

**MANATEE COUNTY ZONING ORDINANCE
PDC-12-09(Z)(P) – BUTLER/RACE TRAC- LENA ROAD DTS#20120305**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS 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 2.75 ACRES AT THE SOUTHWEST CORNER OF S.R. 64 EAST, AND LENA ROAD AT 7902 S.R. 64 EAST, BRADENTON FROM A-1 (SUBURBAN AGRICULTURE, ONE DWELLING UNIT PER ACRE) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR A 5,928-SQUARE-FOOT CONVENIENCE STORE, 10,933-SQUARE-FOOT CANOPY AND 20 GAS PUMPS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Edith Butler (the "Applicant") filed an application to rezone approximately 2.75 acres described in Exhibit "A", attached hereto, (the "property") from A- 1 (Suburban Agriculture, one dwelling unit per acre) to the PDC (Planned Development Commercial) Zoning District; and

WHEREAS, the applicant also filed a Preliminary Site Plan for a 5,928-square-foot convenience store, 10,933-square-foot canopy and 20 gas pumps (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for: 1) a project within a Mixed Use Future Land Use Category; and 2) Entranceways; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 714.8.7, 715.3.1.d, 715.3.1.g and 737.5.3.3 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Special Approval and Specific Approval applications 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 December 13, 2012 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications, 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

2013 JAN 14 PM 1:14

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 A-1 (Suburban Agriculture, one dwelling unit per acre) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on January 3, 2013 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 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 89-01, the Manatee County Comprehensive Plan subject to Ordinance 12-02 becoming effective.

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 714.8.7, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.1.d., the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because a superior design is maintained.

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.1.g., the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree because adequate screening is provided.

H. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 737.5.3.3, the Board finds that that purpose of the LDC regulation is satisfied to an equivalent degree because adequate aesthetics and space for price information is provided.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 5,928-square-foot convenience store, 10,933-square-foot canopy and 20 gas pumps upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. All roof mounted HVAC equipment shall be screened from view from adjacent roadways. Screening shall consist of similar colors and materials consistent with the construction of the exterior finish of the buildings. Details of screening shall be submitted with the Final Site Plan.
2. All dumpsters shall be screened from view from S.R. 64 East. Screening shall consist of building materials matching the principal building.
3. Prior to Final Site Plan approval, an Easement Agreement for cross access with adjacent properties to the south and west shall be provided.
4. All other applicable state permits shall be obtained before commencement of the development.
5. The design of the building shall be in substantial conformance with the building elevations entered into the record.

B. ENVIRONMENTAL CONDITIONS:

1. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Environmental Planning Division for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.
2. 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.

C. TRANSPORTATION CONDITIONS:

1. Prior to Final Site Plan approval the applicant shall show on the plans a dedication or reservation of five feet of right-of-way on Lena Road along the eastern boundary of the project. Any dedication or reservation shall occur on or before issuance of a Certificate of Level of Service compliance.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for: 1) a project within a Mixed Use Future Land Use Category; and 2) Entranceways. 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 alternatives to Section 714.8.7, 715.3.1.d, 715.3.1.g and 737.5.3.3 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 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 A-1 (Suburban Agriculture, one dwelling unit 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.

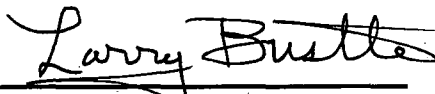
Section 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 7. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 8. 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 January, 2013.

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

BY: 
Larry Bustle, Chairman

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



BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

PART OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 64 WITH THE WEST RIGHT-OF-WAY LINE OF LENA ROAD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION STATE ROAD 64 RIGHT-OF-WAY MAP SECTION 13050-000; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, S02°32'11"W, 231.07 FEET; THENCE 168.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 3214.79 FEET AND A CHORD OF 168.97 FEET WHICH BEARS N86°20'02"W; THENCE N02°32'11"E, 300.35 FEET TO SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 64; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE, THE FOLLOWING TWO 2) COURSES: 1) 167.03 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 2914.79 FEET AND A CHORD OF 167.01 FEET WHICH BEARS S86°11'53"E; 2) S87°50'00"E, 233.04 FEET, TO THE POINT OF BEGINNING.

CONTAINING 2.75 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 10th day of

January, 2013

R.B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 14, 2013

RECEIVED
JAN 23 2013
BOARD RECORDS

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

Attention: Vicki Jarratt, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 10, 2013 and certified copies of Manatee County Ordinance Nos. 13-02, PDC-12-09(Z)(P), PDMU-97-05(P)(R5), PDMU-12-06(G), PDPI-09-12(P)(R) AND PDR-12-03(Z)(G) which were filed in this office on January 14, 2013.

As requested, one date stamped copy of each ordinance is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure