

FILED FOR RECORD  
R. B. SHORE

2005 DEC 20 PM 12: 5

MANATEE COUNTY ZONING ORDINANCE  
PDR-05-34(Z)(P)-CANNON / CALOOSA GARDENS

CLERK OF THE COURT  
MANATEE COUNTY, 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 19.68 ACRES GENERALLY LOCATED AT 815 39<sup>TH</sup> STREET EAST, PALMETTO, FROM THE A-1 (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT, APPROVING A PRELIMINARY SITE PLAN TO ALLOW 124 LOTS FOR SINGLE-FAMILY ATTACHED RESIDENCES, DESIGNATED AS AN AFFORDABLE HOUSING PROJECT WITH AT LEAST 25% OF THE PROJECT DESIGNATED AFFORDABLE; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; GRANTING SPECIAL APPROVAL FOR A PROJECT: 1) EXCEEDING A GROSS DENSITY OF 4.5 DWELLING UNITS PER ACRE IN THE RES-6 FUTURE LAND USE CATEGORY; 2) EXCEEDING A NET DENSITY OF 6 DWELLING UNITS PER ACRE IN THE RES-6 FUTURE LAND USE CATEGORY; AND 3) FOR A PROJECT WITH AN AFFORDABLE HOUSING BONUS OF 6.3 DWELLING UNITS PER ACRE IN THE RES-6 FUTURE LAND USE CATEGORY; GRANTING SPECIFIC APPROVAL FOR ALTERNATIVES TO SECTIONS 710.1.5.1.1, 722.1.3, and 722.1.4.3 (INTERNAL SIDEWALK) OF THE LAND DEVELOPMENT CODE; DENYING SPECIFIC APPROVAL OF ALTERNATIVES TO SECTION 722.1.4.3 (SIDEWALK ALONG 39<sup>TH</sup> STREET EAST) AND SECTION 722.1.4.4 OF THE LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Theolla Cannon (the "Applicant") has filed a rezone application to rezone approximately 19.68 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture, 1 dwelling unit per acre) zoning district to the PDR (Planned Development Residential) zoning district; and,

**WHEREAS**, the Applicant has also filed a Preliminary Site Plan application to allow 124 lots for single-family attached residences, designated as an affordable housing project with at least 25% of the project designated affordable (the "Project") to be located upon the Property; and,

**WHEREAS**, the Applicant has also filed the following requests:

- A. Special Approval to allow for a project: 1) exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category; 2) exceeding a net density of 6 dwelling units per acre in the RES-6 Future Land Use Category; and 3) for a project with an affordable housing bonus of 6.3 dwelling units per acre in the RES-6 Future Land Use Category;
- B. Specific Approval for an alternative to Section 710.1.5.1.1;
- C. Specific Approval for an alternative to Section 722.1.3;
- D. Specific Approval for an alternative to Section 722.1.4.3; and,
- E. Specific Approval for an alternative to Section 722.1.4.4.

BC20051201DOC032

CLERK OF THE COURT  
MANATEE COUNTY, FLORIDA  
2005 DEC 16 AM 8:43

FILED

**WHEREAS**, the Planning Staff has recommended approval of the rezone, preliminary site plan, Special Approval, and Specific Approval applications for Section 710.1.5.1.1, 722.1.3, 722.1.4.3 (internal sidewalk), subject to the stipulations contained in the Planning Staff report and denial of the Specific Approval applications for Section 722.1.4.3 (sidewalk along 39<sup>th</sup> Street) and 722.1.4.4; and,

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held a public hearing on November 10, 2005, to consider the rezone, Preliminary Site Plan, 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, 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, 1 dwelling unit per acre) zoning district 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 finds that the public purpose and intent of Section 710.1.5.1.1 has been satisfied to an equivalent degree, and GRANTS Specific Approval for an alternative to Section 710.1.5.1.1 because 60 feet of right-of-way is provided to allow the parallel parking spaces to be outside of the 24-foot-wide travel way.

E. The Board finds that the public purpose and intent of Section 907.9.3 has been satisfied to an equivalent degree, and GRANTS Specific Approval of an alternative to Section 907.9.3 because safe vehicular access will be provided through the subdivision as designed.

F. The Board finds that the public purpose and intent of Section 722.1.4.3 has been satisfied to an equivalent degree and GRANTS Specific Approval of an alternative to Section 722.1.4.3 to allow a waiver of the requirement for a 5' sidewalk along the south side of the southernmost east-west roadway because adequate pedestrian circulation will be provided through the subdivision.

