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R. B. SHORE

2005 MAY -9 PM 12: 28

CLERK OF DISTRICT COURT
MANATEE CO. FLORIDA

MANATEE COUNTY ZONING ORDINANCE

PDMU-03-56(Z)(P) – R & J ACRES, LLC AND ROBERT GAGNE / STONE DAM PRESERVE

2005 MAY -5 AM 9: 56
DEPARTMENT OF
TALLAHASSEE, FLORIDA

FILED

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY, ORDINANCE NO. 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF APPROXIMATELY 414.9 ACRES GENERALLY LOCATED SOUTH OF BUCKEYE ROAD, WEST OF I-75, AND EAST OF GRASS FARM ROAD FROM THE A (GENERAL AGRICULTURE, 1 DWELLING UNIT PER 5 ACRES) AND A-1 (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE) ZONING DISTRICTS TO THE PDMU (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW 791 RESIDENTIAL UNITS INCLUDING 667 SINGLE-FAMILY DETACHED RESIDENCES, 124 SINGLE-FAMILY ATTACHED UNITS, A COMMUNITY CENTER, AND A PRIVATE SCHOOL OR DAY CARE SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL, GRANTING SPECIAL APPROVAL FOR A PROJECT: 1) EXCEEDING 1 DWELLING UNIT PER ACRE IN THE UF-3 FUTURE LAND USE CATEGORY; 2) A MIXED USE PROJECT; AND 3) A PROJECT PARTIALLY LOCATED WITHIN THE ENTRANCEWAY; SETTING FORTH FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

WHEREAS, R & J Acres, LLC and Robert Gagne (collectively the "Applicant") filed a rezone application to rezone approximately 414.9 acres described in Exhibit A, attached hereto, (the "Property") from the A (General Agriculture, 1 dwelling unit per 5 acres) and the A-1 (Suburban Agriculture, 1 dwelling unit per acre) zoning districts to the PDMU (Planned Development Mixed Use) zoning district; and,

WHEREAS, the Applicant has also filed a preliminary site plan application to allow 791 residential units, including 667 lots for single-family detached residences, 124 single-family attached units, a community center, and a private school or day care (the "Project") to be located upon the Property; and,

WHEREAS, the Applicant has also filed a request for three Special Approvals to allow: 1) a gross density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category; 2) a mixed use project; and 3) a project partially located within a geographic area designated as an "Entranceway"; and,

WHEREAS, the Planning Staff has recommended approval of the rezone, preliminary site plan, and three 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 public hearing on March 10, 2005 to consider the rezone, preliminary site plan, and three 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, Manatee County Planning Commission, as the County's Local Planning Agency, found the rezone, preliminary site plan and three 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.

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. Further, 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 from the A (General Agriculture, 1 dwelling unit per 5 acres) and A-1 (Suburban Agriculture, 1 dwelling unit per acre) zoning districts to the PDMU (Planned Development Mixed Use) zoning district.

B. The Board of County Commissioners held public hearings on March 29, 2005 and April 26, 2005 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. The Board hereby finds that Section 907.9.4.2 has been satisfied to an equivalent or greater degree by providing an emergency access from the attached housing to the single-family development located east of the attached housing, and by designing the roadway with the two large islands that will facilitate an emergency turnaround.

E. The Board hereby finds that Section 712.2.8 has been satisfied to an equivalent degree by providing an emergency access for the attached housing portion of the project to the adjacent single-family portion. The overall deficiency for 2-means of access (219 homes) is temporal and will be resolved with the completion of the inter-neighborhood tie through to Gateway Boulevard.

Section 2.

(A)The Preliminary Site Plan is hereby APPROVED to allow 791 residential units, including 667 lots for single-family detached residences, 124 single-family attached units, a community center, and a private school or day care upon the Property, subject to the Stipulations set out below.

(B)The Board of County Commissioners hereby GRANTS three Special Approvals to allow: 1) a gross density exceeding 1 dwelling unit per acre in the UF-3 Future Land Use Category; 2) a mixed use project; and 3) a project partially located within the Entranceway.

