

FILED FOR RECORD
R. B. SHORE

2010 FEB 22 PM 2:55

MANATEE COUNTY ZONING ORDINANCE

PDMU-09-10(Z)(P) – GULFSIDE HOMES / BOWLEES CREEK, LLP / BOWLEES CREEK

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

DTS#20090188

An Ordinance of the Board of County Commissioners of Manatee County, Florida, regarding land development, amending the official zoning atlas (Ordinance No. 90-01, the Manatee County Land Development Code) relating to zoning within the unincorporated area; providing for the rezoning of approximately 19.01 acres north of Bowlees Creek, south of 69th Avenue West (Bay Drive), and west of U.S. 41, Bradenton, from PDR/AI/CH (Planned Development Residential/Airport Impact/Coastal High Hazard Overlay Districts) to the PDMU/AI/CH (Planned Development Mixed Use) retaining the Airport Impact and Coastal High Hazard Overlay Districts, where appropriate; and approving a Preliminary Site Plan for two options:

1. 144 multi-family dwelling units, including buildings that exceed a height of 35 feet; a 200 rack dry boat storage facility (51,000 square feet), and 53 existing wet slips, or
 2. 162 multi-family dwelling units, including buildings that exceed a height of 35 feet, and 53 existing wet slips;
- subject to stipulations as conditions of approval; setting forth findings; providing a legal description; providing for severability, and providing an effective date.

WHEREAS, Gulfside Homes/Bowlees Creek, LLP (the "Applicant") filed an application to rezone approximately 19.01 acres described in Exhibit "A", attached hereto, (the "property") from PDR/AI/CH (Planned Development Residential/Airport Impact/Coastal High Hazard Overlay Districts) to the PDMU/AI/CH (Planned Development Mixed Use), retaining the Airport Impact and Coastal High Hazard Overlay zoning district; and

WHEREAS, the applicant also filed a request for a Preliminary Site Plan with two options: 1) 144 multi-family dwelling units, including buildings that exceed a height of 35 feet; a 200 rack dry boat storage facility (51,000 square feet), and 53 existing wet slips; or 2) 162 multi-family dwelling units, including buildings that exceed a height of 35 feet, and 53 existing wet slips (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) exceeding a gross density of 6 dwelling units per acre in the R/O/R Future Land Use Category; 2) exceeding a net density of 9 d.u. per acre in the R/O/R FLUC; 3) exceeding 30,000 square feet; 4) in the Coastal Evacuation Area; 5) partially in the Coastal Planning Area; 6) partially in the Coastal High Hazard Overlay; 7) adjacent to a Perennial Stream; and 8) in the Airport Impact Overlay District; 9) Floor Area Ratio exceeding 0.25 in the R/O/R Future Land Use Category; 10) modifying a non-conforming structure; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 702.6.8, 1105, and 710-Table A; 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 January 14, 2010 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:

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 PDR/AI/CH (Planned Development Residential/Airport Impact/Coastal High Hazard Overlay Districts) to the PDMU/AI/CH (Planned Development Mixed Use), retaining the Airport Impact and Coastal High Hazard Overlay zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on February 4, 2010 regarding the 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 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. The Board finds that the public purpose and intent of Section 710, Table A has been satisfied to an equivalent degree because the proposed drive aisle is adequate for 2-way travel.

- F. The Board finds that the public purpose and intent of Sections 1105 and 702.6.8 has been satisfied to an equivalent degree by project design. The proposed structure is intended for recreational use only and the existing non-conformity relative to buffer impact and building setback will be reduced.
- G. Based on a review of the factors to be considered under LDC Section 603.7.4.9, the Board of County Commissioners finds that the development, as approved and stipulated, is compatible with the surrounding area and will not create any external impacts that would adversely affect surrounding development, or waterfront because nearby properties contain buildings of similar heights, appropriate setbacks are provided from Sarasota Bay, and the building elevations indicate that some buildings will have a step down design.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved with two options: 1) 144 multi-family dwelling units, including buildings that exceed a height of 35 feet; a 200 rack dry boat storage facility (51,000 square feet), and 53 existing wet slips; or 2) 162 multi-family dwelling units, including buildings that exceed a height of 35 feet, and 53 existing wet slips on the property subject to the following Stipulations:

