

FILED FOR RECORD
R. B. SHORE

2006 JUN -7 AM 11:22

MANATEE COUNTY ZONING ORDINANCE
PDR-05-28(Z)(P) – HERON CREEK SUBDIVISION

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 3.7 ACRES LOCATED ON THE EAST AND WEST SIDES OF ELLENTON GILLETTE ROAD AT THE SOUTHEAST CORNER OF WILLIS ROAD AND APPROXIMATELY 1/3 MILE NORTH OF 69TH STREET EAST AND 1/3 MILE SOUTH OF I-275, AT 7600 ELLENTON GILLETTE ROAD FROM THE A-1 (SUBURBAN AGRICULTURE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT, APPROVING A PRELIMINARY SITE PLAN TO ALLOW 125 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIAL APPROVAL FOR A PROJECT ADJACENT TO A PERENNIAL STREAM; 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.

WHEREAS, James Stephenson (the "Applicant") has filed a rezone application to rezone approximately 3.7 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture) zoning district to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the Applicant has also filed a Preliminary Site Plan described in Exhibit "B" application to allow 125 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 a public hearing on April 13, 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-1 (Suburban Agriculture) zoning district to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on May 4, 2006 and May 23, 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. The Board finds that the public purpose and intent of Section 907.9.4.2 have been satisfied to an equivalent degree.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan as described in Exhibit "B" is hereby APPROVED to allow 125 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 recreational facility shall include a commercial grade tot lot, playground, benches, shade trees, and picnic tables. The details of the type of equipment and layout shall be shown on the Final Site Plan.
2. A 20' wide landscape buffer, containing two offset rows of canopy and understory trees (10 ft. tall and 4' spread and placed 25 feet on center), and a hedge shall be installed along both sides of Ellenton Gillette Road.

3. A 6' high decorative fence or a combination of fence and berm shall be provided along Willis Road and both sides of Ellenton Gillette Road. All required landscaping shall be placed on the outside or roadway side of the wall.
4. All lots adjacent to active agricultural operations shall have an additional 35' setback. If an adjoining agricultural operation is no longer in effect at the time of submittal of the Final Plat, then the requirements of Section 702.6.7 shall no longer apply, and the additional 35' setback may be eliminated from the Final Plat.
5. A non - ingress egress easement shall be recorded along the frontage of all lots along Ellenton Gillette Road and Willis Road.
6. Prior to Final Site Plan approval, an inter-neighborhood tie shall be shown connecting to the east.
7. 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.
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. All trees within the area proposed for construction activities that are to be preserved shall have protective barricades constructed at their driplines prior to commencement of construction, unless otherwise approved by the Planning Department. No improvements, fill, grade changes, or compaction of soil, due to heavy machinery, will be permitted within the dripline of trees proposed to be preserved, unless otherwise approved by the Planning Department. Tree barricades shall consist of 5' high minimum (new or used) chainlink fencing unless otherwise approved by the Planning Department.
10. A no-rise permit shall be required for all encroachment within the FEMA 100-year floodway of the Buffalo Canal. Any existing or proposed structures within the floodway shall be modeled.
11. The existing 25-year flood elevation along the Buffalo Canal shall be utilized as tailwater condition.
12. All residential lots shall be located outside of the post-development 25-year floodplain.
13. The calculated pre-development flow rate shall be reduced by up to fifty percent (50%) for all stormwater outfall flow directly or indirectly into Buffalo Canal. Modeling shall be used to determine pre- and post-development flows.
14. 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.

15. Any fill within the 100-year and 25-year floodplain of Buffalo Canal shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. Floodplain compensation shall be compensated in sole-use compensation areas, not dual-use facilities (i.e., stormwater attenuation and floodplain compensation).
16. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat along Buffalo Canal and other drainage conveyance systems within the project boundaries. In addition, a twenty-five (25) feet Drainage-Maintenance Access Easement shall be provided along the north top-of-bank of Buffalo Canal. A twenty (20) feet Drainage-Maintenance Access Easement shall be provided along at least one side of all drainage conveyance systems (except Buffalo Canal). Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. The northerly five (5) feet of the Drainage-Maintenance Easement along Buffalo Canal may be landscaped per approval from Stormwater Management Division, Natural Resources Division, and the case planner. Manatee County is only responsible for maintaining the free flow of drainage through these systems.
17. The perimeter buffer along the east property line shall include a 6-foot solid PVC fence or decorative wall with all required landscaping on the inside of the fence or wall.
18. 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 homeowners of:
 - a) The future inter-neighborhood ties to the north and east.
 - b) The presence of the dog kennel/training facility and other neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.
19. West of Ellenton Gillette Road, the developer shall install a 6' high solid fence along the west property line north of the buffer or easement for Frog Creek and along the north property line from the west corner to a point 270' west of Ellenton Gillette Road.
20. The applicant agrees to waive any entitlement to the application or impact fee credits by dedicating the 60' half right-of-way on the east and west side of Ellenton-Gillette road for right-of-way purposes.


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-1 (Suburban Agriculture) zoning district 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 23rd day of May, 2006.

