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MANATEE COUNTY ZONING ORDINANCE

PDR-03-51(Z)(P) -GEORGE ANDERSON & DAVID CORNELIUS REZONE/FOX CROSSING

CLERK OF THE COURT
MANATEE CO. FLORIDA

CLERK OF THE COURT
MANATEE CO. FLORIDA

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 26.9 ACRES OF THE 44.97 TOTAL ACRES GENERALLY LOCATED AT THE NORTHEAST CORNER OF 27TH STREET EAST AND 34TH AVENUE EAST FROM THE LM (LIGHT MANUFACTURING) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW 96 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, George Anderson & David Cornelius (collectively the "Applicant") filed a rezoning application to rezone approximately 26.9 acres ("Rezone Acres") of the 44.97 total acres described in Exhibit A, attached hereto, (the "Property") from the LM (Light Manufacturing) zoning district to the PDR (Planned Development Residential) zoning district; and,

WHEREAS, the Applicant has also filed a preliminary site plan application to allow 96 lots for single-family detached residences (the "Project") to be located upon the Property; and,

WHEREAS, the Planning Staff has recommended approval of the rezoning and preliminary site plan, 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 June 9, 2005 to consider the rezoning and preliminary site plan, 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 rezoning and preliminary site plan 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:

BC20050621DOC083

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 as in Exhibit A – Rezone Acres of this Ordinance from the LM (Light Manufacturing) zoning districts to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a public hearing on June 21, 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. Board finds that the public purpose and intent of Section 907.1.1 has been satisfied to an equivalent or greater degree by the project design and the staff recommended stipulations to provide adequate access and avoid environmental impacts.

E. The Board finds that the public purpose and intent of Section 715.1 A 2 has been satisfied to an equal or greater degree because of enhanced landscaping and tree preservation.

F. The Board finds that the public purpose and intent of Section 717.8.1 has been satisfied to an equal or greater degree because tree replacement for this site may be accomplished on another site owned by the same owner.

Section 2. The Preliminary Site Plan is hereby APPROVED to allow 96 lots for single-family detached residences upon the Property, subject to the Stipulations set out below.

STIPULATIONS

1. A 20 foot wide roadway landscape buffer shall be provided along 27TH Street East and 34th Avenue East (except for wetlands). The roadway 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. Also, this buffer along 27th Street East may also

include a fence, provided that all required landscaping is on the outside of the fence.

2. A 15' greenbelt buffer shall be provided along the north and east adjacent to A-1 zoning. Also, a 40' wide buffer shall be required adjacent to LM zoning except adjacent to Lot 30. Both buffers shall be planted in accordance with the same manner of stipulation 1 referenced above.
3. Annual reports by a Landscape Architect shall be submitted to the Planning Department to demonstrate that the required canopy trees and hedges are growing at rate to achieve the required height and opacity requirement. If the annual report identifies that required landscaping has died or will not achieve the required height and opacity requirements, additional plantings shall be added as approved by the Planning Department. Annual reports shall be provided until the turnover of the subdivision to Homeowner's Association. Also, a private improvement bond shall be provided for required landscaping and only released after certification provided by a landscape architect and approved by the Planning Department that the required height and opacity requirements have been achieved.
4. The minimum lot size shall be 7,000 sq. ft.
5. All recreational structures or facilities shall be setback 20' from the right-of-way and residential side property lines (excluding pedestrian pathway).
6. The recreational area of the project shall include a commercial grade tot lot (7 or more play activities), benches, and 5 shade trees.
7. Potable water and wastewater collection system stubouts shall be provided to the property line within the interneighborhood tie to the east.
8. 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.
9. No lots shall be platted into perimeter buffers, roadway buffers, wetlands, or stormwater retention ponds.
10. A non-ingress egress easement shall be recorded adjacent to 27th Street East and 34th Avenue Drive East prior to or in conjunction with approval of the Final Plat for each phase, except for approved entrances.
11. The Engineer of Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow.
12. 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 an inter-neighborhood tie along at the east property line.

13. Final engineering drainage design shall be approved prior to Final Site Plan approval, including the following:
 - a. This project shall be required to reduce the calculated pre-development flow rate by 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.
 - b. Drainage modeling and construction plans shall be used to demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.
14. Drainage easements shall be provided from top-of-bank to top-of-bank on all existing drainage ditches along the southern property line, and northern property within the project limits. Manatee County is only responsible for maintaining the free flow of drainage through these systems.
15. This approval is conditional upon the approval of a petition to vacate the north-south rights-of-way through this project which shall be within the sole and absolute discretion of the BOCC and in accordance with applicable law.
16. Internal streets shall be public.
17. 27th Street East shall be widened to provide a southbound left turn lane at the project entrance with a minimum storage lane length of 75'.
18. The final design for this project shall incorporate traffic calming measures along the internal streets to be approved by the Transportation and Planning Departments with the Final Site Plan.
19. Overhead power lines or detention or retention ponds shall not be located within the landscape buffers, greenbelts, or tree stands designated for preservation.
20. Existing vegetation within the roadway buffer, greenbelt buffers, and tree and native plant preservation areas shall not be disturbed and shall remain in a natural state (plant communities shall be preserved at all times), except as allowed with the approved management plan approved by the Planning Department. Also, only required landscaping shall be maintained and pruned in a manner that preserves the natural shape and growth characteristics of the species. Pruning that "lollipops" or grossly alters the natural characteristic form is prohibited.
21. Land clearing shall not commence until a Final Site Plan and Construction Plans have been approved. Land clearing, tree removal, or grading shall be limited to the specific phase receiving approval.
22. All tree grouping areas to be preserved shall be shown in Preservation easements. The language of the easement shall be consistent with approved management plan for these areas. Easements shall be in perpetuity. No activities shall be allowed within these areas that would alter the present natural condition. No tree removal, swales,

stormwater ponds, underground or overhead power lines, underground utilities, or grading are not permitted.

