

MANATEE COUNTY ZONING ORDINANCE
PDC-10-09(Z)(G) - DTS#20100126 - MICHAEL TODD REED / C & K BARBEQUE

FILED FOR RECORD
R. B. SHORE

2010 OCT 21 AM 11:24

CLERK OF THE CIRCUIT COURT
MANATEE CO. 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 THE REZONING OF APPROXIMATELY 2.82 ACRES ON THE EAST SIDE OF FT. HAMER ROAD AT THE INTERSECTION OF FT. HAMER ROAD AND US 301 NORTH, AT 12125 US 301 N, PARRISH FROM VIL/PCV (VILLAGE DISTRICT/PARRISH COMMERCIAL VILLAGE OVERLAY DISTRICT) TO THE PDC/PCV (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT, RETAINING THE OVERLAY; APPROVING A GENERAL DEVELOPMENT PLAN FOR APPROXIMATELY 2,000 SQUARE FEET OF RESTAURANT AND APPROXIMATELY 50,000 SQUARE FEET OF MINI-WAREHOUSE; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

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MANATEE CO. FLORIDA

WHEREAS, Michael Todd Reed (the "Applicant") filed an application to rezone approximately 2.82 acres from VIL/PCV (Village District/Parrish Commercial Overlay) to the PDC/PCV (Planned Development Commercial) zoning district, retaining the Overlay District described in Exhibit "A", attached hereto, (the "Property"); and

WHEREAS, the Applicant has also filed a General Development Plan for approximately 2,000 square feet of restaurant and approximately 50,000 square feet of mini-warehouse (the "Project") on the property; and

WHEREAS, the Applicant also filed Special Approval for a project requiring entitlement for Commercial Node Designation; and

WHEREAS, the Applicant also filed Specific Approval for alternatives to Sections 604.10.3.4, 604.11.4.3.3, 710.6, 604.11.4.3.4.2, and 604.11.6 of the Land Development Code; and

WHEREAS, the Planning Staff has recommended approval of the rezone, General Development Plan, Specific Approval, and Special Approval applications, subject to the stipulations contained in the Planning Staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a duly noticed public hearing on September 9, 2010 to consider the rezone, General Development Plan, Specific Approval, and Special Approval applications, received the Planning Staff's recommendations 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 rezone, General Development Plan, Specific Approval, and Special Approval, 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 Planning 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 of said County, 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 VIL/PCV (Village District/Parrish Commercial Overlay) to the PDC/PCV (Planned Development Commercial) zoning district, retaining the Overlay District.
- B. The Board of County Commissioners held a duly noticed public hearing on October 12, 2010, regarding said 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. For the purposes of granting a Special Approval the Board finds that the project, as detailed on the General Development 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 604.10.3.4 the Board hereby finds that regulations are satisfied and the Board finds that the proposed reduction of the required roadway buffer is compatible with the surrounding area, and will not create any external impacts that would adversely affect surrounding development, existing or proposed.
- F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 604.11.4.3.3 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree since the building footprint has been setback a significant distance from the roadway.
- G. Notwithstanding the failure of the Preliminary Site Plan to meet the requirements of Section 710.1.6 of the LDC, the Board hereby finds in accordance with Section 603.3.2 of the LDC that the public purposes of these regulations are satisfied to an equivalent or greater degree by the loading zones as proposed by the applicant because sufficient parking will be provided to meet the needs of the visitors.

H. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 604.11.4.3.4.2 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree for the reduction of the side yard setback adjacent to residential since the applicant has the additional screening along this property line.

I. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 604.11.6 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree for the increase in the height of the proposed sign since the maximum allowable square footage is not being exceeded.

Section 2. GENERAL DEVELOPMENT PLAN The General Development Plan is hereby GRANTED for approximately 2,000 square feet of restaurant and approximately 50,000 square feet of mini-warehouse on the property subject to the following stipulations:

STIPULATIONS

A. PLANNING CONDITIONS:

1. The proposed storage units adjacent to the south property line shall be limited to a maximum building height of 25'.

B. 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 Gamble Creek. Modeling shall be used to determine pre- and post- development flows
2. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan for the drainage ditch along the southern project boundary. In addition, a twenty (20) feet Drainage-Maintenance Access Easement shall be provided along the north bank of the drainage ditch. Manatee County is only responsible for maintaining the free flow of drainage through these systems. Where access to the ditch cannot be provided due to the proximity of proposed buildings, the drainage ditch shall be piped. A minimum twenty (20) feet Drainage Easement shall be dedicated over the proposed drainage pipe.

C. ENVIRONMENTAL CONDITIONS:

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

3. 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 requiring entitlement for Commercial Node Designation. This Special Approval shall continue in effect and shall expire concurrent with the General Development Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for alternatives to Sections 604.10.3.4, 604.11.4.3.3, 710.6, 604.11.4.3.4.2, and 604.11.6 of the Land Development Code This Specific Approval shall continue in effect and shall expire concurrent with the General Development 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 described in Exhibit "A" incorporated herein by reference, from VIL/PCV (Village District/Parrish Commercial Overlay) to the PDC/PCV (Planned Development Commercial) zoning district, retaining the Overlay 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 sentence, section, clause, 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 6. 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 12th day of October, 2010.

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

BY: _____

Donna G. Hayes, Chairman

ATTEST:

R. B. SHORE
Clerk of the Circuit Court

BY: _____

Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

(OFFICIAL RECORD BOOK 1407, PAGE 7583)

BEGIN 540 FEET NORTH OF SOUTHWEST CORNER OF SOUTHWEST 1/4 OF NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN EAST 202 FEET; THENCE RUN SOUTH 120 FEET; THENCE RUN EAST 508 FEET; MORE OR LESS TO EAST LINE OF SAID 10 ACRE TRACT; THENCE RUN NORTH 240 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID 10 ACRE TRACT; THENCE RUN WEST 660 FEET MORE OR LESS TO NORTHWEST CORNER OF SAID 10 ACRE TRACT; THENCE RUN SOUTH 120 FEET MORE OR LESS TO THE POINT OF BEGINNING; LESS ROAD RIGHT-OF-WAY ON WEST, 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 14th day of October, 20 10
R.B. SHORE
Clerk of Circuit Court
By: Cheri Jessner D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

FILED FOR RECORD
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2010 OCT 21 AM 11:23

CLERK
DAWN K. ROBERTS
Interim Secretary of State

October 18, 2010

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

Attention: Ms. Vicki Tessmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 14, 2010 and certified copies of Manatee County Ordinance Nos. 10-04, 10-07, 10-08, 10-09, 10-10, 10-11, 10-12, 10-15, 10-17, 10-18, 10-30, 10-31, 10-32, 10-43, 10-45, 10-48, PDC-10-09(Z) (G), PDR-03-54 (P) (R), PDR-10-12 (Z) (P) and PDC-04-16 (Z) (P), which were filed in this office on October 18, 2010.

As requested, one date stamped copy 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://dls.state.fl.us>

COMMUNITY DEVELOPMENT
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CAPITOL BRANCH
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