The approvals in Sec. 2 hereof are subject to the following Stipulations:

STIPULATIONS

1. An inter-neighborhood tie shall be provided between this project and Gateway North. The location of this connection shall be designed to avoid the wetland located on the Gateway North property and shall be approximately 50-100 feet north of the access to the attached housing shown on the site plan. The exact location shall be determined with the first Final Site Plan submitted for either Stone Dam or Gateway North and shall be approved by the Planning and Transportation Departments. The property owner will not oppose the future vacation of the right-of-way for Grass Farm Road if determined necessary by Manatee County.
2. Prior to Final Site Plan approval the applicant shall demonstrate that the internal east/west roadway lies outside of the FPL easements, or provide documentation from FPL authorizing this roadway within the easements.
3. A 5-foot wide sidewalk shall be constructed along both sides of all internal roadways. This shall be approved by the Planning Department with the Final Site Plan.
4. The lowest quality water possible shall be used for irrigation. In-ground irrigation using Manatee County public potable water supply shall be prohibited, including on individual lots.
5. Unless otherwise approved by Planning Department, native or drought tolerant plants shall be utilized in common areas. All lot owners shall be encouraged to participate in the Florida Yards and Neighborhoods Program. Information shall be provided in the sales office and provided to all lot purchasers. The Homeowner's documents, disclosure statements, and Final Site Plans shall include language to inform homeowners in the project of these requirements.
6. Street lighting for the project shall be limited to a maximum height of 12' with a unified theme. The design and shielding of any on-site lighting within the development shall comply with Section 709.2.2 of the Land Development Code. In addition, any pole and building mounted lights in common areas shall be limited to 12' in height and shall be directed to the interior of the development using horizontal cut-off fixtures, unless decorative street lights are installed.

7. Prior to Final Site Plan approval a noise analysis shall be done based on the future 10 lane configuration of I-75 and anticipated traffic in 2025.

No residential dwelling units shall be allowed between the L10 70dBA noise level contour and I-75 based on the future 10 laning of the road and anticipated traffic in 2025, unless such residences are protected by some performance equivalent measure to achieve the L10 60 dBA range. Living areas shall be located and designed in a manner which orients the living areas and outdoor activity areas away from the noise source. Living areas include bedrooms, lanais, and florida rooms. Buildings shall be positioned to maximize the distance between the residential units and the noise source. Sound attenuating barriers should be provided between the residential units and the noise source.

Additionally, residential units constructed within noise level contours in excess of the L10 65 dBA contour, based on the future 10 laning of the road and anticipated traffic in 2025 must meet the sound levels identified by the EPA as sufficient to protect public health and welfare. The applicant shall demonstrate compliance with these standards at the time of Final Site Plan approval.

The applicant shall record a deed restriction providing for the waiver of any claim for damages from the State or County resulting from future I-75 noise levels by future property owners within the project.

8. The Notice to Buyers shall be included in the Declaration of Covenants and Restrictions and in the Sales Contract or a separate addendum to the sales contract, and Final Site Plan(s) that includes language informing prospective home owners of the following:

-Location of I-75 and that this interstate may be a 10 lane facility and the location of the 70 dBA noise contour that runs along the Interstate;

9. A commercial grade tot lot shall be provided at the community center, within the townhome portion of the development, and at the private school or daycare. Each shall be ADA accessible in terms of surfacing and play equipment. The play equipment shall provide a minimum of 13 play elements and shall be commercial grade quality. Benches or other seating, security fencing, and a minimum of 5 shade trees which will provide shade to the play equipment and benches shall be provided. Adequate off-street parking shall also be provided. Safety signs shall be installed at appropriate locations that warn drivers that children are at play. Signs shall be located at the tot-lot entrance stating age-appropriateness and safety rules. This shall be approved by the Parks and Recreation and Planning Departments with the Final Site Plan.
10. A coordinated sign plan shall be approved for the project with the Final Site Plan.
11. The site may be used for agricultural activities until a Final Site Plan is approved. At that time, agricultural activities for the phase(s) which received approval shall cease. Tree removal is not a permitted agricultural activity.

12. Prior to Final Site Plan approval, the Engineer or Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow per Section 9.6.1.4. of the Comprehensive Plan.
13. This project shall be designed to reduce the allowable peak discharge by a minimum of 50% due to the location within the Cabbage Slough/Buffalo Canal Watershed. This shall be approved by the Stormwater Management Division of the Transportation Department with the Final Site Plan.
14. The Drainage Model and Construction Plans shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading and site runoff. This shall be approved by the Stormwater Management Division of the Transportation Department with the Final Site Plan.
15. If any portions of the roads are private, all utility easements for water and sewer shall comply with the Manatee County requirements for public utilities within private roads. All details regarding placement of public utilities within private roadways shall be approved by the Project Management Department with the Construction Drawings.
16. Single-family attached units shall maintain a minimum separation of 30 feet from single-family detached residential lots as depicted on the Preliminary Site Plan. This separation between the single-family lots and the attached units shall be landscaped with two rows of trees consisting of a combination of 3 canopy and 4 understory evergreen trees per 100 linear feet, planted in a staggered fashion. This shall be approved by the Planning Department with the Final Site Plan.
17. A roadway buffer, a minimum of 30-feet wide shall be shown on the north side of the east/west roadway from Carter Road through the project. This buffer shall contain two rows of canopy trees (2.5" caliper, 10' tall, 5' spread) planted 33' on-center, slightly off-set in each row and evergreen understory trees at a quantity of 6 per 100 linear feet, planted with an informal staggered arrangement.

