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CLERK OF THE DISTRICT COURT
MANATEE COUNTY, FLORIDA

MANATEE COUNTY ZONING ORDINANCE

PDR-05-49(Z)(P) – R & S BURNSTORE HARBORSIDELL / PRISTINE POINT

FILED
2009 FEB 16 PM 1:29
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 179.42 ACRES ON THE SOUTH SIDE OF ERIE ROAD AT 11405 ERIE ROAD FROM A/NCO (GENERAL AGRICULTURE/NORTH CENTRAL OVERLAY) TO THE PDR/NCO (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY; APPROVAL OF A PRELIMINARY SITE PLAN FOR 400 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, R & S Burnstore Harborside (the "Applicant") filed an application to rezone approximately 179.42 acres described in Exhibit "A", attached hereto, (the "property") from A/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential) zoning district, retaining the North Central Overlay; and

WHEREAS, the applicant also filed a Preliminary Site Plan application for 400 lots for single-family detached residences (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) exceeding gross density of 1 dwelling unit per acre in the UF-3 Future Land Use Category; and 2) adjacent to a Perennial Stream; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, and Special Approval subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on January 22, 2009 to consider the rezone, Preliminary Site Plan, and Special Approval, received the staff recommendation 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 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 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, 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 A/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential) zoning district, retaining the North Central Overlay.

B. The Board of County Commissioners held a duly noticed public hearing on February 3, 2009, regarding the 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. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the Preliminary Site Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 400 lots for single-family detached residences upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Any significant historical or archaeological resource discovered during development activities shall be immediately reported to the Florida Division of Historical Resources and treatment of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County. Treatment of the resources must be completed before resource-disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Chapter 872, Florida Statutes (Offences Concerning Dead Bodies and Graves) shall be followed.
2. All corner lots shall be 15% wider than the minimum lot size identified for each phase or lot type. If there is common open space between the lot and the right-of-way, the common open space and the side yard setback combined shall meet the minimum front yard setback.

3. No lots shall be platted through any greenbelt, landscape buffer, retention pond, wetland, or wetland buffer.
4. Prior to Final Plat approval, the applicant shall post signs at the inter-neighborhood ties informing perspective 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.
5. Any phase of this project containing more than one hundred (100) dwelling units shall have a second means of access in accordance with LDC Section 712.2.8.

B. TRANSPORTATION CONDITIONS:

1. At the time of Final Site Plan and Construction Plan approval for each phase of the project, the developer shall be responsible for any additional on-site or off-site transportation operational and safety improvements attributable to this project, as determined by the Public Works Department, and in accordance with LDC Section 722.1.3.4., as well as any capacity improvements associated with the issuance of a Certificate of Level of Service.
2. All traffic concurrency-related transportation improvements and required traffic safety and operational improvements shall be shown on the Final Site Plan(s) and Construction Plan(s).
3. Public internal residential streets shall be constructed to Manatee County Transportation Standard Detail 401.8. (50' R/W, 24' roadway width, 2' curb and gutter design, with 5' sidewalk located on both sides of the street).

C. STORMWATER CONDITIONS:

1. Landscaping from Erie Road south to Lot #21 shall be placed within the eastern half of the greenbelt buffer so as not to interfere with the existing drainage ditch.
2. A no-rise permit will be required for all encroachment within the FEMA 100-year floodway of the Wade Canal. Any existing or proposed structures within the floodway shall be modeled.
3. Any fill within the 25-year or 100-year floodplains of the Wade Canal shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year and 25-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
4. There shall be a full 25-year attenuation on all stormwater ponds within the development.

