

FILED FOR RECORD
R. B. SHORE

2007 JUN 29 AM 9:51

**MANATEE COUNTY ZONING ORDINANCE
PDR-06-40(Z)(P) – NORTHERN TRUST BANK / MANATEE COVE**

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS 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 62.44 ACRES AT THE SOUTHEAST CORNER OF U.S. 301 AND 38TH AVENUE EAST FROM A-1 (SUBURBAN AGRICULTURE) ZONING DISTRICT TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW 558 SINGLE AND MULTI-FAMILY UNITS, WITH 10% WORKFORCE HOUSING AND 25% AFFORDABLE HOUSING; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

2007 JUN 21 AM 11:33

FILED

WHEREAS, Northern Trust Bank (the "Applicant") has filed a rezone application to rezone approximately 62.44 acres described in Exhibit "A", attached hereto, (the "Property") 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 application for 558 single and multi-family units, with 10% workforce housing and 25% affordable housing (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also filed a request for Special Approval for a project: 1) exceeding 6 dwelling units per acre in the RES-9 Future Land Use Category and 2) exceeding a net density of 9 dwelling units per acre in the RES-9 Future Land Use Category; 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 public hearings on May 10, 2007, and May 23, 2007 to consider the rezone, Preliminary Site Plan, and Special Approval, applications, received the Planning staff 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 exceeding 6 dwelling units per acre in the RES-9 Future Land Use Category.

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 the 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 24, 2007 and June 12, 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 No. 89-01, the 2020 Manatee County Comprehensive Plan.

Section 2. PRELIMINARY SITE PLAN The Preliminary Site Plan is hereby approved for 558 single and multi-family units, with 10% workforce housing and 25% affordable housing upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval for a project: 1) exceeding 6 dwelling units per acre in the RES-9 Future Land Use Category and 2) exceeding a net density of 9 dwelling units per acre in the RES-9 Future Land Use Category; with the following Stipulations:

STIPULATIONS

SITE PLAN

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. Any required noise mitigation measure shown in the plan shall be installed as required by the approved plan. If noise mitigation measures include fences or walls with the roadway buffers, then all required landscaping shall be on the roadway side of the fence or wall.
2. The Final Site Plan shall include a redesign of the northwest multi-family portion of the site to relocate two to four buildings facing US 301 a minimum of five (5) feet to the east. Further, a minimum eight (8) foot tall solid, opaque wall shall be installed along US 301 and raised pavers shall be placed across the drive aisle nearest US 301 in at least two locations as approved by the Planning Director.

3. The applicant shall provide a 25 ft. wide screening buffer with the 6' decorative, opaque wall and landscaping along the US 301 and 38th Ave. E. frontages. The applicant shall provide a 20 ft. wide screening buffer with the 6' decorative, opaque wall and landscaping along the 30th Street E. frontage.
4. Upon issuance of a Certificate of Occupancy for every hundredth unit, the applicant must show that ten percent (10%) of the units are designed as workforce housing and twenty-five (25%) as affordable housing, all subject to a Land Use Restriction Agreement as required pursuant to Stipulation 5 below. Until such showing is made, no further Certificates of Occupancy may be issued. For example, before a Certificate of Occupancy is issued for the 301st unit, the applicant must show that at least 30 of the existing units are designated as workforce housing and 75 of the existing units as affordable housing.
5. This project shall contain 25% affordable housing and 10% work force housing, as defined by the County. A Land Use Restriction Agreement outlining these designations shall be submitted for approval within 45 days of Preliminary Site Plan approval for this project.
6. The applicant shall not obtain approval of either a Preliminary Plat, Final Site Plan, or Construction Drawings until all wetland lines have been field verified by SWFWMD.
7. The setback along 30th Street East and south of 44th Avenue East right-of-way shall be 120 ft.
8. Single family homes shall be a minimum of 1,200 sq. ft. in size.
9. Prior to making 50% of the work force housing units available to the public, employees of any municipality, county, school board, and other special or fire district shall be given sixty days to reserve a unit in Manatee Cove.
10. The multi-family area in the southwest portion of the site needs to be redesigned to fewer than 100 units, or provide a second means of access to 44th Ave. E. This shall be shown on the Final Site Plan.
11. 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 home buyers of the following:
 - The presence of neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses;
 - Construction of 44th Avenue East to four lanes from US 301 to 30th Street East; and
 - Traffic noise from the surrounding thoroughfare roadways and the possible widening of these roadways in the future.

TRANSPORTATION

12.

