

FILED FOR RECORD
R. B. SHORE

2009 AUG 20 PM 3:13

**MANATEE COUNTY ZONING ORDINANCE
PDMU-09-09(Z)(G)-DTS#20090130 – MCGUIRE**

CLERK OF THE DISTRICT COURT
MANATEE COUNTY, FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY 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 74± ACRES ON THE NORTH SIDE OF ERIE ROAD AND THE RAILROAD 0.8 MILE WEST OF US HWY 301 IN PARRISH, FROM A-1 / NCO (SUBURBAN AGRICULTURE / NORTH CENTRAL OVERLAY) TO THE PDMU / NCO (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY; AND APPROVAL OF A GENERAL DEVELOPMENT PLAN FOR 201 RESIDENTIAL DWELLINGS (SINGLE FAMILY, MULTI-FAMILY, AND GROUP CARE HOMES) ON 67± ACRES AND 58,000 SQUARE FEET OF GROSS FLOOR AREA AMONG SEVERAL USES (RETAIL, RESTAURANTS, OFFICES, FINANCIAL, HEALTH) TO SERVE THE COMMERCIAL NEEDS OF THE NEIGHBORHOOD ON 7± ACRES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hugh and Carol McGuire, Jon and Cheryl McGuire (the "Applicants") filed an application to rezone approximately 74 acres from A-1/NCO (Suburban Agriculture/North Central Overlay) to the PDMU/NCO (Planned Development Mixed Use) zoning district, retaining the North Central Overlay described in Exhibit "A", attached hereto, (the "Property"); and

WHEREAS, the Applicant has also filed a General Development Plan for 201 residential dwellings (single-family, multi-family, and group care homes) on 67 ± acres and 58,000 square feet of gross floor area among several uses (retail, restaurants, offices, financial, health) to serve the commercial needs of the neighborhood on 7 ± acres (the "Project") on the property; and

WHEREAS, the Applicant has also filed a request for a specific finding that the proposed buildings exceeding 35 feet in height are consistent with Section 603.7.4.9 of the Land Development Code; and

WHEREAS, the Applicant also filed Special Approval for a project having: 1) mixed and multiple uses; 2) gross residential density exceeding 1 dwelling unit per acre; 3) net residential density exceeding 3 dwelling units per acre; 4) nonresidential gross floor area exceeding 30,000 square feet; and 5) location adjacent to a perennial stream; and also for designation of a commercial node at the intersection of Erie Road and Fort Hamer Road extension; and

WHEREAS, the Applicant also filed for Specific Approval for alternatives to Sections 603.7.4.9.2-5, 722.1.4.2, 722.1.4.6, and 740.2.6.11 of the Land Development Code; and

WHEREAS, the Planning Staff has recommended approval of the rezone, General Development Plan, Special Approval, 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 duly noticed public hearing on July 9, 2009 to consider the rezone, General Development Plan, Special Approval, 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, General Development Plan, Special Approval, 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.

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 for 74 ± acres from A-1/NCO (Suburban Agriculture/North Central Overlay) to the PDMU/NCO (Planned Development Mixed Use) zoning district, retaining the North Central Overlay.
- B. The Board of County Commissioners held a duly noticed public hearing on August 6, 2009, 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 Approvals in Section 3, 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 603.7.4.9.2-5 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree. Also, in compliance with the review requirements of and as allowed by LDC Section 603.7.4.9 (PDR height) the Board finds that the proposed development of a 3 story assisted care facility in residential Parcel C not to exceed 42 feet in height is compatible with the surrounding area, will not create any external impacts that would adversely affect surrounding

development, existing or proposed, and complies with LDC Section 603.7.4.9.1.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 740.2.6.11 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree for the 18' – 20' roadways because vehicles can maneuver these short roads at low speeds.

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 722.1.4.2 and 722.1.4.6 the Board finds that the public purpose of the LDC regulations are satisfied to an equivalent degree for sidewalks not adjacent to streets because more direct sidewalks connections can reduce walking distance, total pavement area, and impacts on natural resources.

Section 2. GENERAL DEVELOPMENT PLAN The General Development Plan is hereby GRANTED for 201 residential dwellings (single-family, multi-family, and group care homes) on 67 ± acres and 58,000 square feet of gross floor area among several uses (retail, restaurants, offices, financial, health) to serve the commercial needs of the neighborhood on 7 ± acres on the property subject to the following stipulations:

STIPULATIONS

A. LAND USE

1. Development of commercial uses must wait for the county's reclassification of Fort Hamer Road Extension north of its intersection with Erie Rd. The proposed commercial node will occur after the county amends the Comprehensive Plan to designate Fort Hamer Road Extension on the Roadway Functional Classification Map as collector or higher from its intersection with Erie Rd northerly through enough of the proposed commercial frontage to configure the commercial node. Comprehensive Plan policy 2.10.4 and Land Use Operative Provision section E.2 require the commercial node and affect the timing of the Concurrency Certificate of Level of Service.

B. STORMWATER

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 Buffalo Canal. 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 and Final Plat from top of bank to top of bank along the southern branch of Buffalo Canal within the project boundaries. In addition, a twenty-five (25) foot Drainage-Maintenance Access Easement shall be provided along the southern top of bank. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

3. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat from the north property line to top of bank along the northern branch of Buffalo Canal within the project boundaries. Manatee County is only responsible for

maintaining the free flow of drainage through these systems.

4. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat from top of bank to top of bank along the tributary of Buffalo Canal within the project boundaries. In addition, a twenty-five (25) foot Drainage-Maintenance Access Easement shall be provided along the western top of bank. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

5. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat from the west property line to top of bank along the existing drainage ditch within the project boundaries. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

6. Drainage Easements and Drainage Maintenance-Access Easements shall be exclusive of greenbelt and landscape buffers/easements.

