

FILED FOR RECORD
R. B. SHORE
2006 OCT 26 AM 9:35

**MANATEE COUNTY ZONING ORDINANCE
PDR-04-44(Z)(P) – CZEISLER/PROSPECT POINT**

A ZONING ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM A-1 (SUBURBAN AGRICULTURE) AND A-1/CH (SUBURBAN AGRICULTURE/COASTAL HIGH HAZARD AREA OVERLAY DISTRICT) TO PDR (PLANNED DEVELOPMENT RESIDENTIAL) AND PDR/CH (PLANNED DEVELOPMENT RESIDENTIAL/COASTAL HIGH HAZARD AREA OVERLAY DISTRICT); PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION; SETTING FORTH FINDINGS; AND APPROVAL OF A PRELIMINARY SITE PLAN FOR 38 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES. THE SITE IS ON THE NORTH SIDE OF 63RD AVENUE EAST, WEST OF REGAL OAKS SUBDIVISION AND EAST OF THE PEARCE CANAL AT 3515 63RD AVE. E (± 14.9 ACRES).

WHEREAS, Franz Czeisler (the "Applicant") has filed a rezone application to rezone approximately 14.9 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture/Coastal High Hazard Area Overlay District) zoning district to the PDR (Planned Development Residential) and PDR/CH (Planned Development Residential/coastal High Hazard Area Overlay) zoning district; and

WHEREAS, the Applicant has also filed a preliminary site plan application for 38 lots for single-family detached residences (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also filed a request for Special Approval for a project: 1) adjacent to a perennial stream, 2) within the Coastal High Hazard Area, 3) within the Coastal Storm Vulnerability Area and 4) within the 25-year floodplain; and

WHEREAS, the Applicant has also filed a request for Specific Approval for an alternative to Section 603.7.4.5 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Special 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 September 14, 2006 to consider the rezone, preliminary site plan, specific approval, and 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, the Manatee County Planning Commission, as the County's Local Planning Agency, found the rezone and Preliminary Site Plan 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 and the granting of the Special Approval for a project: 1) adjacent to a perennial stream; 2) within the Coastal High Hazard Area; 3) within the Coastal

Storm Vulnerability Area, and 4) within the 25-year floodplain, and granting the Specific Approval for an alternative to Section 603.7.4.5 of the Land Development Code.

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 A-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture/Coastal High Hazard Overlay) zoning districts to the PDR (Planned Development Residential) and PDR/CH (Planned Development Residential/Coastal High Hazard Overlay) zoning districts.

B. The Board of County Commissioners held a duly noticed public hearing on October 5, 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. Notwithstanding the failure of the site plan to meet the requirements of LDC Section 603.7.4.5, the Board finds that the public purpose and intent of the LDC regulations have been satisfied to an equivalent or greater degree by the project design.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved for 38 lots for single-family detached residences upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval for a project: 1) adjacent to a perennial stream; 2) within the Coastal High Hazard Area; 3) within the Coastal Storm Vulnerability Area, and 4) within the 25-year floodplain, GRANTS Specific Approval for an alternative to Section 306.7.4.5 of the Land Development Code, with the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. The recreational facility will provide a commercial grade tot lot with shade trees, benches, and picnic tables. The details of the type of equipment and layout shall be shown on the Final Site Plan.
2. All recreational areas shall be outside of greenbelt buffers.
3. With the exception of removal of vegetation necessary to maintain the flow and function of the existing drainage ditch abutting the project boundary, all non-nuisance exotic vegetation in the greenbelt buffer abutting the Regal Oaks Subdivision shall be preserved.
4. The front yard setback for all residences shall be 25' (20' to the building with a side loaded garage or where the garage is recessed to provide 25' to the garage).
5. There shall be a 5-foot wide sidewalk on both sides of internal streets, if required by the Land Development Code.

B. ENVIRONMENTAL CONDITIONS:

1. No detention or retention ponds shall be constructed within the landscape buffers or greenbelts.
2. An Environmental Resource Permit (ERP), approved by the SWFWMD, shall be provided prior to Final Site Plan approval.
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. Land clearing, tree removal, or grading 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 phases receiving approval.
5. Removal of all exotic nuisance plant species from the site shall be completed prior to final plat approval.
6. All nuisance exotic vegetative species (e.g., Australian pines and Brazilian pepper) shall be removed from the upland portion of the entire site. Removal of these species may be done in phases in accordance with an Exotic Species Removal Plan approved by the Planning Department prior to Final Site Plan approval. Replacement planting of native species is a required element of Exotic Species Removal Plan.

7. Prior to commencement of construction or land clearing, an Erosion and Sediment Control Plan (ESCP) shall be submitted to the Planning Department for review and approval pursuant to Section 508.3.4.7.j. of the LDC. Final Site Plans, Construction Plans, ERP, and NPDES permit approvals must be obtained prior to submittal of the ESCP.
8. Prior to construction, grading, or tree removal on the site, required protective barriers within each area of construction shall be installed to protect all 4" DBH (trunk diameter measured at 4.5 feet from ground) and greater trees identified for protection, that is, not shown on the Preliminary Site Plan as proposed to be removed, replaced, or relocated.

