEREAS, the applicant filed a request for Specific Approval for an alternative to Section 603.11.4.3 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 May 8, 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 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 a duly noticed public hearing on June 5, 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. 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, regarding reducing the 35' setback along 2nd Avenue, the Board finds that the public purpose and intent of the Land Development Code regulations have been satisfied to an equivalent or greater degree by the project design because the applicant has proposed mitigating measures.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 66,528 sq. ft. 112-room hotel on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Plantings in landscape islands with 17' parking spaces shall not be within two feet of the end of the parking spaces per LDC 715.3.1.e.
2. A. five-foot sidewalk shall be built along the 2nd Street East frontage of this site and verified with the Final Site Plan.

3. A six-foot PVC fence or wall, finished in a color consistent with the principal building, shall be included in the landscape buffer along the eastern boundary of the project, clipping the corners to extend behind the corner landscaping at 28th Avenue East and 30th Avenue East, and extending across the head of the first parking space to the east along each road.
4. All dumpsters and compactors shall be screened from view of residential properties to the north and east with a six-foot high wall constructed with building materials and color matching the principal building on site and foundation landscaping.
5. The building height shall be no greater than 35' excluding parapets that do not exceed the height limit by more than four (4) feet, but such projection shall not extend more than four (4) feet above the roof level of the building.

B. TRANSPORTATION CONDITIONS:

1. Prior to Final Site Plan approval, 20 feet (55-foot half-width) along U.S. 41, 12.5 feet (25-foot half-width) along 28th Ave. East and 2nd Street East, and 17 feet (42-foot half width) along 30th Ave. East shall be dedicated to Manatee County.
2. The total of impact fee credits are not to exceed the amounts of \$76,560 for 1st Street East and \$26,400 for 30th Avenue East.

C. INFRASTRUCTURE CONDITIONS:

1. Prior to Final Site Plan approval it shall be demonstrated that the dumpster enclosures meet PDC minimum front yard setbacks.

D. STORMWATER CONDITIONS:

1. 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.

E. ENVIRONMENTAL CONDITIONS:

1. Prior to Final Site Plan approval, applicant shall provide documentation from FDEP demonstrating that no further action is needed to address remediation issues.
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 located within any required landscape buffer 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 Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 508.3.34.7(j) of the LDC.
6. All wells on-site shall be addressed with a Well Management Plan which 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/abandoned; the timing of abandonment; wellhead protection details for those wells to remain and a copy of all Water Use Permits, if applicable.
7. 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 exceeding a 0.35 Floor Area Ratio in the ROR FLUC. The 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 an alternative to Section 603.11.4.3 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 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 5th day of June, 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

LEGAL DESCRIPTION:

DESCRIPTION AS PROVIDED BY CLIENT AND IN TITLE COMMITMENT (SEE NOTE #7)

"W1/2 OF THE SW1/4 OF THE NW1/4 OF THE NW1/4 OF SECTION 1, TOWNSHIP 35 SOUTH, RANGE 17 EAST, CONTAINING FIVE (5) ACRES MORE OR LESS. LESS THE NORTH PORTION THEREOF, AS DESCRIBED IN DEED TO SUE A. BROWN, OF RECORD IN DEED BOOK 238, PAGE 575, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, AND SUBJECT TO ROAD RIGHT-OF-WAY ON THE WEST.

TOGETHER WITH:

THE W1/2 OF THE SW1/4 OF THE NW1/4 OF THE NW1/4 OF SECTION 1, TOWNSHIP 35 SOUTH, RANGE 17 EAST; LESS THE EAST 115 FEET AND LESS ROAD OFF WEST, VIZ: PROPERTY CONVEYED TO STATE OF FLORIDA - OFFICIAL RECORDS BOOK 36, PAGE 413, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

TOGETHER WITH:

THE EAST 115 FEET OF THE FOLLOWING DESCRIBED PROPERTY: THE NORTH 75 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 35 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, LESS ROAD OFF THE WEST SIDE.

LESS ROAD RIGHTS-OF-WAY."



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 16th day of June, 2008.

R.B. SHORE
Clerk of Circuit Court
By: *[Signature]* J.C.



FILED FOR RECORD
R. B. SHORE

2008 JUN 23 PM 12:31

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

June 16, 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 June 12, 2008 and certified copies of Manatee County Ordinance Nos. PDI-06-15(Z) (P), Z-05-18, PDC-06-58(Z) (P) and PDC-04-38 (Z) (P), which were filed in this office on June 16, 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

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282