7. The developer shall include in the homeowner's documents that Manatee County has no obligation relative to Buffalo Canal or its tributaries to maintain, change, improve, clean, repair natural erosion, restore the natural changes in the course of the stream bed or correct any other condition not caused by the County.

8. The developer shall provide a drainage easement to Manatee County to accept stormwater for that portion of the Ft. Hamer Road Extension that is located within the project boundaries at buildout conditions. The developer shall design and construct the stormwater capacity for that portion of the future Ft. Hamer Road Extension within the project area and such design and construction shall be included in the SWFWMD permit documentation. In addition, the developer shall provide a one (1) acre site for stormwater from Fort Hamer Road designed for build-out condition and any associated intersection improvements to Erie Road. The terms for this agreement between this project, Morgan's Glen (PDMU-06-39(Z)(P)), and Manatee County shall be in accordance to stipulations 3.E and 4.H from the Morgan's Glen Zoning Ordinance dated January 20, 2009.

C. ENVIRONMENTAL

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

2. Conservation Easements for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas shall be dedicated to the County prior to Final Site Plan approval.

3. The project shall be designed so that no temporary wetland buffer impacts, other than those allowed by Section 719.11.1.2 of the LDC, are required in areas that contain native desirable vegetation. This shall be reviewed and approved by the Environmental Planning Division with Final Site Plan.

4. All proposed shade structures located in areas where native vegetation is to remain shall be designed in a manner that minimizes impacts to existing trees.

5. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or stormwater facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.

Section 3. SPECIAL AND SPECIFIC APPROVALS.

A. Special Approval is hereby granted for a project having: 1) mixed and multiple uses; 2) gross residential density exceeding 1 dwelling unit per acre; 3) net residential density exceeding 3 dwelling units per acre; 4) nonresidential gross floor area exceeding 30,000 square feet; and 5) location adjacent to a perennial stream; and also for designation of a commercial node at the intersection of Erie Road and Fort Hamer Road extension.

B. Concerning the commercial node, development of commercial uses must wait for the county's reclassification of Fort Hamer Road Extension north of its intersection with Erie Rd. The proposed commercial node will only occur if the county amends the Comprehensive Plan to designate Fort Hamer Road Extension on the Roadway functional Classification Map as collector or higher from its intersection with Erie Rd northerly through enough of the proposed commercial frontage to configure the commercial node. Comprehensive Plan Policy 2.10.4 and Land Use Operative Provision Section E.2 require the commercial node and affect the timing of the Concurrency Certificate of Level of Service.

C. These Special Approvals shall continue in effect and shall expire concurrent with the General Development Plan for the project approved pursuant to Section 2 hereof.

D. Specific Approval is hereby granted for alternatives to Sections 603.7.4.9.2-5, 722.1.4.2, 722.1.4.6, and 740.2.6.11 of the Land Development Code. Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

E. Approval is hereby granted under LDC Section 603.7.4.9 (PDR) by way of Section 603.16.2 (PDMU) for a 3 story assisted care facility in residential Parcel C not to exceed 42 feet in height.

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, for approximately 74 acres from A-1/NCO (Suburban Agriculture/North Central Overlay) to the PDMU/NCO (Planned Development Mixed Use) zoning district, retaining the North Central Overlay 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. 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 6th day of August, 2009.

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

BY: *Dr. Gwendolyn Y. Brown*
Dr. Gwendolyn Y. Brown, Chairman



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

BY: *Diane E. Vollmer*
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE S 01°26'45"E, ALONG THE WEST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 1173.51 FEET TO ITS INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF THE SEABOARD COAST LINE RAILROAD; THENCE N73°31'E, ALONG SAID NORTH RIGHT-OF-WAY LINE, 2068.43 FEET TO ITS INTERSECTION WITH A DRAINAGE DITCH; THENCE N01°07'W, ALONG THE APPROXIMATE CENTERLINE OF SAID DRAINAGE DITCH, 694.96 FEET TO ITS INTERSECTION WITH THE NORTH LINE OF SAID SECTION 30; THENCE N00°08'07"E, ALONG SAID APPROXIMATE CENTERLINE, 699.00 FEET TO ITS INTERSECTION WITH THE APPROXIMATE CENTERLINE OF A CANAL KNOWN AS BUFFALO CANAL; THENCE ALONG THE SAID CENTERLINE OF BUFFALO CANAL, THE FOLLOWING COURSES AND DISTANCES; S89°28'21"W, 812.90 FEET; S83°54'25"W, 201.14 FEET; S76°56'14"W, 596.75 FEET; S89°21'18"W, 411.0 FEET TO ITS INTERSECTION WITH THE WEST LINE OF THE SOUTHEAST ¼ OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 19 EAST; THENCE S00°21'30"E, ALONG SAID WEST LINE OF THE SOUTHEAST 1/4, A DISTANCE OF 639.27 FEET TO THE POINT OF BEGINNING. THE ABOVE LYING AND BEING IN SECTIONS 19 AND 30, TOWNSHIP 33 SOUTH RANGE 19 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 74.4 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, DEDICATIONS AND RESTRICTIONS OF RECORD.



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 12th day of

August, 2009

R.B. SHORE
Clerk of Circuit Court

By: Deane E. Vollmer

FILED FOR RECORD
R. B. SHORE

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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

August 18, 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 August 12, 2009 and certified copies of Manatee County Ordinance Nos. PDMU-09-09 (Z)* (G), 09-06 and 09-31, which were filed in this office on August 17, 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

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