In addition, if a noise attenuation barrier is required as a result of the noise study required by Stipulation #7, it may be placed within this buffer. If a noise attenuation barrier is located within this buffer, it shall be placed on the side of the buffer adjacent to the individual lots. The location of any noise attenuation barrier shall be determined by the noise study. All landscaping shall be planted favoring the roadway. This shall be approved by the Planning Department with the Final Site Plan.

18. The single-family attached units shall include architectural elements to provide visual variety from long uninterrupted roof planes, and shall not present a massive or blank wall exceeding 40-feet in length. The applicant shall submit elevation drawings to the Planning Department with the Final Site Plan.
19. The Developer shall limit the amount of land cleared and unstabilized by construction sequencing to minimize erosion, sedimentation and fugitive particulate emissions during and after construction. Details of construction phasing and sequencing shall be included in the required Erosion and Sediment Control Plan following Final Site Plan approval.

20. No lots shall be platted into any buffers, wetlands, wetland buffer, stormwater ponds, or upland preservation areas.
21. A minimum of 75% of trees measuring 24" dbh or larger for any portion of the project located within the Entranceway shall be preserved. This shall be approved by the Planning Department with the Final Site Plan.
22. Prior to first Final Plat approval a Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers, and upland preservation shall be dedicated to the County.
23. A Well Management Plan shall be submitted to the Planning Department, Natural Resources division prior to FSP approval.
24. The private school or daycare shall be located a minimum of 50-feet from the boundaries of any single-family residential lot. Final design, including the transportation entrance and drop-off area shall be approved by the Planning Department with the Final Site Plan.
25. The Day Care Center shall be limited to either a Small or Medium Day Care Center, as defined by the Land Development Code.
26. Prior to Final Plat approval for the 101st lot west of Street B there shall be a second means of access in accordance with the Land Development Code.
27. The applicant shall show a traffic circle, raised intersection, or other traffic calming measures for the first intersection of the main spine road (aka Road A) and the first street south of Buckeye Road (T-intersection), and at one of the intersections with Road A on the western side of the project. This shall be approved by the Transportation and Planning Departments with the Final Site Plan.
28. The Final Site Plan shall show 250' half right-of-way, or as required by the Comprehensive Plan, for the project frontage along I-75.
29. The applicant shall show a safety or conflict-free zone or barrier (i.e., fence, trees, shrubs, or combination) between the open play field located west of the community center and the adjacent street and single-family lots. This shall be approved by the Planning Department with the Final Site Plan.
30. The Community Center, including the open playfield, parking lot, and pool shall be in substantial conformance with the Preliminary Site Plan, including the layout and minimum playfield size, unless the Planning Director approves a superior alternative which provides equivalent or better recreational opportunities. This shall be approved by the Planning Department with the Final Site Plan.
31. Wetland Impact EE as shown on the Preliminary Site Plan shall be limited to the roadway crossing unless the applicant demonstrates avoidance and minimization in accordance with Comprehensive Plan Policy 3.3.1.1. This shall be approved by the Planning Department with the Final Site Plan.

32. In conjunction with Final Site Plan process the applicant shall work with the School Board to incorporate bus stop design and location into the project.

Section 3. 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 the A (General Agriculture, 1 dwelling unit per 5 acres) and A-1 (Suburban Agriculture, 1 dwelling unit per acre) zoning districts to PDMU (Planned Development Mixed Use) 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.

Exhibit A. LEGAL DESCRIPTION.

THAT PORTION OF THE FOLLOWING DESCRIBED LAND LYING NORTH AND WEST OF I-75:

PARCEL 1;

THAT PART OF THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 33 SOUTH, RANGE 18 EAST, THENCE SOUTH ALONG THE SECTION LINE A DISTANCE OF 2821.6 FEET TO A MARKER, THENCE EAST 5250 FEET, MORE OR LESS, TO THE WEST LINE OF A GRADED COUNTY ROAD, THENCE NORTHERLY ALONG THE WEST SIDE OF SAID COUNTY ROAD, AS NOW ESTABLISHED, A DISTANCE OF 2821.6 FEET TO THE NORTH BOUNDARY LINE OF SAID SECTION 15, THENCE WEST ALONG THE NORTH BOUNDARY OF SAID SECTION TO THE POINT OF BEGINNING.

