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MANATEE CO., FLORIDA

MANATEE COUNTY ZONING ORDINANCE  
PDMU-05-39(Z)(P) – FRALEY/BOBCAT RUN

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FILED

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, 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 14.83 ACRES GENERALLY LOCATED NORTH OF 34<sup>TH</sup> AVENUE EAST, ±2,000 FEET EAST OF 27<sup>TH</sup> STREET EAST AT 3207 34<sup>TH</sup> AVENUE EAST FROM THE LM/CH (LIGHT MANUFACTURING/COASTAL HIGH HAZARD OVERLAY) AND A-1/CH (SUBURBAN AGRICULTURE/COASTAL HIGH HAZARD OVERLAY) ZONING DISTRICTS TO THE PDMU/CH (PLANNED DEVELOPMENT MIXED USE/COASTAL HIGH HAZARD OVERLAY) ZONING DISTRICT, RETAINING THE COASTAL HIGH HAZARD OVERLAY ZONING DISTRICT, APPROVING A PRELIMINARY SITE PLAN TO ALLOW 40 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIFIC APPROVAL FOR AN ALTERNATIVE TO SECTION 907.9.1.1 OF THE LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Douglas Fraley, II (the "Applicant") has filed a rezone application to rezone approximately 14.83 acres described in Exhibit "A", attached hereto, (the "Property") from the LM (Light Manufacturing) and A-1 (Suburban Agriculture) 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 40 lots for single-family detached residences (the "Project") to be located upon the Property; and

**WHEREAS**, the Applicant has also filed a request for specific approval of an alternative to Section 907.9.1.1; and

**WHEREAS**, the Planning Staff has recommended approval of the rezone, preliminary site plan, and Specific 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 April 13, 2006 to consider the rezone, Preliminary Site Plan and specific 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, preliminary site plan, and Specific 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.

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**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 from the LM (Light Manufacturing) and A-1 (Suburban Agriculture) zoning districts to the PDMU (Planned Development Mixed Use) zoning district.
- B. The Board of County Commissioners held a duly noticed public hearing on May 4, 2006 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 finds that the public purpose and intent of Section 907.9.1.1 have been satisfied to an equivalent degree, and GRANTS Specific Approval for an alternative to Section 907.9.1.1 for properly integrated and aligned streets with existing and proposed system of thoroughfares and local streets.

**Section 2. PRELIMINARY SITE PLAN** The Preliminary Site Plan is hereby APPROVED to allow 40 lots for single-family detached residences upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Specific Approval for an alternative to Section 907.9.1.1 of the Land Development Code, with the following Stipulations:

**STIPULATIONS**

**A. DESIGN AND LAND USE CONDITIONS:**

- 1. A 20 foot wide roadway buffer shall be provided along 34<sup>th</sup> Avenue East. This buffer shall be planted with canopy trees and evergreen shrubs in accordance with the following:
  - a. Canopy Trees.

- (i) 3 canopy trees (3 inch caliper as measured 6 inches from the base of the tree) per 100 linear feet,
  - (ii) 12' high in height, and
  - (iii) 5' spread).
- b. Evergreen shrubs. Thirty three evergreen shrubs per 100 linear feet of buffer, or fraction thereof, which meet the following minimum standards:
  - (i) 30 inches in height.

Buffers shall be planted in an informal, staggered manner. Buffers shall be entirely planted prior to the first Final Plat.

2. If a fence is utilized for any of the landscape buffers, all required landscaping shall be planted on the exterior side of the fence.
3. To the maximum extent possible, existing indigenous vegetation shall remain with the required landscape buffers and be utilized to meet the buffering and screening requirements.
4. No detention or retention ponds shall be constructed within the landscape buffers or greenbelts.
5. The front-yard setback shall be 25-feet to the garage and 20-feet to the dwelling.
6. No lots shall be platted through any greenbelt, landscape buffer, or retention pond.
7. The recreational area of the project shall include age appropriate play equipment (to be determined by the Planning and Parks Departments with the Final Site Plan), benches, and 5 shade trees.
8. A nature trail shall be provided around the proposed lake and connect with the nature trail in Fox Crossing. The design, location, and material shall be approved by the Planning and Parks Departments prior to Final Site Plan approval.
9. The Notice to Buyers shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the sales contract, and in the Final Site Plan and shall include language informing prospective home buyers of:
  - a. the fact that the cul-de-sac at the end of Street C (as identified on the Preliminary Site Plan) may be extended in the future and that that traffic from adjoining development, which includes industrially zoned property, may use their roadways; and,
  - b. the potential uses associated with surrounding A-1 zoning which may have a negative impact on residences (e.g., noise and odor).
  - c. the Hurricane Evacuation Plan approved by the Public Safety Department for this project.
10. Prior to Final Plat approval, the applicant shall post a sign near the cul-de-sac to inform perspective purchasers and residents that the road may be extended in the future. The size, placement, and materials for this sign shall be determined with the Final Site Plan.

