

FILED FOR RECORD  
R. B. SHORE

2005 DEC 20 PM 12: 58

MANATEE COUNTY ZONING ORDINANCE  
PDR-05-01(Z)(P)-EMMER REZONE

CLERK OF DISTRICT COURT  
MANATEE CO. FLORIDA

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 21.1 ACRES GENERALLY LOCATED AT 5121 NORTH U.S. 41, PALMETTO FROM THE A-1 (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE) AND GC (GENERAL COMMERCIAL) ZONING DISTRICTS TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW 150 LOTS FOR SINGLE-FAMILY ATTACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIAL APPROVAL FOR A PROJECT ADJACENT TO A PERENNIAL STREAM AND FOR A PROJECT EXCEEDING A DENSITY OF 6 DWELLING UNITS PER ACRE IN THE RES-9 AND R/O/R FUTURE LAND USE CATEGORIES; SETTING FORTH FINDINGS; PROVIDING FOR A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Emmer LLC and Keith and Anne Goulet as the Owners and Metro Development Group, LLC as the Contractor Purchaser (the "Applicant") has filed a rezone application to rezone approximately 21.1 acres described in Exhibit A, attached hereto, (the "Property") from the A-1 (Suburban Agriculture, 1 dwelling unit per acre) and GC (General Commercial) zoning districts to the PDR (Planned Development Residential) zoning district; and

**WHEREAS**, the Applicant has also filed a preliminary site plan application to allow 150 lots for single-family attached residences (the "Project") to be located upon the Property; and

**WHEREAS**, the Applicant has also filed two requests for Special Approval to allow a Project: 1) adjacent to a perennial stream; and 2) exceeding a density of 6 dwelling units per acre in the RES-9 and R/O/R Future Land Use Categories; and

**WHEREAS**, Planning staff recommended approval of the rezone and preliminary site plan 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 August 11, 2005 to consider the rezone, preliminary site plan, specific approval, and special approval applications, received the Planning Staffs 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 two special approvals for a Project:

1) adjacent to a perennial stream; and 2) exceeding a density of 6 dwelling units per acre in the RES-9 and R/O/R Future Land Use Categories.

**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, 1 dwelling unit per acre) and GC (General Commercial) zoning districts to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on December 1, 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. The Board hereby finds that the public purpose and intent of Section 907.9.4 of the Land Development Code has been satisfied to an equivalent degree, and GRANTS Specific Approval for an alternative to Section 907.9.4 to better facilitate the preservation of trees.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved to allow 150 lots for single-family attached 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; and 2) exceeding a gross density of 6 dwelling units per acre in the RES-9 and R/O/R Future Land Use Categories, with the following Stipulations:

**STIPULATIONS**

1. Unless otherwise approved by the Planning Department, native xeriscape landscape or drought tolerant materials shall be utilized in common areas. In addition, the developer shall encourage individual homeowners to participate in the Florida Yards and Neighborhood Program by disseminating program information to individual lot owners.
2. All nuisance exotic plant species shall be removed from upland portions of the site prior to Final Plat approval, in accordance with Section 715.4 of the Land Development Code.

3. An Exotic Plant Species Management Plan shall be submitted for review and approval prior to or concurrent with Final Site Plan or Construction Plan review. The management plan shall provide for the continued, phased, removal of nuisance, exotic plant species that become reestablished within the common areas of a residential development and open spaces within non-residential projects, for the life of the project. Removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to Final Plat approval, in accordance with Section 715.4 of the Land Development Code.
4. Prior to Final Site Plan approval, a copy of the approved SWFWMD permit shall be provided to the Planning Department for review.
5. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible.
6. Dedication documents for all required rights-of-way shall be approved by the Transportation Department prior to Final Site Plan.
7. The lowest quality water possible shall be used for irrigation. In-ground irrigation using Manatee County public potable water supply shall be prohibited throughout the project, including on individual lots. Prior to Final Site Plan approval applicant shall specify source of irrigation on site plan.
8. The north and south landscape buffers shall include understory trees staggered with canopy trees, every 30 feet on center and a 6' solid decorative fence or wall with the required landscaping on the outside of the wall.
9. Details of the recreation area shall be provided with the Final Site Plan.
10. The minimum front building setback shall be 25' and shall be shown on the Final Site Plan.
11. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats along Tampa Gap Drain within the project boundaries. In addition, a 25' wide Drainage Maintenance and Access Easement shall be dedicated on the south side of the drain. The access easement shall be on clear and level ground, free of obstructions. The developer shall include in the homeowner's documents that Manatee County has no obligation relative to Tampa Gap Drain to maintain, change, improve, clean, repair erosion, or restore the natural changes in the course of the stream bed.
12. Any fill within the 25-year flood plain of Tampa Gap Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 25-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
13. All residential structures shall be located outside of the post-development 25-year floodplain.

