

FILED FOR RECORD
R. B. SHORE

2008 MAR 20 PM 6:12 (P) – JACYN BEACON REALTY, INC. / MILL CREEK VII INVESTORS, LLC /
TOOMEY – LORRAINE ROAD COMMERCIAL WEST

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 A REZONE OF APPROXIMATELY 8.65 ACRES AT THE NORTHWEST CORNER OF THE INTERSECTION OF SR 64 WITH 145TH STREET EAST AND LORRAINE ROAD FROM A (GENERAL AGRICULTURE) AND PDR (PLANNED DEVELOPMENT RESIDENTIAL) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 58,670 SQUARE FEET OF RETAIL USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

2008 MAR -5 AM 9:59

FILED

WHEREAS, Jacyn Beacon Realty, Inc., Mill Creek VII Investors, LLC, and Toomey (the "Applicant") filed an application to rezone approximately 8.65 acres described in Exhibit "A", attached hereto, (the "property") from A (General Agriculture) and PDR (Planned Development residential) to the PDC (Planned Development Commercial) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan for 58,670 square feet of retail uses (the "Project") upon the property; and

WHEREAS, the applicant also filed a request for Special Approval for non-residential uses exceeding 30,000 square feet in the UF-3 Future Land Use Category; and

WHEREAS, the applicant filed a request for Specific Approval for an alternative to Section 710.1.6 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 January 10, 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:

FILED FOR RECORD
R. B. SHORE

2008 MAR 21 AM 9:19

CLERK OF THE CIRCUIT COURT
MANATEE CO. 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 (General Agriculture) and PDR (Planned Development Residential) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on February 7, 2008, February 12, 2008, and February 28, 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 710.1.6, the Board finds that the proposed design 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 58,670 square feet of retail uses on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. All roof mounted H.V.A.C. mechanical equipment shall be screened with a solid parapet wall or other noise deflecting materials, which shall be consistent with the construction materials of the main buildings, so as not to be visible from nearby roads and residences.
2. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed standard concrete block or corrugated metal shall

not be permitted. Architectural metals or standard concrete block with stucco type finish, in conjunction with other permitted building materials may be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.

3. In order to insure that the buildings do not project massive blank walls, blank walls shall be no longer than 20 feet in length. Design elements including prominently visible architectural details (e.g., bump outs, reveals and projecting ribs, cornice, offset building planes, windows, shutters, areas of contrasting or different finish building materials, etc.) shall be applied to the south and east walls of the proposed building.
4. The dumpster shall be screened with the building materials matching the principal building on site.
5. All deliveries and truck loading shall be prohibited between the hours of 10 PM to 7 AM.
6. All pole signs shall be prohibited.
7. All uses shall be limited to Neighborhood Convenience Retail Sales and Neighborhood General Retail Sales as defined by the Land Development Code.

B. TRANSPORTATION CONDITIONS:

1. North of the access point on 145th St E, the developer shall dedicate sufficient right-of-way easement along 145th St E to accommodate the construction of a 250 ft long 2-lane to 3-lane transition, a 5' wide sidewalk, and a 2' wide grass strip.
2. South of the access point on 145th St E, the developer shall dedicate a 10' right-of-way easement alongside 145th St E.
3. The developer shall provide the following improvements west of the existing center line of 145th St E:
 - A. A 4' wide striped median
 - B. An 11' wide southbound left turn lane on to SR 64
 - C. An 11' wide northbound left turn lane for site access. Storage length 50'. Transition 50'.
 - D. A 12' wide southbound through and right turn lane
 - E. A curb
 - F. A 6' sidewalk

C. ENVIRONMENTAL CONDITIONS:

1. The site shall provide an upland preservation area east of the western wetland and wetland buffer over an area that covers ten parking spaces shown on the Preliminary Site Plan. The Final Site Plan shall show the details of the preservation instead of the pavement.

2. The developer shall compensate for tree removal by making cash payments to Manatee County in lieu of the replacement of at least 48 trees.

D. STORMWATER CONDITIONS:

1. This project shall be required to reduce the calculated pre-development flow rate by fifty percent (50%) for all stormwater outfall flow directly or indirectly into Mill Creek. Modeling shall be used to determine pre- and post- development flows.
2. Existing storage volume in existing ponds, wetlands and/or drainage ditches that are proposed to be permanently impacted shall be compensated with equal or greater volume in the proposed stormwater retention pond.
3. 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 pond storage, wetland storage and ground depressions.
4. 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.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for non-residential uses exceeding 30,000 square feet in the UF-3 Future Land Use Category. 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 an alternative to Section 710.1.6 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 (General Agriculture) and PDR (Planned Development Residential) 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 28th day of February, 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