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

BY: 
Vice-Chairman



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

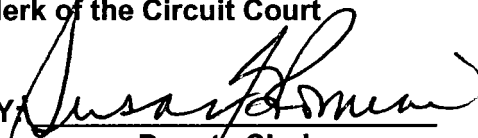
BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR REZONE PARCEL

COMMENCING AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE RUN S 01°03'38" W ALONG THE WEST LINE OF SAID SECTION 29 A DISTANCE OF 1620.24 FEET; THENCE S 80°38'24" E A DISTANCE OF 26.36 FEET TO THE POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTHERLY LINE OF ZONE A1 THE FOLLOWING FIVE COURSES: S 80°38'24" E A DISTANCE OF 780.64 FEET; THENCE S 86°03'14" E A DISTANCE OF 379.31 FEET; THENCE N 00°27'14" E A DISTANCE OF 130.00 FEET; THENCE N 87°27'21" E A DISTANCE OF 180.00 FEET; THENCE N 87°22'18" E A DISTANCE OF 15.38 FEET; THENCE S 01°38'31" W ALONG THE WESTERLY RIGHT OF WAY LINE OF ELLENTON GILLETTE ROAD A DISTANCE 129.57 FEET; THENCE S 01°44'21" W CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 301.22 FEET; THENCE WESTERLY ALONG THE SOUTHERLY PROPERTY LINE OF "HERON CREEK" THE FOLLOWING THREE COURSES: THENCE N 81°34'21" W A DISTANCE OF 327.63 FEET; THENCE N 42°50'12" W A DISTANCE OF 356.90 FEET; THENCE N 82°03'00" W A DISTANCE OF 772.44 FEET; THENCE N 01°03'38" E ALONG THE WESTERLY LINE OF ZONE A1 A DISTANCE OF 28.95 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

EXHIBIT "B"

LEGAL DESCRIPTION FOR ENTIRE PROJECT

THE SOUTH 80 FEET OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST.

ALSO ALL THAT PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST LYING NORTH OF FROG CREEK.

LESS THAT PART DEEDED FOR ROAD AND RECORDED IN DEED BOOK 94, PAGE 390.

ALSO LESS THAT PART DEEDED TO MANATEE COUNTY FOR FROG CREEK CANAL RIGHT OF WAY AS DESCRIBED AND RECORDED IN OFFICIAL RECORD BOOK 234, PAGE 495, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO LESS PUBLIC RIGHT OF WAY NOTED ON FDOT RIGHT OF WAY MAP, SECTION 13175-2403.

TOGETHER WITH PROPERTY DESCRIBED IN QUICK CLAIM DEED, RECORDED IN OFFICIAL RECORD BOOK 896, PAGE 579

ALL BEING MORE PARTICULARLY DESCRIBED AS THE FOLLOWING TWO PARCELS:

DESCRIPTION: WEST PARCEL

COMMENCING AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE RUN S 01°03'30" W, ALONG THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 1221.01 FEET TO THE POINT OF BEGINNING; THENCE S 89°39'50" E, ALONG THE NORTH LINE OF PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 896, PAGE 579, A DISTANCE OF 1346.83 FEET; THENCE S 03°35'57" E, ALONG THE WESTERLY RIGHT OF WAY LINE OF ELLENTON GILLETTE ROAD PER FDOT SECTION 13175-2403, A DISTANCE OF 301.53 FEET; THENCE S 01°44'21" W, ALONG THE WESTERLY MAINTAINED RIGHT OF WAY LINE OF ELLENTON GILLETTE ROAD, A DISTANCE OF 510.53 FEET; THENCE ALONG THE NORTH RIGHT OF WAY LINE OF FROG CREEK AS DESCRIBED IN OFFICIAL RECORD BOOK 234, PAGE 495, THE FOLLOWING THREE COURSES; N 81°34'21" W, A DISTANCE OF 327.63 FEET; THENCE N 42°50'12" W, A DISTANCE OF 356.90 FEET; THENCE N 82°03'00" W, A DISTANCE OF 798.55 FEET; THENCE N 01°03'38" E, ALONG THE AFOREMENTIONED WEST LINE OF SAID SECTION 29, A DISTANCE OF 399.03 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 17.705 ACRES

TOGETHER WITH:

DESCRIPTION: EAST PARCEL

COMMENCING AT THE NORTH QUARTER OF SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST; THENCE RUN S 00°47'38" W, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1255.03 FEET TO THE POINT OF BEGINNING; THENCE S 00°47'38" W, CONTINUING ALONG THE SAID EAST LINE OF THE NORTHWEST QUARTER A DISTANCE OF 1228.21 FEET; THENCE S 46°53'06" W, ALONG THE NORTH RIGHT OF WAY LINE OF FROG CREEK PER OFFICIAL RECORD BOOK 234, PAGE 495, A DISTANCE OF 463.77 FEET; THENCE N 59°24'26" W, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE OF FROG CREEK, A DISTANCE OF 899.45 FEET; THENCE N 01°44'21" E, ALONG THE EASTERLY MAINTAINED RIGHT OF WAY LINE OF ELLENTON GILLETTE ROAD, A DISTANCE OF 530.90 FEET; THENCE N 05°41'58" E, ALONG THE EASTERLY RIGHT OF WAY LINE OF ELLENTON GILLETTE ROAD PER FDOT SECTION 13175-2403, A DISTANCE OF 272.22 FEET; THENCE S 89°42'59" E, ALONG THE SOUTHERLY MAINTAINED RIGHT OF WAY LINE OF WILLIS ROAD (77TH STREET EAST), A DISTANCE OF 1211.22 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 29, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 31.445 ACRES

TOTAL ACREAGE 49.150 ACRES



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 2nd day of June, 2006
R.B. SHORE
Clerk of Circuit Court
By: [Signature] C.C.

FILED FOR RECORD
R. B. SHORE

2006 JUN -7 AM 11:22

CLERK OF CIRCUIT COURT
MANATEE CO FLORIDA



FLORIDA DEPARTMENT OF STATE

Sue M. Cobb

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

June 5, 2006

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 June 2, 2006 and certified copies of Manatee County Ordinance Nos. PDR-05-28(Z)(P) and PDR-04-12(P), which were filed in this office on June 5, 2006.

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

Sincerely,

Liz Cloud
Program Administrator

LC/mp

Enclosures

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