STIPULATIONS

A. Design

1. The maximum number of dwelling units for this project is 162. This shall be reflected on the Final Site Plan.
2. Loading boats in and out of the water shall be allowed from thirty (30) minutes before sunrise to thirty (30) minutes after sunset.
3. Personal watercraft rentals, live aboard vessels, and repair activities shall be prohibited. In-water boat maintenance or repair activities shall be prohibited for the life of the facility.
4. There shall be no use of outdoor speakers in conjunction with this facility.
5. The design of the buildings shall be in substantial conformance with the elevations presented at the Planning Commission and Board of County Commission meetings.
6. The Notice to Buyers or Tenants 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 homeowners of the following:
 - a. The maximum number of boat slips approved for this project is 53. A site plan depicting the location of the 53 slips shall also be included.

- b. A maximum of 16 boats may be moored adjacent to the dock on the main channel of Bowlees Creek. Boats shall be moored in a manner which limits encroachment of the dock and mooring area to 25% of the waterway. This restriction may limit the type or size of boats moored along the main channel of Bowlees Creek.
- c. The Hurricane Evacuation Plan is approved by the Public Safety Department for this project. The applicant and their heirs, assigns, or transferees are hereby notified that a payment of an impact fee for emergency shelter facilities shall be required if such impact fee is adopted by the Board of County Commissioners.
- d. The property is in the Airport Impact Overlay District and is subject to aircraft overflights and noise.
- e. The homes are in a flood prone area and within the Coastal High Hazard Overlay, and Coastal Evacuation Areas.
- f. Specific standards and additional costs may be associated with the development of this project because of the site being in the airport impact area and coastal areas.
- g. The use of special assessments within the Coastal High Hazard Overlay to recoup expenditures for repair of storm related damage to public and private infrastructure within a reasonable time may occur.
- h. A hazard disclosure statement generally describing the property's relative probability of damage from floodwaters and undermining or erosion due to wave action. This disclosure shall also list potential mitigation.
- i. Any significant historical or archaeological resources discovered during development activities shall be immediately reported to the Florida Division of Historical Resources and treatment of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County. Treatment of the resources must be completed before resource-disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Section 872.05, Florida Statutes, shall be followed.

B. Environmental/Landscaping

- 7. 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.
- 8. The Construction Water Quality Monitoring Program included in the June, 2005 Environmental Narrative has been approved conceptually. Final review and approval of a Construction Water Quality Monitoring Program for this project shall occur concurrently with Final Site Plan review.
- 9. The Final Site Plan shall identify the location of all Osprey nests. Impacts to trees

containing Osprey nests shall be avoided to the greatest extent possible. In the event that impacts to nest trees are unavoidable, a replacement osprey platform shall be constructed prior to removal of the nest tree. Removal of nest trees shall be prohibited during the nesting season. The location of any replacement platform shall be approved by the Florida Fish and Wildlife Conservation Commission and be submitted to the Natural Resources Department with the Final Site Plan.