LYING NORTH AND WEST OF INTERSTATE 75 AS TAKEN BY ORDER OF TAKING RECORDED IN O. R. BOOK 867, PAGE 368, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA

AND

PARCEL 2:

LAND LYING IN THE NE ¼ OF SECTION 16, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT, MARKING THE SE CORNER OF THE NE ¼ OF SECTION 16, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE N. 01°01'33"E., ALONG THE EAST LINE OF SAID NE ¼, 150.0 FEET TO A CONCRETE MONUMENT, FOR A POINT OF BEGINNING; THENCE CONTINUE N. 01°01'33" E., ALONG SAID EAST LINE, 2528.37 FEET TO A CONCRETE MONUMENT, MARKING THE NE CORNER OF SAID SECTION 16; THENCE N. 89°44'07" W., ALONG THE NORTH LINE OF SAID SECTION 16, 59.00 FEET TO A CONCRETE MONUMENT; THENCE S. 00°17'15" E., 739.10 FEET TO A CONCRETE MONUMENT; THENCE S. 00°19'00" E., 600.00 FEET TO A CONCRETE MONUMENT, MARKING THE INTERSECTION WITH THE SOUTH LINE OF THE NE ¼ OF THE NE ¼ OF SAID SECTION 16; THENCE S. 00°25'54" E., 539.17 FEET TO A CONCRETE MONUMENT; THENCE S. 00°14'00" E., 650.00 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

THE SOUTH ½ OF THE SE ¼ AND THE NORTH ½ OF THE SE ¼ OF SAID SECTION 10, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; LESS ROAD RIGHT OF WAY AS DESCRIBED IN DEED BOOK 283, PAGE 177, AND DEED BOOK 283, PAGE 181; ALSO LESS RIGHT OF WAY FOR I-75 AS DESCRIBED IN OFFICIAL RECORDS BOOK 867, PAGE 368, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS LANDS SOUTHEASTERLY OF I-75 RIGHT OF WAY, ALSO LESS LAND LYING EAST OF I-75 RIGHT OF WAY.

ALSO:

PARCEL 4:

THE WEST ½ OF THE SW ¼ OF SECTION 11, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; LESS LAND DESCRIBED IN DEED BOOK 306, PAGE 581, AND OFFICIAL RECORDS BOOK 260, PAGE 635; AND LESS RIGHT OF WAY FOR I-75 AS DESCRIBED IN OFFICIAL RECORDS BOOK 867, PAGE 368 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

LESS ALL LAND LYING EAST OF I-75.

ALSO:

PARCEL 5:

THE SOUTHWEST ¼ OF SECTION 10, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY FLORIDA.

ALSO:

PARCEL 6:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE N.03°18'14" E., ALONG THE EAST LINE OF SAID SECTION 9, 2648.04 FEET TO THE NORTHEAST CORNER OF THE SE ¼ OF SAID SECTION 9; THENCE N.89°31'52" W., ALONG THE NORTH LINE OF SAID SE ¼, 67.12 FEET; THENCE S.02°28'51" W., 2646.54 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF SAID SECTION 9, THENCE S. 89°44'07" E, ALONG THE SOUTH LINE OF SAID SECTION 9, 29.06 FEET TO THE POINT OF BEGINNING, BEING AND LYING IN THE SE ¼ OF SECTION 9, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.
LESS ROAD RIGHT OF WAY.

Section 5. 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 26th day of April, 2005.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY:

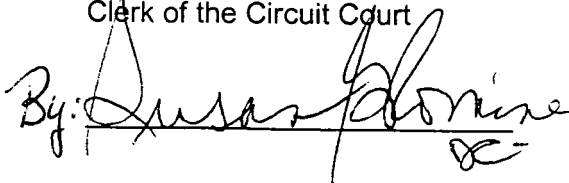

Chairman



ATTEST:

R. B. SHORE

Clerk of the Circuit Court

By: 



CLERK OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA
I hereby 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 2nd day of

May, 2005
R.B. SHORE
Clerk of Circuit Court

By:  D. E. Vollmer, D.C.



FILED FOR RECORD
R. B. SHORE

2005 MAY -9 PM 12: 28

FLORIDA DEPARTMENT OF STATE

Glenda E. Hood

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

May 5, 2005

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

Attention: Diane E. Vollmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 2, 2005 and certified copies of Manatee County Ordinance Nos. PDR-04-09(Z)(G) and PDMU-03-56(Z)(P), which were filed in this office on May 5, 2005.

As requested, the date stamped copies are being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/kcs
Enclosures

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