

FILED FOR RECORD
• R. B. SHORE

2007 NOV 20 AM 8:44

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

MANATEE COUNTY ZONING ORDINANCE

PDR-05-77(Z)(P) – MB BUILDERS/MOONLIGHT PASS CONDOMINIUMS

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 2.16 ACRES ON THE EAST SIDE OF 39TH STREET EAST, NORTH OF THE INTERSECTION WITH 37TH STREET EAST FROM A-1 (SUBURBAN AGRICULTURE, ONE DWELLING UNIT PER ACRE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 13 MULTI-FAMILY DWELLING UNITS WITH 9 UNITS (70%) DESIGNATED AS WORK FORCE HOUSING; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, MB Builders, Inc. (the "Applicant") has filed a rezone application to rezone approximately 2.16 acres described in Exhibit "A", attached hereto, (the "Property") from the A-1 (Suburban Agriculture, one 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 for 13 multi-family dwelling units with 9 units (70%) designated as work force housing (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also filed a request for Special Approval for a project in the RES-6 Future Land Use Category that exceeds 4.5 d.u./acre; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, and Special 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 July 12, 2007, to consider the rezone, Preliminary Site Plan, and Special 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 and Preliminary Site Plan 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, and the granting of the Special Approval for a project in the RES-6 Future Land Use Category that exceeds 4.5 d.u./acre.

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, one dwelling unit per acre) zoning district to the PDR (Planned Development Residential) zoning district.
- B. The Board of County Commissioners held duly noticed public hearings on August 2, 2007, September 6, 2007, and November 1, 2007, 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 89-01, the 2020 Manatee County Comprehensive Plan.
- D. For the purposes of granting Special Approval for a project with a gross density exceeding 4.5 dwelling units per acre in the RES-6 Future Land Use category, the Board hereby finds that the project 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 13 multi-family dwelling units with 9 units (70%) designated as work force housing upon the Property subject to the following Stipulations:

STIPULATIONS

STORMWATER:

- 1. Any fill within the 100-year floodplain of Pearce Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table.
- 2. There shall be a full 25-year attenuation on all stormwater ponds within the development.

3. 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 Pearce Drain. Modeling shall be used to determine pre- and post- development flows.
4. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan along the ditch that runs along the east property boundary within the project boundaries. In addition, a twenty (20) foot Drainage- Maintenance Access Easement shall be provided along the ditch that runs along the east property boundary. 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.
5. The Drainage Model, Final Site Plan, 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.
6. The minimum floor elevation shall be a minimum of twenty-one (21) inches above the highest elevation of the street or crown of the street, which ever is greater; as measured along the entire frontage of the lot on which the building is located.

ENVIRONMENTAL:

7. A Water Well Construction Permit must be obtained from Manatee County prior to construction of the proposed well(s).
8. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
9. Underground or aboveground pollutant storage tank installation/removal must conform to the requirements of Chapters 62-761, Florida Administrative Code.
10. There shall be no burning of trees or branches for land clearing.

SITE DESIGN:

11. Design for the multi-family structure shall be in substantial conformance with the elevation drawings entered into the record at the public hearing before the Board of County Commissioners for this project.
12. The 10 ft. right-of-way easement on 39th Street East shall be shown on the Final Site Plan and Construction Drawings.

TRANSPORTATION:

13. The west access onto 39th Street East shall be limited to right-in/right-out only when the project (Westport Ventures) on the north side of 39th Street East constructs a street access onto 39th Street East. The west access may be a full access prior to the construction of the Westport Ventures street access.

However, should the County deem it necessary for public safety purposes when the realignment of 37th Street and 39th Street occurs the west access may be limited to right-in/right-out only at the County's option.

The west access may remain a full access if any of the following occurs:

- a. The current Westport Ventures project is withdrawn,
 - b. The current Westport Ventures project is denied by the Board of County Commissioners, or
 - c. The Westport Ventures street access onto 39th Street East is required to be aligned with the west access onto 39th Street. East.
14. The Homeowner's Documents shall include a notice to inform homeowners of the potential right-in/right-out access limitation on the west access onto 39th Street East. These documents shall also include notice that there is a County maintenance facility and stockpile yard to the south.

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for a project with a gross density exceeding 4.5 dwelling units per acre in the RES-6 Future Land Use category. 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 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 the A-1 (Suburban Agriculture, one 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, are hereby instructed to cause such amendment to the said Official Zoning Atlas.

Section 5. 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 6. 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.

(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 1st day of November, 2007.

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

BY: _____

Guy Stein
Chairman



ATTEST:

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

BY: _____

R. B. Shore
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 35 SOUTH, RANGE 18 EAST, FOR A POINT OF BEGINNING; THENCE N.89°59'49"E., ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 16, A DISTANCE OF 735.39 FEET TO THE CENTER LINE OF AN EXISTING CANAL; THENCE N.04°44'40"E., ALONG THE CENTERLINE OF SAID CANAL, A DISTANCE OF 284.49 FEET; THENCE S.72°34'46"W., A DISTANCE OF 795.68 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 16; THENCE S.00°23'05"E., ALONG SAID WEST LINE OF SECTION 16, A DISTANCE OF 45.31 FEET TO THE POINT OF BEGINNING, BEING AND LYING IN SECTION 16, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.



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 7th day of November, 2007
R.B. SHORE
Clerk of Circuit Court
By: [Signature] D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

November 13, 2007

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

FILED FOR RECORD
R. B. SHORE

2007 NOV 20 AM 8:43

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

Attention: Quantana Acevedo, D.C.

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated November 7, 2007 and certified copies of Manatee County Ordinance No. 07-68, PDR-06-09(Z)(P), PDMU-05-19(Z)(G), PDC-07-16(Z)(P), PDR-06-31(Z)(P) and PDR-05-77(Z)(P), which were filed in this office on November 9, 2007.

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

Sincerely,

Liz Cloud
Program Administrator

LC/lbh
Enclosures

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dils.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
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ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282