10. Buffer compensation shall be provided at 1:1 for any proposed encroachments in the existing wetland buffers including pavilions and shade structures.
11. The maximum number of wet boat slips permitted shall be 53. No more than 16 slips shall be located on the main channel of Bowlees Creek. Boats moored along the main channel of Bowlees Creek shall be limited to a width of 8 feet unless the mooring of boats and structures can meet the criteria of LDC Section 734.2.1.
12. The existing 53 wet slips shall be accessory to uses to the residences of the project. No live aboard vessels shall be permitted.
13. All proposed landscaping for the development shall be in accordance with Florida Yards and Neighborhoods Program unless otherwise approved by the Natural Resources Department.
14. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by Natural Resources Department.
15. A minimum of 3 different species of canopy trees (or understory where appropriate) shall be utilized for required landscaping.
16. An integrated Pest Management Plan (IPM) for the application of fertilizers, pesticides and herbicides shall be submitted to the Natural Resources Department for review and approval prior to Final Site Plan approval. Unless otherwise approved by the Natural Resources Department, native or drought tolerant landscaping shall be utilized in common areas. In addition, the developer shall require individual homeowners to participate in the Florida Yards and Neighborhood Program and disseminate program information to individual owners.
17. The developer shall plant native vegetation in the required waterfront setback areas. The type, size, quantity and location of the required plantings shall be approved with the Final 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 classification of the property identified in Exhibit "A" herein from PDR/AI/CH (Planned Development Residential/Airport Impact/Coastal High Hazard Overlay Districts) to the PDMU/AI/CH (Planned Development Mixed Use), retaining the Airport Impact and Coastal High Hazard Overlay 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 4. SPECIAL AND SPECIFIC APPROVALS. Specific Approval is hereby granted for alternatives to Sections 702.6.8, 1105, and 710-Table A 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. Special Approval is hereby granted for a project: 1) exceeding a gross density of 6 dwelling units per acre in the R/O/R Future Land Use Category; 2) exceeding a net density of 9 d.u. per acre in the R/O/R FLUC; 3) exceeding 30,000 square feet; 4) in the Coastal Evacuation Area; 5) partially in the Coastal Planning Area; 6) partially in the Coastal High Hazard Overlay; 7) adjacent to a perennial stream; 8) in the Airport Impact Overlay District; 9) Floor Area Ratio exceeding 0.25 in the R/O/R Future Land Use Category; 10) modifying a non conforming structure. The Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

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. 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 4TH day of February, 2010.

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

BY: 
Carol Whitmore, 1st Vice Chairman

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

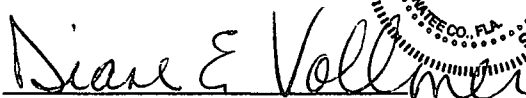
BY: 
Deputy Clerk



Exhibit "A"

Legal Description

Parcel 1:

Commence at the NE corner of the NW ¼ of the NW ¼ of Section 26, Township 35 South, Range 17 East, Public Records of Manatee County, Florida; thence South 375 feet to a point on the East line of the said NW ¼ of the NW ¼ and the Point of Beginning; thence West 525 feet, thence South 675 feet more or less, to the channel of Bowlee's Creek; thence Easterly along the Channel of Bowlee's Creek to a point on the East line of said NW ¼ of the NW ¼ directly South of the Point of Beginning; thence North to the Point of Beginning.

TOGETHER with the Easement described in O.R. Book 1252, Page 3146, Public Records of Manatee County, Florida.

Parcel 2:

That part of the following property lying Northerly of the current centerline of Bowlee's Creek: Begin at the SE corner of the NW ¼ of the NW ¼ of Section 26, Township 35S, Range 17E, thence S 89°59'04" W along the South line of said NW ¼ of the NW ¼ 347.210 feet to the center line of Bowlee's Creek as recorded in County Records Book 108, page 64, of the Public Records of Manatee County, Florida; thence N 0°17'31" East along the center line of said Bowlee's Creek 104.69 feet to the P.C. of a curve to the right having a radius of 365 feet; thence NE'ly along the arc of said curve 437.44 feet; thence N 68°57'31" East 119.45 feet to the intersection of the center line of said Bowlee's Creek and the East line of the said NW ¼ of the NW ¼ thence S 0°08'49" East along the said East line 486.29 feet to the P.O.B.

