

FILED FOR RECORD
R. B. SHORE

MANATEE COUNTY ZONING ORDINANCE

2006 SEP 13 PM 3:04 PDR-05-06(Z)(P) – GUINTA/GARDNER/HUPP

CLERK OF THE CIRCUIT COURT
MANATEE COUNTY, FLORIDA
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 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF APPROXIMATELY 51.62 ACRES LOCATED ON THE WEST SIDE OF 96TH AVENUE EAST, APPROXIMATELY ONE HALF (1/2) MILE NORTH OF U.S. 301 FROM THE A (GENERAL AGRICULTURE) AND A-1 (SUBURBAN AGRICULTURE) ZONING DISTRICTS TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT, APPROVING A PRELIMINARY SITE PLAN TO ALLOW 97 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIAL APPROVAL FOR A PROJECT ADJACENT TO A PERENNIAL STREAM; ADOPTION OF THE FINDINGS FOR SPECIFIC APPROVAL; AND GRANTING SPECIFIC APPROVAL FOR AN ALTERNATIVE TO SECTION 907.9.4.2 OF THE LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

2006 SEP - 8 AM 9:04

FILED

WHEREAS, Michael Guinta (the "Applicant") has filed a rezone application to rezone approximately 51.62 acres described in Exhibit "A", attached hereto, (the "Property") from the A (General Agriculture) and A-1 (Suburban Agriculture) zoning districts to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the Applicant has also filed a Preliminary Site Plan application to allow 97 lots for single-family detached residences (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also request Special Approval for a project located adjacent to a perennial stream; and

WHEREAS, the Applicant has also filed a request for Specific Approval of an alternative to Section 907.9.4.2; and

WHEREAS, the Planning Staff has recommended approval of the rezone, Preliminary Site 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 public hearings on April 13, 2006 and May 11, 2006 to consider the rezone, Preliminary Site 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, Preliminary Site 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 from the A (General Agriculture) and A-1 (Suburban Agriculture) zoning districts to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on May 4, 2006, June 1, 2006, August 3, 2006, and August 17, 2006 regarding said proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance 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 89-01, the 2020 Manatee County Comprehensive Plan.

D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.4.2, the Board finds that the public purpose and intent of Section 907.9.4.2 is satisfied to an equivalent degree by the proposed design because wetlands are not impacted.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby APPROVED to allow 97 lots for single-family detached residences upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Specific Approval for an alternative to Section 907.9.4.2 of the Land Development Code, with the following Stipulations:

STIPULATIONS

1. 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 shall include language to inform prospective homeowners of:
 - a) The presence of the kennel and neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises

associated with such uses.

- b) The location of the inter-neighborhood tie and emergency access points.
- 2. All lot owners shall be encouraged to participate in the Florida Yards and Neighborhoods Program. Information shall be provided in the sales office and provided to all lot purchasers.
- 3. Prior to Final Plat approval, a solid 6' high wall, with canopy trees (12' ft. tall, 4' spread and placed 30 ft. on center) and a hedge on the exterior side of the wall shall be installed in the 35' buffer along the south and southwest property lines adjacent to the kennel.
- 4. Prior to Final Site Plan approval, the entire site shall be re-evaluated to determine the level of contamination and appropriate remediation or mitigative measures. Copies of all remediation or mitigation plans along with approvals by appropriate state and or Federal agencies shall be provided to the Planning Department for review and approval by the EMD. All remediation or mitigation activities shall be completed prior to commencement of construction.
- 5. Upland preservation areas shall be clearly delineated, labeled, and quantified on the Final Site Plan. Upland preservation areas shall be consistent with those shown on the Preliminary Site Plan.
- 6. Existing native vegetation within any required buffer shall be preserved to the greatest extent possible. No overhead or underground power lines, swales, or storm water facilities shall be within any landscape buffer containing desirable native vegetation. Compliance with this requirement will be determined at time of Final Site Plan by the Planning Department.
- 7. An Exotic Plant Species Management Plan shall be approved prior to or concurrent with Final Site Plan and Construction Plan approval. The Management Plan shall provide for the continued, phased, removal of nuisance exotic plant species that become reestablished within upland common areas and upland open spaces for the life of the project. Initial removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the Final Plat approval. Exotic plant species removal from upland preserve areas shall be done in a manner which limits the impacts to desirable vegetation.
- 8. Tree barricades for trees to be preserved shall be located at the drip line unless otherwise approved. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees; machinery and vehicle travel or parking, underground utilities, filling or excavation, and storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height or other alternatives and in locations as approved with the Final Site Plan.
- 9. Lots shall not be platted through wetlands, wetland buffers, or upland preservation areas except as shown on approved Preliminary Site Plan.

