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R. B. SHORE

2008 DEC 23 AM 10:42

CLERK OF DISTRICT COURT
MANATEE CO. FLORIDA

**MANATEE COUNTY ZONING ORDINANCE
PDR-05-67(Z)(P) – PARSONS BROWN ORANGES, INC. / HERON BAY**

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 THE REZONING OF APPROXIMATELY 38.56 ACRES ON THE EAST SIDE OF US 41 NORTH, ± ONE HALF (1/2) MILE SOUTH OF MOCCASIN WALLOW ROAD AT 9100 AND 9302 US 41 NORTH, PALMETTO FROM A-1 (SUBURBAN AGRICULTURE) TO THE PDR PLANNING DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 196 LOTS FOR SINGLE-FAMILY ATTACHED RESIDENCES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Parsons Brown Oranges, Inc. / Heron Bay (the "Applicant") filed an application to rezone approximately 38.56 acres described in Exhibit "A" attached hereto, (the "property") from A-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the applicant filed a Preliminary Site Plan for 196 lots for single-family attached residences (the "Project") on the property; and

WHEREAS, the applicant filed a request for Special Approval for a project within an Entranceway; and

WHEREAS, the applicant filed a request for Specific Approval for an alternative to Section 907.9.1.3 of the Land Development Code which requires inter-neighborhood ties; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Special Approval, and Specific Approval for alternatives to Section 907.9.1.3, 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 September 11, 2008 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific 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 Rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications consistent with the Manatee County Comprehensive Plan and to

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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 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-1 (Suburban Agriculture) to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on December 4, 2008 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 the 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.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.1.3, the Board finds that the proposed design satisfies the public purpose and intent of the LDC regulations to an equivalent degree because emergency vehicles will have access in both directions through the otherwise private gated streets.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 196 lots for single – family attached residences on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Prior to FSP approval, the applicant shall provide a noise mitigation plan to the staff for mitigation of noise from thoroughfare roads. Such analysis shall demonstrate noise mitigation based on projected 2025 traffic volumes. The noise mitigation measure shall be installed as required by the approved plan.

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).

C. UTILITIES CONDITIONS:

1. The applicant shall be responsible for bringing County water and sewer to the site. This approval is contingent upon the site being served by public utilities.
2. 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.

D. STORMWATER CONDITIONS:

1. There shall be full 25-year attenuation on all stormwater ponds within the development.
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. 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.
4. 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.
5. The developer shall provide an easement to Manatee County to accept stormwater for the future widening of U.S. 41 to accommodate roadway expansion along with a right of access to modify the stormwater system to create additional treatment and attenuation capacity at the expense of the County.

E. ENVIRONMENTAL PLANNING:

1. The applicant shall provide full wetland mitigation details concurrent with the Final Site Plan to Planning Department.
2. A Water Well Construction Permit must be obtained from the County prior to construction of the proposed well(s).
3. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
4. Underground or above-ground pollutant storage tank installation or removal must conform to the requirements of Chapters 62-761, Florida Administrative Code. There shall be no open burning of trees or branches for land clearing.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for a project with an Entranceway. The Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for an alternative to Section 907.9.1.3 of the Land Development Code. The Specific 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 district classification of the property identified in Exhibit "A" herein from A-1 (Suburban Agriculture) 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 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.

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 4th day of December, 2008.

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

BY: *Dr. Gwendolyn Y. Brown*
Dr. Gwendolyn Y. Brown, Chairman

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

BY: *R. B. Shore*
Deputy Clerk

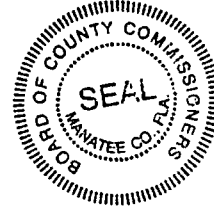


EXHIBIT "A"

LEGAL DESCRIPTION

A TRACT OF LAND LYING IN SECTION 28, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWESTERLY CORNER OF GREYHAWK LANDING, PHASE 1, AS RECORDED IN PLAT BOOK 38, PAGES 129 THROUGH 140, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE N.00°13'10"W., ALONG THE WESTERLY LINE OF GREYHAWK LANDING, PHASE 1, A DISTANCE OF 328.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N. 00°13'10"W., ALONG SAID WESTERLY LINE, A DISTANCE OF 807.44 FEET; THENCE N.87°58'40"W., A DISTANCE OF 358.69 FEET; THENCE S.02°01'20"W., A DISTANCE OF 600.03 FEET; THENCE N.87°58'40"W., A DISTANCE OF 159.15 FEET TO A POINT OF CURVE (P.C.) OF A CURVE TO THE LEFT HAVING A RADIUS OF 204.00 FEET AND A CENTRAL ANGLE OF 43°53'43"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 156.29 FEET; THENCE S.48°07'38"W., A DISTANCE OF 31.73 FEET; THENCE N.87°58'40"W., A DISTANCE OF 126.34 FEET; THENCE S.02°01'20"W., A DISTANCE OF 487.41 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 64, AS DESCRIBED IN OFFICIAL RECORDS BOOK 2533, AT PAGE 2635, SAID PUBLIC RECORDS; THENCE N.89°56'56"E., ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 495.04 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.87°16'22"E., A RADIAL DISTANCE OF 50.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 55°12'39", A DISTANCE OF 48.18 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 52°42'12"; THENCE NORTHEASTERLY ALONG THE ARC, A DISTANCE OF 183.97 FEET; THENCE N.00°13'10"W., A DISTANCE OF 126.87 FEET; THENCE N.89°46'49"E., A DISTANCE OF 260.00 FEET TO THE POINT OF BEGINNING.

THE FOLLOWING THREE COORDINATES AND DISTANCES SHALL BE ADDED INTO THE LEGAL DESCRIPTION BASED ON THE REVISED BOUNDARY:

THENCE S89°59'10"E, A DISTANCE OF 358.60 FEET; THENCE N00°22'38"W, A DISTANCE OF 71.86 FEET; THENCE N89°22'41"W, A DISTANCE OF 291.65 FEET;

CONTAINING 17.1 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 10th day of

December, 2008

R.B. SHORE
Clerk of Circuit Court

By: Debi Jessner B.C.



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FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

CLERK OF CIRCUIT COURT
MANATEE CO. FLORIDA

KURT S. BROWNING
Secretary of State

December 16, 2008

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

Attention: Ms. Vicki Tessmer, D.C.

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated December 10, 2008 and certified copies of Manatee County Ordinance Nos. 08-27, 08-30, 08-52, 08-60, 08-81, PDR-05-67(Z) (P), PDR-06-73(Z) (P), PDR-08-13(Z) (P), Z-08-02, PDEZ-08-19(Z) (G) (R), PDEZ-08-20(Z) (G), PDEZ-08-21(Z) (G) (R), PDEZ-08-22(Z) (G) (R), PDPI-06-43(Z) (P), , which were filed in this office on December 15, 2008.

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

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

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