14. The existing 25-year flood elevation along the Tampa Gap Drain shall be utilized as tailwater condition.
15. 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.
16. The design of the residences shall be in substantial conformance with the renderings entered into the record for this case.
17. One of the two (2) "potential play areas" shown on the plan shall be constructed as a commercial grade tot lot with shade trees and picnic benches. The other "potential play area" shall be a passive recreation facility. Details of these areas shall be shown on the Final Site Plan.
18. The final design of this project may include up to two (2) emergency access points in locations to be approved with the Final Site Plan.
19. The design and shielding of any on-site lighting for common areas shall comply with Section 709.2.2 of the Land Development Code. In addition, pole and building mounted lights in common areas shall be limited to 12' in height and directed to the interior of the development using horizontal cut-off fixtures. Use of decorative street lights or house lights may be permitted. A lighting plan, showing the detail of the proposed lighting shall be submitted for review and approval by the Planning Department with the Final Site Plan.
20. A 5' sidewalk shall be constructed on the west side of Bayshore Road from the north property line of this project to Palm View School, subject to the availability of right-of-way to do so. A sidewalk shall be designed to insure no drainage impacts to adjacent properties.
21. The Final Site Plan may include an emergency access point to the north, provided an easement for such access point is obtained from the adjoining property owner.
22. The proposed "pedestrian bridge" shall be designed to meet the requirements of Section 719 of the LDC. Additional details demonstrating compliance with this requirement shall be submitted to the Planning Department for review concurrently with the Final Site Plan.
23. There shall be a full 25-year attenuation on all stormwater ponds within the development.
24. The boulevard entrance shall be constructed to meet the requirements for two means of access pursuant to Section 712.2.8 From the edge of right-of-way of Bayshore Road inward to the first intersection with internal road(s), each travelway shall measure 24' minimum and the median shall measure 22' minimum. This shall be shown with the Final Site Plan.

25. The gated entrance for the project shall provide permanent access to Manatee County for maintenance of those facilities dedicated to Manatee County. This shall be shown with the Final Site Plan.
26. The pool/cabana facility and related parking area shall meet all minimum setbacks required by the Land Development Code with the Final Site Plan.
27. Prior to Final Plat approval all school impact fees shall be paid.
28. A fence shall be placed on the west side of the project. Landscaping on the west side of project may be located inside the fence.

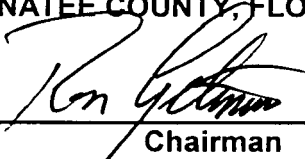
Section 3. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County, Ordinance No. 90-01, the Manatee County Land Development Code, is hereby amended by changing the zoning district classification of the Property identified in Exhibit A herein from the A-1 (Suburban Agriculture, 1 dwelling unit per acre) and GC (General Commercial) zoning districts to the 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.

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 1<sup>st</sup> day of December, 2005.

BY: BOARD OF COUNTY  
COMMISSIONERS  
MANATEE COUNTY, FLORIDA

  
Chairman



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

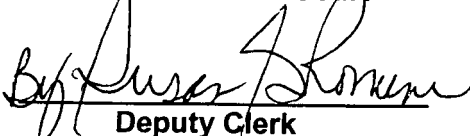
  
Deputy Clerk

EXHIBIT "A"  
LEGAL DESCRIPTION OF THE PROPERTY

BEG AT A CONC MON MARKING THE OCCUPIED SW COR OF THE S1/2 OF THE NE 1/4 OF THE SW 1/4 OF SEC 36-33-17, TH S 89 DEG 10 MIN 24 SEC E, 561.01 FT; TH S 88 DEG 38 MIN 27 SEC E, 242.42 FT; TH S 68 DEG 51 MIN 18 SEC E, 454.09 FT TO A PT ON THE WLY R/W LN OF OLD U S HW 41 (SR #45) SD PT BEING A POINT ON A CURVE, CONCAVE TO THE NW HAVING A RAD OF 963.45 FT; TH NLY, ALONG THE ARC OF SD CURVE & SD WLY R/W LN, THROUGH A CENTRAL ANGLE OF 19 DEG 22 MIN 12 SEC, A DIST OF 325.72 FT (CH = 324.17 FT; CH BEARING = N 12 DEG 04 MIN 02 SEC E) TO THE PT OF INTERSEC OF SD WLY R/W LN & THE WLY R/W LN OF BAYSHORE RD, SD WLY R/W LN BEING A CURVE, CONCAVE TO THE NE, HAVING A RAD OF 209.05 FT; TH NLY, ALG THE ARC OF SD CURVE & SD WLY R/W LN, THROUGH A CENTRAL ANGLE OF 32 DEG 12 MIN 34 SEC, A DIST OF 117.52 FT (CH = 115.98 FT; CH BEARING = N 16 DEG 56 MIN 12 SEC W) TO THE P/T OF SD CURVE; TH N 00 DEG 49 MIN 55 SEC W, ALG SD WLY R/W LN, A DIST OF 49.76 FT; TH N 89 DEG 10 MIN 05 SEC E, ALG SD WLY R/W LN, A DIST OF 32 FT; TH N 00 DEG 49 MIN 55 SEC W, ALG SD WLY R/W LN, A DIST OF 367.34 FT TO A PT LYING N 89 DEG 41 MIN 12 SEC W, 33 FT FROM THE NE COR OF THE S1/2 OF THE NE1/4 OF THE SW 1/4 OF SD SEC 36; TH N 00 DEG 49 MIN 55 SEC W, ALG SD W R/W LN, A DIST OF 10.15 FT; TH N 89 DEG 54 MIN 42 SEC W, 429.31 FT; TH S 45 DEG 05 MIN 18 SEC W, 9.15 FT; TH N 89 DEG 45 MIN 15 SEC W, 854.73 FT; TH S 00 DEG 19 MIN 58 SEC E, 675.85 FT TO THE POB (1641/3709). PI#22471.0000/7



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 9<sup>th</sup> day of

December, 2005.

R.B. SHORE  
Clerk of Circuit Court

By: Diane E. Vallman

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R. B. SHORE

2005 DEC 20 PM 12:57

CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA



FLORIDA DEPARTMENT OF STATE

**David E. Mann**

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

December 16, 2005

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 December 9, 2005 and certified copies of Manatee County Ordinance Nos. PDMU-96-01(G)(R5), PDPI-04-30(Z)(G), PDR-05-34(Z)(P), PDR-05-01(Z)(P) and 05-54, which were filed in this office on December 14, 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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