PARCEL (A):

COM AT A CAPPED IRON ROD SET AT THE NW COR OF SD SEC 26; TH N 89 DEG 48 MIN 47 SEC E, ALG THE NLY LN OF SD NW ¼ A DIST OF 801.65 FT TO A LN WHICH BEARS N 00 DEG 06 MIN 57 SEC E, FROM A WOOD POST MARKING THE COMMON COR OF LOTS 10, 11 & 12 BLK E OF EMERALD ISLES, UNIT NO 1 AS REC IN PB 4 PG 90 (VAC) FOR A POB; TH S 00 DEG 06 MIN 57 SEC W, ALG SD LN A DIST OF 373.05 FT TO SD WOOD POST; TH S 89 DEG 50 MIN 46 SEC E, ALG THE SLY LN OF SD BLK E A DIST OF 155 FT; TH N 00 DEG 07 MIN 05 SEC E, A DIST OF 373.97 FT TO THE AFOREMENTIONED NLY LN OF THE NW ¼ OF SEC 26; TH S 89 DEG 48 MIN 47 SEC W, ALG SD NLY LN A DIST OF 155 FT TO THE POB, CONT 1,329 AC M/L ; LESS; A TRACT OF LAND LYING IN THE NW ¼ OF SEC 26, DESC AS FOLLOWS; COM AT A CAPPED IRON ROD AT THE NW COR OF SD SEC 26; TH N 89 DEG 48 MIN 47 SEC E, ALG THE NLY LN OF SD NW ¼, A DIST OF 801.65 FT FOR A POB; TH S 00 DEG 06 MIN 57 SEC W, A DIST OF 25.75 FT TO THE SLY MAINTAINED R/W LN OF 59TH AVE W (BAY DR); TH N 89 DEG 52 MIN 01 SEC E, ALG SD

MAINTAINED R/W LN, A DIS TOF 155 FT; TH N 00 DEG 07 MIN 11 SEC E, A DIST OF 25.90 FT TO THE NLY LN OF NW ¼, TH S 89 DEG 48 MIN 47 SEC W, ALG SD NLY LN A DIST OF 155 FT TO THE POB

PARCEL (C):

BEG AT THE NW COR OF THE NW ¼ OF SEC 26; TH N 89 DEG 52 MIN 01 SEC E, ALG N LN OF SD NW ¼ OF SD SEC 26, 298 FT; TH S 00 DEG 17 MIN 47 SEC W' & PAR TO THE W LN OF SD NW ¼, 25 FT TO THE S R/W OF 69TH AVE W FOR A POB; TH CONT S 00 DEG 17 MIN 47 SEC W, & PAR TO THE W LN OF SD NW ¼, 727.53 FT; TH S 62 DEG 49 MIN 14 SEC E, 568.24 FT TO THE E LN OF LOT 20 BLK E OF VACATED PLAT OF UNIT NO 1 EMERALD ISLES AS PER PLAT REC IN PB 4 PG 90; TH N 00 DEG 06 MIN 57 SEC E, ALG E LN SD BLK E; 988.25 FT TO THE S. R/W 69TH AVE W; TH S 89 DEG 52 MIN 01 SEC W, ALG SD S R/W, 503.73 FT TO THE POB; LESS THAT PART INCLUDED IN OR 1603 P 1408

OVERALL BOUNDARY CONTAINS 828,165± SQUARE FEET AND 19.0121± ACRES.

LESS THE PROPERTY CURRENTLY ZONED PDR.



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 11TH day of

FEBRUARY, 20 10

R.B. SHORE
Clerk of Circuit Court

By Nancy Harris D.C.



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R. B. SHORE

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FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

KURT S. BROWNING
Secretary of State

February 17, 2010

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

Attention: Ms. Vicki Jarratt, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated February 11, 2010 and certified copies of Manatee County Ordinance Nos. PDMU-09-10 (Z)(P) and PDR-01-13 (G)(R2), which were filed in this office on February 15, 2010.

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

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
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