PARCEL 1

THAT PART OF THAT PARCEL DESCRIBED IN O.R. BOOK 1658, PAGE 1193 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA AND LYING IN THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 34 SOUTH, RANGE 19 EAST AND BEING FURTHER DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID SECTION 34, RUN S89°32'00"E, ALONG THE SOUTH LINE OF SAID SECTION 34, A DISTANCE OF 1622.36 FT.; THENCE, LEAVING SAID SOUTH SECTION LINE, N00°20'04"E, A DISTANCE OF 50.00 FT. TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 64, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE N00°20'04"E, A DISTANCE OF 436.40 FT.; THENCE S89°36'59"E, A DISTANCE OF 229.95 FT. TO A POINT ON THE NON RADIAL NON TANGENT CURVE, WHOSE RADIUS POINT LIES N66°46'00"W, A DISTANCE OF 100.00 FT.; THENCE ALONG SAID CURVE, BEING CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 100.00 FT., THROUGH A CENTRAL ANGLE OF 38°29'18", AN ARC LENGTH OF 67.47 FT., HAVING A CHORD OF 66.20 FT. ON A BEARING OF S42°33'53"W, TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 150.00 FT., THROUGH A CENTRAL ANGLE OF 61°53'32", AN ARC LENGTH OF 162.03 FT., HAVING A CHORD OF 154.27 FT. ON A BEARING OF S30°56'46"W, TO A POINT OF TANGENCY; THENCE S00°00'00"W, A DISTANCE OF 219.39 FT., TO A POINT OF CURVATURE; THENCE ALONG A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 35.00 FT., THROUGH A CENTRAL ANGLE OF 90°41'35", AN ARC LENGTH OF 55.40 FT., HAVING A CHORD OF 49.80 FT. ON A BEARING S45°20'47"W, TO A POINT OF TANGENCY ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 64; THENCE N89°32'00"W, ALONG SAID RIGHT-OF-WAY LINE, 72.96 FT. TO THE POINT OF BEGINNING.

CONTAINING 54,765.18 SQUARE FEET, 1.25 ACRES, MORE OR LESS.

PARCEL 2

THAT PARCEL AS DESCRIBED IN O.R. BOOK 1764, PAGE 2450 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LESS THE NORTH 290.0 FT. THEREOF LYING IN SECTION 34, TOWNSHIP 34 SOUTH, RANGE 19 EAST AND BEING FURTHER DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF SAID SECTION 34, RUN S89°32'00"E, ALONG THE SOUTH LINE OF SAID SECTION 34, A DISTANCE OF 1622.36 FT.; THENCE, LEAVING SAID SOUTH SECTION LINE, N00°20'04"E, A DISTANCE OF 50.00 FT. TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 64, SAID POINT BEING THE POINT OF

BEGINNING; THENCE N89°32'00"W ALONG SAID NORTH RIGHT-OF-WAY LINE, 299.93 FT.; THENCE, LEAVING SAID NORTH RIGHT-OF-WAY LINE, N00°20'04"E, A DISTANCE OF 435.96 FT.; THENCE S89°36'59"E, A DISTANCE OF 299.93 FT.; THENCE S00°20'04"W, A DISTANCE OF 436.40 FT. TO THE POINT OF BEGINNING.

CONTAINING 130,822.64 SQUARE FEET, 3.00 ACRES, MORE OR LESS.

PARCEL 3

THAT PORTION OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 34 SOUTH, RANGE 19 EAST, LYING IN MANATEE COUNTY, FLORIDA AND BEIGN FURTHER DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF AFOREMENTIONED SECTION 34, RUN S89°32'00"E, ALONG THE SOUTH LINE OF SAID SECTION 34, 1322.44 FT.; THENCE, LEAVING SAID SOUTH SECTION LINE, N00°20'04"E, A DISTANCE OF 50.00 FT. TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 64, SAID POINT BEING THE POINT OF BEGINNING; THENCE N89°32'00"W, ALONG SAID NORTH RIGHT-OF-WAY, 177.02 FT. TO A POINT OF CURVATURE; THENCE, CONTINUING ON SAID NORTH RIGHT-OF-WAY LINE, ALONG THE ARC OF THE CURVE, BEING CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2098.59 FT.; THROUGH A CENTRAL ANGLE OF 09°49'24", AND ARC LENGTH OF 359.81 FT., HAVING A CHORD OF 359.37 ON A BEARING OF N84°37'32"W; THENCE LEAVING SAID NORTH RIGHT-OF-WAY LINE AND SIAD CURVE ON A NON RADIAL NON TANGENT LINE BEARING N00°20'04"E, 333.98 FT.; THENCE S89°39'41"E, A DISTANCE OF 535.00 FT., THENCE S00°20'04"W, A DISTANCE OF 365.92 FT. TO THE POINT OF BEGINNING.

CONTAINING 191,798.62 SQUARE FEET, 4.4 ACRES, MORE OR LESS.



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 3rd day of

March, 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

KURT S. BROWNING
Secretary of State

FILED FOR RECORD
R. B. SHORE

2008 MAR 21 AM 9:18

March 6, 2008

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

Attention: Diane E. Vollmer

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated March 3, 2008 and certified copies of Manatee County Ordinance Nos. PDR-06-04(Z) (P), and PDC-07-01(P), which were filed in this office on March 5, 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