5. The existing 25-year flood elevation along the Wade Canal shall be utilized as tailwater condition.
6. 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 Wade Canal. Modeling shall be used to determine pre- and post- development flows.
7. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat along Wade Canal within the project boundaries. In addition, a Drainage-Maintenance Access Easement shall be provided along Wade Canal. Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Manatee County is only responsible for maintaining the free flow of drainage through these systems.
8. All residential lots shall be located outside of the post-development 25-year floodplain.
9. Existing storage volume in existing wetlands and drainage ditches shall be compensated with equal or greater volume in the proposed stormwater retention pond.
10. Routing and modeling of the existing conditions shall be provided with the Drainage Model and Construction Plan for all natural drainage systems within and surrounding this project taking into consideration all wetland storage and ground depressions.
11. 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.
12. The developer shall provide a drainage easement to Manatee County to accept stormwater for one-half of future Erie Road widening to four (4) lanes that is immediately adjacent to the site. The developer shall design and construct the stormwater capacity for one-half of the future four (4) lane divided roadway within the project frontage and such design and construction shall be included in the SWFWMD permit documentation.

D. BUFFERS:

1. No detention or retention ponds shall be constructed within landscape buffers or greenbelts.
2. Existing native vegetation within required landscape buffers shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or stormwater facilities within any proposed landscape buffer containing desirable native vegetation.
3. All required landscaping within the buffers shall be installed on the exterior of any walls or fences.

4. All walls and fences within the buffers shall be measured from the finished grade of the adjacent road or lot (exclusive of any swales), whichever is greater. This requirement shall be verified with a cross-section detail on the Final Site Plan.
5. At time of Final Site Plan approval, all perimeter buffers adjacent to active agriculture shall be a minimum of 35' wide. At time of Final Plat approval, if active agriculture is no longer present, the buffers may be reduced to 20'.

E. ENVIRONMENTAL CONDITIONS:

Wetland Protection:

1. An ERP approved by SWFWMD shall be provided to the Planning Department for review prior to Final Site Plan approval.
2. Prior to Final Plat approval, a Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers and the approximate 1.75 acre upland preservation area (east of Lake Q) shall be dedicated to the County in accordance with Section 719.11.1.3 of the LDC.
3. Should Wade Canal be claimed as a jurisdictional wetland by SWFWMD, design modifications will be required to meet the wetland and wetland buffer criteria in Section 719 of the LDC.

Tree Protection Measures:

4. The Final Site Plan shall be designed to retain as many of the existing trees along Wade Canal as feasible. Fill slopes and other improvements for Lots 40-58 shall not be constructed within the driplines of trees in the rear lots unless otherwise approved by the Planning Department.
5. Due to the high quality of the existing oak trees, stemwall construction or other alternatives acceptable to the Planning Department, shall be used on Lots 327 and 398 to protect the 16" and 30" trees. Additionally, every effort shall be made to design lake banks around the following oak trees: 24" and 36" west of Lot 367-368, and 31" at Lake H. Also, the 31" and two 20" oaks in the southern landscape buffer (near Lots 344 and 399) shall be retained post construction. The Final Site Plan shall be designed to protect a minimum of 85% of the dripline canopies of these specific trees during construction. Details will be reviewed by the Planning Department with the Final Site Plan.
6. No ground disturbing improvements or structures shall be constructed within the driplines of remaining trees within proposed recreation areas and common areas. All proposed features (e.g. trails, gazebos) shall be shown on the Final Site Plan for review.

7. Applicant shall provide appropriate drainage features as necessary to ensure survivability of remaining trees post-construction. Drainage features (e.g. swales, pipes) shall be reviewed with the Final Site Plan.
8. This project area is located within the North Central Overlay District. Final Landscape Plans shall comply with all applicable aspects of Section 604.10.

Wildlife Protection:

9. This site shall be re-evaluated for the presence of threatened and endangered species prior to Final Site Plan approval, per Section 736.3.7.1.4.
10. The Final Site Plan shall reflect the use of wildlife connection pipes (RCP's or similar methods, rumble strips, or signs) to maintain connectivity between the wetlands. These features are subject to review and approval with the Final Site Plan.

Well Protection:

11. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Planning Department for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - D.
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.

