

**MANATEE COUNTY ZONING ORDINANCE
PDC-07-22(Z)(P) – PLEASANT VALLEY RETAIL & OFFICE DTS #20060184**

FILED
2009 FEB 16 PM 1:28
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

RECORDED
H. B. SHORE

2009 FEB 23 PM 1:32

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 2.07 ACRES AT THE SOUTHWEST CORNER OF WHITFIELD AVENUE AND MADONNA PLACE, AT 1090 AND 1110 WHITFIELD AVENUE AND 6930 MADONNA PLACE, BRADENTON FROM RSF 4.5 (RESIDENTIAL SINGLE-FAMILY, 4.5 DWELLINGS PER ACRE) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVE A PRELIMINARY SITE PLAN FOR 6,750 SQ. FT. OF RETAIL AND 10,450 SQ. FT. OF OFFICE IN TWO BUILDINGS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Pleasant Valley Limited Partnership (the "Applicant") filed an application to rezone approximately 2.07 acres described in Exhibit "A", attached hereto, (the "property") from RSF 4.5 (Residential Single-family, 4.5 dwelling units per acre) to the PDC (Planned Development Commercial) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan application for 6,750 sq. ft. of retail and 10,450 sq. ft of office in 2 buildings (the "project") on the property; and

WHEREAS, the applicant also filed a request for Specific Approval for an alternative to Section 714.87; 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 January 22, 2009 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 has 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 RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing February 3, 2009 on 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 said 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. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 714.87, 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 smaller caliper trees will provide tree canopy more quickly.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 6,750 sq. ft. of retail and 10,450 sq. ft. of office in 2 buildings upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. A landscape island shall be provided between the dumpster pad and the closest parking space.
2. No more than 20 percent of the total square footage may be used for eating establishments.
3. The design of the structures shall be in substantial conformance with the elevations entered into the record for this case.
4. A 6' masonry wall, constructed with building materials matching the principal buildings on site, shall be provided along the southern and western boundaries adjacent to residential. Landscaping shall be placed on the outside of the wall.

5. Landscaping and lighting shall incorporate Crime Prevention Through Environmental Design (CPTED) practices to maximize on-site security.
6. Retail and service commercial uses shall operate only between the hours of 6 am and 1 a.m.

B. TRANSPORTATION CONDITIONS:

1. 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.
2. 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).

C. STORMWATER CONDITIONS:

1. 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 Bowlees Creek. Modeling shall be used to determine pre- and post- development flows.
2. The existing 25-year flood elevation along the Bowlees Creek shall be utilized as tailwater condition.
3. If there are any improvements to Madonna Place generated by this project, then the road side ditch shall be piped.
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 or 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.

D. ENVIRONMENTAL CONDITIONS:

1. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted for review prior to Final Site Plan approval.

2. Methodology for installation of improvements (hedge materials and irrigation) within drip lines of trees to be preserved and trees that are off-site shall be reviewed with the Final Site Plan.
3. 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; or 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.
4. 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. SPECIFIC APPROVAL. Specific Approval is hereby granted for an alternative to Section 714.87 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 classification of the property identified in Exhibit "A" herein from RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre) 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 Official Zoning Atlas.

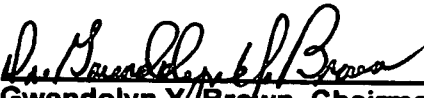
Section 5. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, clause, sentence, or other provision shall be deemed severable, and such invalidity or unconstitutionality 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 3rd day of February, 2009.

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

BY: 
Dr. Gwendolyn Y. Brown, Chairman

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

BY: 
Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1 Begin at the NW. corner of W-1/2 of the E-1/2 of the NW 1/4 of NE 1/4 of Section 25, Township 35 South, Range 17 east, run thence east along section line a distance of 100 feet for a point of beginning; thence south 200 feet to a point; thence east 50 feet to a point; thence north 200 feet to a point on said section line; thence west along said section line 50 feet to the point of beginning, less right-of-way of Whitfield Ave. on the north.

Parcel 2 The south 175 feet of the north 375 feet of the west 1/2 of the east 1/2 of the NW 1/4 of the NE 1/4 of Section 25, Township 35 South, Range 17 East, less the east 25 feet thereof previously conveyed to the County for Road Right-of-way purposes for Madonna Place.

Parcel 3 Begin 150 feet east of the NW corner of the W-1/2 of the E-1/2 of the NW- 1/4 of the NE-1/4 of Section 25, Township 35 South, Range 17 East for a point of beginning; Thence east along said Section Line 158.4 feet; thence South 200 feet; Thence West 158.4 feet; Thence North 200 feet to the point of beginning, less right-of-way of Whitfield Ave.



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 10th day of February, 2009
R.B. SHORE
Clerk of Circuit Court
By [Signature] D.C.



FILED FOR RECORD
R. B. SHORE

2009 FEB 23 PM 1:31

FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

CLERK OF CIRCUIT COURT
MANATEE CO. FLORIDA

KURT S. BROWNING
Secretary of State

February 16, 2009

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

Attention: Ms. Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated February 12, 2009 and certified copies of Manatee County Ordinance Nos. PDC-07-22(Z)(P), 09-07, 09-09, PDMU-06-102(Z)(P), PDR-05-02(P), PDMU-06-22(Z)(P) and PDR-05-49(Z)(P), which were filed in this office on February 16, 2009.

As requested, one date stamped copy 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

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dhis.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