G. The Board finds that the public purpose and intent of Section 722.1.4.3 has not been satisfied to an equivalent degree and DENIES Specific Approval of an alternative to Section 722.1.4.3 to allow a waiver of the requirement for a 5-foot-wide sidewalk along 39<sup>th</sup> Street East due to the narrow road and an existing ditch because an alternative to provide the required sidewalk is not being provided.

H. The Board finds that the public purpose and intent of Section 722.1.4.4 has not been satisfied to an equivalent degree and DENIES Specific Approval for an alternative to Section 722.1.4.4 because an alternative to provide the required sidewalk is not being provided.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby APPROVED to allow 124 lots for single-family attached residences, designated as an affordable housing project with at least 25% of the project designated affordable, upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval to allow for a project: 1) exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category; 2) exceeding a net density of 6 dwelling units per acre in the RES-6 Future Land Use Category; and 3) for a project with an affordable housing bonus of 6.3 dwelling units per acre in the RES-6 Future Land Use Category, and Specific Approval for alternatives to Sections 710.1.5.1.1, 722.1.3, and 722.1.4.3 (internal sidewalk) of the Land Development Code, with the following Stipulations:

STIPULATIONS:

A. DESIGN AND LAND USE CONDITIONS:

1. The approval of this Preliminary Site Plan is contingent upon the subsequent adoption of the Land Use Restriction Agreement by the Board of County Commissioners. If the Board does not adopt the Land Use Restriction Agreement prior to Final Site Plan submittal then the Preliminary Site Plan shall go back to the Board of County Commissioners.
2. A minimum of 25% of the units shall be offered as affordable housing. This shall be ensured through the execution of a Land Use Restriction Agreement.
3. The design of the buildings shall be in substantial conformance with the elevations entered into the record.

4. The front-yard setback shall be 25-feet to the garage and 20-feet to the dwelling.
  5. All driveways shall be a minimum of 16 feet wide.
  6. The 20-foot-wide roadway buffer and east perimeter greenbelt buffer shall be planted with 3 canopy trees (3-inch caliper as measured 6 inches from base of the tree, 12-feet high, and 5-foot spread) and 33 shrubs (30 inches at time of planting) per 100-feet with a fence or wall.
  7. 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.
  8. No detention or retention ponds shall be constructed within landscape buffers or greenbelts.
  9. No lots shall be platted through any greenbelt, landscape buffer, retention pond, wetland, or wetland buffer.
  10. Recreational amenities shall include commercial grade play equipment and be depicted on the Final Site Plan(s). All playgrounds shall have a minimum of 5 shade trees, either planted or existing, around each playground.
  11. The developer is put on notice that the County and School Board are required to establish school concurrency. Until such time as the details of that program are adopted, this approval does not guarantee capacity under the terms of the future program, to the extent school concurrency is legally applicable to the project.
  12. Notices 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 in the project that an inter-neighborhood tie for this project shall connect to a future roadway when development occurs on the property to the south.
  13. Signs shall be installed at the future connection at the south perimeter of the project prior to Final Plat approval notifying residents in the project of the future tie and possible connection to the property to the south.
- B. ENVIRONMENTAL CONDITIONS:
1. Based on the environmental assessment provided by the applicant, this property appears to contain levels of Arsenic above the residential soil cleanup levels (SCTL's) contained within Chapter 62-777 F.A.C. Prior to Final Site Plan approval, the entire site shall be re-evaluated to determine the level of contamination and appropriate remediation/mitigative measures as approved by the Environmental Management Department Director. Copies of a remediation/mitigation plans along the approvals by appropriate State or Federal agencies shall be provided to the Planning Department. All remediation/mitigation activities shall be completed prior to commencement of

construction. A remediation plan shall be reviewed and approved by the Environmental Management Department Director.

2. The developer shall provide an updated study, consistent with Policy 3.3.2.3 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. A Management Plan, approved by the appropriate State or Federal agency, shall be provided to the Planning Department for any listed species found on-site, prior to Final Site Plan approval.
3. 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.
4. All wells discovered during land clearing shall be protected or abandoned in accordance with SWFWMD Rule Chapter 40D.

C. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS:

1. Prior to Final Plat approval, a 5' sidewalk shall be installed or bonded on the south side of 39<sup>th</sup> Street East, adjacent to the project.
2. Prior to Final Site Plan approval, the proposed handicap ramps as identified on the site plan shall meet all present FDOT standards. Designated crosswalk markings are required at the intersection of roads A and D and at the entrance to the development.
3. The Developer shall build a 5' sidewalk from the northwest corner of the site on 39<sup>th</sup> Street East to connect to the existing sidewalk to the west of the railroad crossing. In addition, at the time of the first Final Subdivision Plat, the applicant shall pay its proportionate share of the cost of 5' sidewalks from the northeast corner of the site on 39<sup>th</sup> Street East to connect to the existing sidewalk on Canal Road at 33<sup>rd</sup> Street East. The cost of the applicant's share has been determined to be \$19,500.00. A school bus stop shall be provided at the project entrance as determined in cooperation with the school board.

D. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS:

1. Any fill within the 25-year floodplain of the Tampa Gap Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table.
2. Existing storage volume in existing wetlands and drainage ditches shall be compensated with equal or greater volume in the proposed stormwater retention pond.
3. 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.
4. All components of the proposed drainage system shall be reviewed and approved by the

Manatee County Transportation Department's Drainage Division prior to sign off of the Final Site Plan.

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, 1 dwelling unit per acre) 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, is 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:

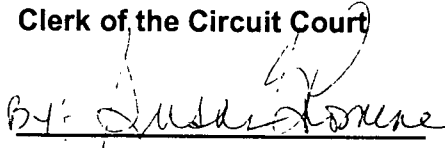
MANATEE COUNTY, FLORIDA  
BOARD OF COUNTY  
COMMISSIONERS

  
Chairman



ATTEST:

R. B. SHORE  
Clerk of the Circuit Court

  
Deputy Clerk

Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 1, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, AS REFERENCED IN CERTIFIED CORNER RECORD DOCUMENT NUMBERS 14450, 28823, AND 58199, FILED WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; THENCE NORTH  $00^{\circ} 21' 44''$  EAST, ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE OF 1,981.71 FEET TO THE NORTHEAST CORNER OF THE S  $\frac{1}{2}$  OF THE NE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1; THENCE NORTH  $89^{\circ} 57' 36''$  WEST, ALONG THE NORTH LINE OF THE S  $\frac{1}{2}$  OF THE NE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1, A DISTANCE OF 1,337.53 FEET TO THE NORTHWEST CORNER OF SAID S  $\frac{1}{2}$  OF THE NE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1; THENCE SOUTH  $00^{\circ} 31' 38''$  WEST, ALONG THE EAST LINE OF THE S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1; BEING 25 FEET WEST OF AND PARALLEL TO THE WEST LINE OF LOTS 99 AND 100 OF THE PLAT OF PALMETTO GROVE AND GARDEN CO., AS RECORDED IN PLAT BOOK 1, PAGE 317 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, A DISTANCE OF 20.40 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF 39<sup>TH</sup> STREET EAST AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH  $00^{\circ} 31' 38''$  WEST, ALONG SAID EAST LINE OF THE S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1, BEING 25 FEET WEST OF AND PARALLEL TO THE WEST LINE OF LOTS 99 AND 100 OF AFORESAID PLAT OF PALMETTO GROVE AND GARDEN CO., A DISTANCE OF 641.42 FEET TO THE SOUTHEAST CORNER OF SAID S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1; THENCE NORTH  $89^{\circ} 52' 53''$  WEST, ALONG THE SOUTH LINE OF THE S  $\frac{1}{2}$  OF SAID NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1, BEING 25 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF LOTS 68 AND 88 OF AFORESAID PLAT OF PALMETTO GROVE AND GARDEN CO., A DISTANCE OF 1,339.18 FEET TO THE SOUTHWEST CORNER OF SAID S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1; THENCE NORTH  $00^{\circ} 40' 09''$  EAST, ALONG THE WEST LINE OF SAID S  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 1, BEING 25 FEET EAST OF AND PARALLEL TO THE EAST LINE OF LOTS 53 AND 54 OF AFORESAID PLAT OF PALMETTO GROVE AND GARDEN CO., A DISTANCE OF 638.37 FEET TO AFORESAID SOUTHERLY RIGHT-OF-WAY LINE OF 39<sup>TH</sup> STREET EAST; THENCE NORTH  $89^{\circ} 59' 16''$  EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1,337.53 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 1, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIONS OF RECORD.

CONTAINING 19.68 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 9<sup>th</sup> day of

December, 2005

R.B. SHORE  
Clerk of Circuit Court

By: Diase E. Vollmer, P.C.

FILED IN RECORD  
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

☐ STATE LIBRARY OF FLORIDA

R.A. Gray Building • Tallahassee, Florida 32399-0250 • (850) 245-6600

FAX: (850) 488-2746 • TDD: (850) 922-4085 • <http://www.dos.state.fl.us>

☐ LEGISLATIVE LIBRARY SERVICE  
(850) 488-2812 • FAX: (850) 488-9879

☐ RECORDS MANAGEMENT SERVICES  
(850) 487-2180 • FAX: (850) 413-7224

☐ FLORIDA STATE ARCHIVES  
(850) 245-6700 • FAX: (850) 488-4894

☐ ADMINISTRATIVE CODE AND WEEKLY  
(850) 245-6270 • FAX: (850) 245-6282