F. RECREATIONAL:

1. In Recreation Area #2, applicant shall provide a 30-foot by 30-foot pavilion with two ADA accessible bathrooms and an ADA accessible drinking water fountain.
2. In Recreation Area #2, applicant shall provide a turf grass sodded and maintained, multi-purpose open playfield of a minimum size of 200-feet by 85-feet.
3. In Recreation Area #1, applicant shall provide a multi-sport game court with an asphalt or other court surface, and a minimum size of 30-feet by 60-feet, that provides basketball, volleyball, or tennis play area with nets and goals to be included.
4. Detailed plans of all recreational amenities, including those stipulated above shall be required with or prior to the Final Site Plan.

G. NOTICES

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, and shall include language informing prospective homeowners in the project:
 - a. The location of the inter-neighborhood ties and the potential for future traffic through the subdivision,
 - b. The potential uses associated with surrounding agriculture zoning which may have a negative impact on residences (e.g., noise and odor).

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for a project: 1) exceeding gross density of 1 dwelling unit per acre in the UF-3 Future Land Use Category, and 2) adjacent to a Perennial Stream. This Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

Section 4. 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 classification of the property identified in Exhibit "A" herein from A/NCO (General Agriculture/North Central Overlay) to the PDR/NCO (Planned Development Residential) zoning district, retaining the North Central Overlay, 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 Official Zoning Atlas.

Section 5. 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, clause, sentence, 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 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

(Signature block on next page)

Section 7. 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 3rd day of February, 2009.

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

BY: 
Dr. Gwendolyn Y. Brown, Chairman

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

BY: 
Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION (CREATED BY SAMPEY, BURCHETT AND KNIGHT, INC.)

A parcel of land lying in the West half of Sections 30 and 31, Township 33 South, Range 19 East, Manatee County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Section 30; thence N 00°06'05" W, a distance of 3098.27 feet to the Southerly maintained right-of-way of Erie Road (also known as Big Sawgrass Road) as recorded in Road Plat Book 2, Page 173, of the Public Records of Manatee County, Florida; thence N 73°28'45" E, along said maintained right-of-way a distance of 682.35 feet; thence N 72°43'51" E along said maintained right-of-way, a distance of 499.46 feet; thence N 73°32'12" E along said maintained right-of-way, a distance of 192.87 feet; thence S 23°53'12" E, a distance of 546.40 feet; thence N 73°30'02" E, a distance of 540.00 feet; thence N 23°53'12" W, a distance of 545.74 feet returning to said maintained right-of-way for the following three (3) calls; thence N 73°36'42" E, a distance of 267.04 feet; thence N 73°57'13" E, a distance of 500.01 feet; thence N 73°49'47" E, a distance of 122.88 feet to the Easterly line of the West half of Section 30 (said line also being the Westerly right-of-way line of Martha Road, 50.00 feet wide); thence S 00°09'25" E, along said Westerly right-of-way line of Martha Road, a distance of 2188.43 feet; thence leaving said right-of-way S 88°34'04" W, a distance of 994.72 feet; thence S 00°12'03" E, a distance of 1750.68 feet to the centerline of Wade Canal; thence S 80°08'23" W along the centerline of Wade Canal, a distance of 1729.67 feet to the Westerly line of said Section 31; thence N 00°28'27" E, along the West line of Section 31, a distance of 364.39 feet to the Point of Beginning.



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 14th day of

February 2009

R.B. SHORE
Clerk of Circuit Court

By [Signature] C.C.



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R. B. SHORE

2009 FEB 23 PM 1:31

FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

February 16, 2009

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

Attention: Ms. 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 February 12, 2009 and certified copies of Manatee County Ordinance Nos. PDC-07-22(Z)(P), 09-07, 09-09, PDMU-06-102(Z)(P), PDR-05-02(P), PDMU-06-22(Z)(P) and PDR-05-49(Z)(P), which were filed in this office on February 16, 2009.

As requested, one date stamped copy is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

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