10. The proper abandonment of all unused wells shall be required per SWFWMD Rule 40D-3.531. Existing wells shall be kept in a water tight manner and be protected during all construction activities. Any wells discovered during land clearing shall be protected or abandoned in accordance with SWFWMD Chapter 40D. A copy of the approved SWFWMD permit shall be provided to the Planning Department prior to Final Site Plan approval.
11. A Well Management Plan for the proper rehabilitation or abandonment of existing wells shall be submitted to the EMD for review and approval prior to Final Site Plan approval.
12. Prior to development related land clearing activities, all applicable County approvals must be obtained through the Planning Department. If burning of trees or branches is required for land clearing, a burn permit must be first obtained from the Environmental Management Department.
13. Any fill within the 25-year floodplain of the Slaughter 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., storm water attenuation and floodplain compensation).
14. The existing 25-year flood elevation along the Slaughter Drain shall be utilized as tail water condition.
15. All streets and culverts shall be designed above the 25-year flood plain.
16. All residential lots shall be located outside of the post-development 25-year floodplain.
17. The calculated pre-development flow rate shall be reduced by up to 50% for all storm water outfall flow directly or indirectly into Slaughter Drain. Modeling shall be used to determine pre-and post- development flows.
18. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats along Slaughter Drain within the project boundaries. In addition, a twenty-five (25) foot Drainage-Maintenance Access Easement shall be provided along both sides of Slaughter Drain.
19. 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 runoff.
20. 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.
21. The applicant shall be required to provide a piped culvert between the drainage outfall for Beck Estates Subdivision at 96th Avenue East and extending north to Slaughter Drain.

22. A separate plan sheet depicting signing and marking (speed limit, stop, and street name signs, etc.) shall be submitted prior to Final Site Plan or Construction Plan approval.
23. Along the south boundary, adjacent to the kennel, the Final Site Plan shall depict lot widths of 75 feet or greater.
24. The applicant shall construct a 5' wide sidewalk extending south on 96th Ave. East from Pine Lane to U.S. 301.
25. Prior to the Final Plat approval, the applicant shall post a sign at the inter-neighborhood tie to inform prospective purchasers and residents of the future inter-neighborhood tie. The size, placement, and materials for this sign shall be determined with the Final Site Plan.
26. The right-of-way and pavement for the inter-neighborhood tie shall extend to the west property line to allow for future connection. This shall be depicted on the Final Site and Construction Plans.
27. The 25' access easement and any applicable right-of-way shall be vacated and become part of this site to accommodate the 20' greenbelt buffer along the south property line.
28. Any gates or emergency access points within or to the project shall be accessible to emergency providers by either a remote control or siren activated system in accordance with Manatee County Ordinance 04-30. Prior to Final Site Plan Approval, the applicant shall receive written approval from EMS and the Fire Marshall approving the proposed system.
29. Internal roads shall be public streets.
30. 96th Avenue East shall be improved to a 24' paved surface from the project entrance to 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 described in Exhibit "A" incorporated herein by reference, from the A (General Agriculture) and A-1 (Suburban Agriculture) 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 17th day of August, 2006.

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

BY: 

Third Vice- **Chairman**

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

BY: 

Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

THE NORTH ½ AND THE SOUTH ½ OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 2, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

TOGETHER WITH:

THE EAST ½ OF THE EAST ½ OF THE NORTH ½ OF THE SE ¼ OF THE NE ¼ OF SECTION 2, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

ALSO TOGETHER WITH:

THE WEST ½ OF THE EAST ½ OF THE NORTH ½ OF THE SE ¼ OF THE NE ¼ OF SECTION 2, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

ALSO TOGETHER WITH:

25' WIDE ACCESS EASEMENTS AS DESCRIBED IN OFFICIAL RECORDS BOOK 546, PAGE 909 AND OFFICIAL RECORDS BOOK 868, PAGE 767 PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

LESS:

PUBLIC RIGHT OF WAY OF PINE ROAD (96TH AVENUE EAST) AS SHOWN ON THE PLAT OF TAMIAMI FARMS RECORDED IN PLAT BOOK 5, PAGE 9, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALL THE ABOVE DESCRIBED SUBJECT PROPERTY CONTAINS 2,248,577.02 SQUARE FEET OR 51.62 ACRES MORE OR LESS.



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 5th day of September, 2006

R.B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.



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

JEB BUSH
Governor

SUE M. COBB
Secretary of State

September 8, 2006

FILED FOR RECORD
R. B. SHORE

2006 SEP 13 PM 3: 03

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

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

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 September 5, 2006 and certified copies of Manatee County Ordinance Nos. PDR-05-06(Z)(P), PDR-03-18(P)(R) and PDR-04-33(Z)(P), which were filed in this office on September 8, 2006.

As requested, one set of date stamped copies are being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/bpn
Enclosures

DIRECTOR'S OFFICE

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