11. A non-ingress egress easement shall be recorded adjacent to 34<sup>th</sup> Avenue Drive East, prior to or in conjunction with approval of the Final Plat, except for approved entrances.
12. The developer is put on notice that the County and School Board are required to establish school concurrency. Until such time as the details of that program are adopted, this approval does not guarantee capacity under the terms of the future program, to the extent school concurrency is legally applicable to the project.
13. One lot (Lot 23 or 24) shall be removed to provide access and an internal open view to the park and the lake. The remaining lots may be shifted so long as a minimum 50 foot wide strip is provided for access and views to the park and all remaining lots are of 7,000 sq. ft.

**B. ENVIRONMENTAL CONDITIONS:**

1. Any wells discovered during land clearing shall be protected or abandoned in accordance with SWFWMD Rule Chapter 40D. A Water Well Construction Permit must be obtained from the EMD prior to construction of the proposed well(s).
2. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
3. All trees within the area proposed for construction activities that are to be preserved shall have protective barricades constructed at their driplines prior to commencement of construction. No improvements, fill, grade changes, or compaction of soil due to heavy machinery will be permitted within the dripline of trees proposed to be preserved. The tree protection barriers shall consist of new or used chainlink fence (minimum 5' height) located at the tree dripline, or other materials as approved by the Planning Department.
4. Removal of all exotic nuisance plant species from the site shall be completed prior to the Final Plat approval, in accordance with Section 715.4 of the LDC: Existing plant communities designated to remain must be intact and undisturbed; noxious and exotic plants must be removed.

**C. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS:**

1. A 5' wide sidewalk shall be installed along both sides of all internal streets.
2. Prior to the first Final Plat approval, the road providing access through Fox Crossing must be constructed and completed.
3. All interior roads shall be constructed entirely above the 100-year flood elevation. This shall be shown on the Final Site Plan and Construction Plans.
4. The emergency access shall 15' wide and paved to 34<sup>th</sup> Avenue and to 27<sup>th</sup> Street East. This requirement shall be shown on the Final Site Plan and Construction Plans.
5. Prior to Final Site Plan approval, the applicant shall submit a Hurricane and Disaster Plan from Public Safety Department for review and approval.

D. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS:

1. The project shall be required to reduce the calculated pre-development flow rate by up to fifty percent (50%) for all stormwater outfall flow directly or indirectly into Sugar House Creek. Modeling shall be used to determine pre- and post- development flows.
2. 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.
3. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats for the drainage ditch along the southern boundary of this project within the project boundaries. In addition, a Drainage-Maintenance Easement shall be provided for this drainage ditch along the north top-of-bank. Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

E. UTILITIES COMMENTS:

1. 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.
2. Potable water and wastewater collection system stubouts shall be provided to the end of the cul-de-sac of Street C as identified on the Preliminary Site Plan.

**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 described in Exhibit "A" incorporated herein by reference, from the LM (Light Manufacturing) and A-1 (Suburban Agriculture) zoning districts to the 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.

**Section 4. 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 invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**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 4<sup>th</sup> day of May, 2006 and as amended on 6<sup>th</sup> day of February, 2007.

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

BY: 

Vice Chairman, Jane von Hahmann

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

BY:   
Deputy Clerk



THIS IS A CORRECTIVE DOCUMENT

EXHIBIT "A"

LEGAL DESCRIPTION

LOTS 4, 5, & 8 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 35, RANGE 18 EAST, ALL BEING PART OF FAIR OAKS, A SUBDIVISION AS RECORDED IN PLAT BOOK 1, PAGE 171 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

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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 6<sup>th</sup> day of

June, 2007

R.B. SHORE  
Clerk of Circuit Court

By: Diane E. Vollen D.E.



## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

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2007 JUN 15 AM 8:53  
CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA  
**KURT S. BROWNING**  
Secretary of State

June 11, 2007

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 June 6, 2007, and certified copies of Manatee County Ordinance No. PDMU-05-39(Z)(P), which was filed in this office on June 8, 2007.

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

Sincerely,

Liz Cloud  
Program Administrator

LC/lbh  
Enclosure

### DIRECTOR'S OFFICE

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