23. Unless otherwise approved by the Planning Department, native xeriscape landscape materials shall be utilized in common areas. In addition, the developer shall encourage individual homeowner's to participate in the Florida Yards and Neighborhood Program by disseminating program information to individual lot owners.
24. Tree Protection Measures:
 - a. Tree barricades for trees to be preserved shall be located at the drip line, unless otherwise approved by the County. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed and shall be clearly shown on the Final Site Plan. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the County.
 - b. The developer shall require all contractors, subcontractors, and construction crews to attend the pre-construction meeting required by Section 508.3.4.7(j). The purpose of this meeting is to discuss tree protection and to ensure that trees designated for preservation in the field are retained; ensure that tree barricades remain up during all phases of construction, and provide penalties for noncompliance or unauthorized tree removal in accordance with the LDC.
 - c. The developer shall immediately notify the Planning Department in the event that any preserved tree or native vegetation is adversely impacted.
 - d. The Final Site Plan shall include the following information:
 4. Tree and native vegetation preservation areas.
 5. The limits of clearing
 6. Typical cross section details for all activities within 25' of any preservation areas
 7. Details and locations of signs (in both English and Spanish) to alert workers of tree and native vegetation protection areas. These signs shall be constructed of weather resistant materials and shall demarcate the boundaries of the protected areas.
25. Prior to Final Site Plan approval, the site shall be re-evaluated for the presence of threatened or endangered species.
26. No development-related land clearing activities (including exotic plant species removal) shall take place unless all approvals are obtained through the Planning Department.

27. If burning of trees or branches is required for land clearing, a burn permit must be first obtained from the Environmental Management Department.
28. Any encroachment into the required 30' wetland buffer due to additional right-of-way dedication shall be compensated at a 1:1 ratio. The Final Site Plan shall clearly delineate label and quantify all encroachment and compensation areas.
29. Conservation Easements (inclusive of areas defined as wetlands and wetland buffers) and Preservation Easements (common areas with tree groupings designated for preservation, and upland preservation) shall be recorded concurrently with the Final Plat. The boundaries of conservation or preservation areas shall be marked with signs that indicate the type of area reference above. The number and placement of signs shall be approved by the Planning Department with the Final Site Plan approval. The developer shall include information in the deed restrictions concerning the conservation and preservation easements, the limitations on use therein, maintenance of the easement area, maintenance of the signs, and the consequences of violations.
30. Tree replacement on this site may be accomplished on another site owned by the same owner in accordance with the requirements of stipulation #15 PDR-04-07(Z)(P) – DSB, L.L.C. should the Board of County Commissioners approved this project. Should the trees from this site not be located to that site prior to Final Site Plan approval, then this project shall be required to accomplish the replacement on this site in accordance with LDC Section 714.
31. The proposed off-street site roadway improvements on 27th Street East and 38th Avenue East shall require a westbound left turn lane striping of 300' of storage on 38th Avenue East at U.S. 301.

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 as in Exhibit A – Rezone Acres herein from the LM (Light Manufacturing) zoning district to PDR (Planned Development Residential) 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.

TOTAL ACRES (± 44.97 ACRES):

LOTS 11 AND 12, LESS THE NORTH 175 FEET THEREOF; ALL OF LOTS 13, 14, 15, AND 16; OF THE SUBDIVISION OF THE S.W. ¼ OF THE N.W. ¼ OF SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST; AND LOTS 2, 3, 6, AND 7 OF THE SUBDIVISION OF THE S.E. ¼ OF THE N.W. ¼ OF SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST; FAIR OAKS SUBDIVISION, PLAT BOOK 1, PAGE 171, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

LESS THE RIGHTS OF WAY FOR 27TH STREET EAST, 30TH STREET EAST AND 34TH AVENUE EAST.

REZONE ACRES (± 26.9 ACRES)

LOTS 2, 3, AND THE NORTH 250 FEET OF LOT 6, AND LOTS 11 AND 12 LESS THE NORTH 175 FEET THEREOF AND THE NORTH 250 FEET OF LOTS 13 AND 14; TOGETHER WITH THE EAST ½ OF THE PLATTED RIGHT OF WAY LYING WEST OF LOTS 2, 3, AND THE NORTH 250 FEET OF LOT 6 AND THE WEST ½ OF THE PLATTED RIGHT OF WAY LYING EAST OF LOT 12 LESS THE NORTH 175 FEET THEREOF AND THE NORTH 250 FEET OF LOT 13 OF FAIR OAKS, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 171 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. LESS RIGHT OF WAY OF 27TH STREET EAST AS RECORDED IN OFFICIAL RECORD BOOK 259, PAGE 636 OF SAID PUBLIC RECORDS.

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 21st day of June, 2005.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: _____

Chairman

ATTEST:

R. B. SHORE
Clerk of the Circuit Court

By: [Signature]



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 22nd day of

June, 2005

R.B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.

FILED FOR RECORD
R. B. SHORE

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CLERK OF CIRCUIT COURT
MANATEE COUNTY, FLORIDA
MANATEE CO. FLORIDA



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

June 30, 2005

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

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated June 21, 2005 and certified copies of Manatee County Ordinance Nos. 05-29, 05-45, 05-46, Z-05-09, Z-04-11 and PDR-03-51(Z)(P), which were filed in this office on June 24, 2005.

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

Sincerely,

Liz Cloud
Program Administrator

LC/kcs

Enclosures

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