The minimum radius shall be protected:

- (1) Pines: dripline or 6', whichever is greater.
- (2) All other trees including hardwoods: 2/3 of the dripline or 6', whichever is greater.

Method of Erection

- (1) Minimum height of uprights: 3' (after being pounded into the ground), and no less than 2" x 4" lumber.
- (2) Uprights should have horizontal ribboning at the top and 12" below the top.
- (3) Uprights should be spaced at no more than 4'-5' intervals.
- (4) Horizontal members shall not be less than 1" x 2" lumber.

Barriers are to remain in place until all paving and construction are done and heavy equipment is out of the area. Trees 4" dbh and greater that are located within 10' of the lot under construction shall also be protected by a barricade during home construction.

9. A Well Management Plan for the proper rehabilitation and abandonment of all existing wells within the project shall be submitted to the Planning Department prior to Final Site Plan approval.
10. An Integrated Pest Management Plan (IPM) for fertilizers, herbicides, and pesticides for all common areas within the development shall be prepared by the applicant and submitted to the Planning Department for review and approval prior to the Final Site Plan approval. A maintenance manual shall be developed as part of the IPM to be used by maintenance staff, and shall be kept available on-site as reference for the maintenance crew. Unless otherwise approved by Planning Department, native xeriscape landscape or drought tolerant materials shall be utilized in all common areas. In addition, the developer shall encourage homeowners to participate in the Florida Yards and Neighborhood Program by

providing homeowners with program information. Information shall be provided in the sales office and provided to all lot purchasers.

11. The Developer shall use the lowest quality of water available for irrigation purposes. Use of Manatee County public potable water supply shall be prohibited for in-ground irrigation systems, including those on individual lots.

C. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS:

1. Final engineering drainage design must be approved prior to Final Site Plan approval, including the following:
 - a.) A no-rise permit will be required for all encroachment within the FEMA 100-year floodway of the Pearce Drain. Any existing or proposed structures within the floodway shall be modeled.
 - b.) Any fill within the 25-year or 100-year floodplains of the Pearce Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. Floodplain compensation shall be provided in sole-use compensation areas.
 - c.) There shall be a full 25-year attenuation on all stormwater ponds within the development.
 - d.) The existing 25-year flood elevation along the Pearce Drain shall be utilized as tailwater condition.
2. All residential lots shall be located outside of the post-development 25-year floodplain.
3. 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 Pearce Drain. Modeling shall be used to determine pre- and post- development flows.
4. 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 site runoff.
5. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats along Pearce Drain within the project boundaries. In addition, a Drainage-Maintenance Easement shall be provided along the eastern top-of-bank of Pearce Drain. Manatee County is only responsible for maintaining the free flow of drainage through these systems. The homeowners association is responsible for erosion control, embankment stabilization, beautification, and any other operations that the county deems to be the responsibility of the homeowners association.

6. Prior to Final Site Plan or Construction Plan approval, a Conditional Letter of Map Revision (CLOMR) approved by the Federal Emergency Management Agency (FEMA) shall be submitted to the Floodplain Management Division of the Building Department with a copy submitted to the Planning Department.
7. All required landscaping located within the buffers shall be placed outside of the required drainage maintenance and flowage easements.
8. Drainage easements will be required for all drainage canals within the subject property, together with a 25 foot wide access/maintenance easement, as per County standards.
9. Prior to Final Site Plan approval, all wastewater lift stations, service cleanouts, and manhole rims shall be set 12 inches above the 25-year floodplain or 4 inches above the 100-year flood elevation, whichever is higher. However, the Project Management Department may accept service cleanouts and manhole rims installed no lower than 4" above the 25-year flood elevation if designed detail demonstrate tamper proof water tight manholes and cleanouts. Lift stations hatches shall always be at least 4" above the 100-year elevation or 12" above the 25-year flood elevation, whichever is greater.
10. The developer shall provide an easement to Manatee County to accept stormwater associated with any roadway improvements to 63rd Avenue East and Prospect Road along with a right of access to modify the stormwater system to create additional treatment and attenuation capacity, as may be available, at the expense of the County.

To the maximum extent permissible, the developer shall design and construct a stormwater lake at the southwest corner of the project adjacent to the County owned tract between the subject property and Pearce Canal, on both the County tract and the project to create additional stormwater capacity. All such additional capacity shall be reserved to the County for stormwater requirements associated with the construction roadway improvements to 63rd Avenue East and Prospect Road. The resulting stormwater lake shall be maintained by the Prospect Point Home Owners Association with appropriate easements or licenses from the County. This maintenance obligation shall be contained in the Declaration of Covenants and Restrictions for the subdivision.

D. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS:

1. The applicant shall be responsible for any additional on-site or off-site related safety improvements or capacity improvements attributable to this project, as determined by the Planning Department, based on the findings of the traffic study report.

2. Prior to or in conjunction with Final Plat approval, a 60 foot width half right-of-way along the entire property frontage adjacent to 63rd Avenue East shall be dedicated to Manatee County. The right-of-way shall be dedicated with no impact fee credits or charge.
3. The Developer shall provide the appropriate intersection sight distances and turning radii per AASHTO guidelines or as approved by the Department of Transportation. The Developer shall depict such distances and turning radii on the Final Site or Construction Plans.
4. The Developer shall make roadway improvements for northbound left and right turn lanes on Prospect Road and the roadway improvements shall be shown on the Final Site Plan and Construction Plans.

E. GENERAL CONDITIONS:

1. 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 shall include language informing prospective homeowners of the following:
 - a) Manatee County has no obligation relative to Pearce Canal to maintain, change, improve, clean, repair erosion, or restore natural changes in the course of the stream bed.
 - b) 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 a program is adopted by the Board of County Commissioners.
 - c) The project is in a flood prone area.

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-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture/Coast High Hazard Overlay) zoning districts to the PDR (Planned Development Residential) and PDR/CH (Planned Development Residential/Coastal High Hazard Overlay) zoning districts 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 section, sentence, 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 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 5th day of October, 2006.

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

BY: *Gregory E. Stein*
VICE -Chairman

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

BY: *G. Alarado D.C.*
Deputy Clerk



EXHIBT "A"

LEGAL DESCRIPTION

ALL OF THE EAST ONE-THIRD OF THE NORTH THREE-FOURTHS OF THE SW ¼ OF THE SE ¼ OF SECTION 17, TOWNSHIP 35 SOUTH, RANGE 18 EAST, LYING EAST OF THE DRAINAGE CANAL, TOGETHER WITH AN EASEMENT FOR ROAD PURPOSES ON THE WEST SIDE OF THE OF THE EAST ONE-THIRD OF THE NORTH THREE-FOURTHS OF THE SW ¼ OF THE SE ¼ OF SECTION 17, TOWNSHIP 35 SOUTH, RANGE 18 EAST, FROM THE EXISTING ROAD CROSSING THE WEST TWO-THIRDS OF THE NORTH THREE-FOURTHS OF THE SW ¼ OF THE SE ¼ OF SECTION 17, TOWNSHIP 35 SOUTH, RANGE 18 EAST, SAID EASEMENT BEING 40 FEET IN WIDTH AND EXTENDED FROM THE PRESENT ROAD 40 FEET WIDE PARALLEL TO THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 103, PAGE 456 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

SITUATE AND BEING IN THE NW ¼ OF THE NE ¼ OF SECTION 20, AND SW ¼ OF THE SE ¼ OF SECTION 17, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF THE NW ¼ OF THE NE ¼ OF SAID SECTION 20; THENCE WEST ALONG THE SOUTH LINE OF SAID NW ¼ OF NE 1/4 , 550.00 FEET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF A DRAINAGE CANAL RUNNING NORTHEASTERLY; THENCE N.12°14'50"E., ALONG THE CENTERLINE OF SAID CANAL, 881.26 FEET; THENCE CONTINUING ALONG THE CENTERLINE OF SAID CANAL N.13°06'E., 807.73 FEET TO A POINT ON THE NORTH LINE OF THE SW ¼ OF THE SW ¼ OF THE SE ¼ OF SECTION 17; THENCE N89°36'E., ALONG SAID NORTH LINE OF SAID SW ¼ OF SE ¼, 179.10 FEET TO THE EAST LINE OF SAID SW ¼ OF SE ¼ OF SECTION 17; THENCE S.00°17'50"E., ALONG SAID EAST LINE OF SW ¼ OF SE ¼, 331.34 FEET TO THE SE CORNER OF SAID SW ¼, SAID SW ¼ OF SE ¼, SAID SECTION 17; THENCE S.00°02'10"W., ALONG THE EAST LINE OF THE NW ¼ OF THE NE ¼ OF SECTION 20, 1317.86 FEET TO THE ABOVE MENTIONED POINT OF BEGINNING.

LESS ROAD R/W ON SOUTH AND LESS LANDS CONVEYED TO COUNTY OF MANATEE, RECORDED IN OFFICIAL RECORDS BOOK 1745, PAGE 4773, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA



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 19th day of

October, 2006

R.B. SHORE
Clerk of Circuit Court

By: G. C. Cordero D.C.



STATE OF FLORIDA
DEPARTMENT OF STATE
STATE LIBRARY AND ARCHIVES OF FLORIDA

JEB BUSH
Governor

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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA
SUE M. COBB
Secretary of State

October 23, 2006

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 letter dated October 19, 2006 and certified copies of Manatee County Ordinance Nos. PDR-04-44(Z)(P), PDMU-05-46(Z)(P), PDO-05-08(Z)(P), PDMU-99-02(P), Z-06-03 and Z-89-46(G)(R-10), which were filed in this office on October 23, 2006.

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

Sincerely,

Liz Cloud
Program Administrator

LC/bpn
Enclosures

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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