- A. The applicant shall dedicate to Manatee County right-of-way for 44th Ave. between 30th Street and U.S. 301 (approximately 3.37 acres) as shown on the Preliminary Site Plan submitted into the record at the June 12, 2007 Board hearing. The dedication shall be prior to the first Final Plat approval or Final Site Plan if a plat is not required unless an alternative dedication time is agreed to pursuant to a Local Development Agreement.
- B. The applicant shall dedicate to Manatee County the right-of-way for possible 44th Avenue Right-of-Way Expansion Areas (approximately 2.01 acres), as shown on the Preliminary Site Plan submitted into the record at the June 12, 2007 Board hearing. The dedication shall be prior to the first Final Plat approval or Final Site Plan if a Final Plat is not required unless an alternative dedication time is agreed to pursuant to a Local Development Agreement.
- C. The applicant shall design and permit with the assistance of the Transportation and Project Management Departments a four-lane divided roadway section for 44th Avenue East including an eastbound left turn lane at 30th Street, an eastbound right turn lane at 30th Street, a westbound left turn lane at U.S. 301, a westbound right turn lane at U.S. 301 and necessary stormwater retention and storage for 44th Avenue all consistent with applicable County, SWFWMD, and FDOT standards. Costs for such design and permitting shall be reimbursed by the County pursuant to a Reimbursement Agreement or Local Development Agreement. The timing for the project shall not be delayed because of the improvements required pursuant to this stipulation.
- D. Prior to October 16, 2007 the County may notify the applicant of the requirement to construct a 4-lane road section as designed and permitted from U.S. 301 to 30th Street East under terms mutually agreeable by the parties, providing for County's reimbursement of costs excluding developers proportionate share thereof for the construction of the 390 foot long segment of 2-lane local road shown on the Preliminary Site Plan submitted into the record at the June 12, 2007 Board Hearing subject to a Reimbursement Agreement or Local Development Agreement. Absent such notification the applicant will be under no obligation to construct this segment of 44th Ave. The timing for the project shall not be delayed because of the improvements required pursuant to this stipulation.
- E. The applicant shall grant an easement to the County to allow, subject to a permitting an approval by any governmental agency exercising jurisdiction, an easement sufficient for the retention and storage of stormwater for the extension of 44th Avenue. The County at its expense shall be responsible for the mitigation of wetland impact.

13. Within 60 days of approval of PDR-06-40(Z)(P) the applicant shall submit a Local Development Agreement for approval by Manatee County which shall substantially consist of the following items 12 A – E. Additionally, the Local Development Agreement shall include:

1. To address concurrency issues for the project, the following shall be constructed or completed:
 - a. The Applicant shall construct a roundabout at the intersection of 38th Avenue East and 27th Street East or such alternative improvements as may be approved by the County as part of the LDA, including, without implied limitation, an eastbound left turn lane on 38th Avenue.
 - b. Prior to the issuance of either the first Final Plat approval for any single-family lots or the first Certificate of Occupancy for any multi-family units, the Applicant shall pay its proportionate share of the estimated costs for the following improvements:
 1. Signalization of 38th Avenue East and 30th Street East
 2. Signalization of 38th Avenue East and 15th Street East
2. The Applicant shall waive any right to compensation or impact fee credits for the dedication of the right-of-way for 44th Avenue pursuant to item A. above.
3. The County shall issue a Certificate of Level Service compliance for the project for a minimum period of five (5) years.

The Applicant is under no obligation pursuant to this Stipulation 13 beyond the initial requirement to submit an LDA meeting the minimum requirements above and to then negotiate with the County in good faith. The terms of any approved and executed Local Development Agreement shall be enforceable pursuant to that agreement. The fee for filing an application for a Local Development Agreement by the Developer shall be waived or reimbursed by the County; however, the Local Development Agreement shall not be approved and executed until the Land Use Restriction Agreement required pursuant to Stipulation 5, above, has been approved, executed, recorded, and a certified copy returned to the County.

14. The applicant shall dedicate an additional 9 feet of right-of-way on 30th Street East to meet the minimum 42 ft. half right-of-way requirement prior to either the first Final Site Plan in the multi-family areas or the first Final Plat approval for the single-family area.

ENVIRONMENTAL

15. A Water Well Construction Permit must be obtained from the EMD prior to construction of any proposed well(s).
16. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
17. An ERP approved by SWFWMD shall be provided to the Planning Department for review prior to Final Site Plan approval.
18. Underground or aboveground pollutant storage tank installation or removal must conform to

the requirements of Chapter 62-761, Florida Administrative Code.

19. The applicant shall conduct a limited Phase II environmental analysis and/or qualitative/quantitative sampling and testing of the soil and groundwater by a qualified environmental professional. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation/mitigation measures. Any such remediation/mitigation plans, along with the approvals by appropriate State or Federal agencies, if any, shall be provided to the Planning Department for review and approval by the Director of the Environmental Management Department. All remediation/mitigation activities shall be completed prior to commencement of construction on the impacted areas.

STORMWATER

20. The roadside ditches along 38th Avenue East from US 301 to 30th Street East and along 30th Street East from the proposed outfall location of the site to the existing cross culvert under 30th Street East shall be piped.
21. The existing cross culvert under 30th Street East shall be removed and replaced.
22. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Sugarhouse Creek. Modeling shall be used to determine pre- and post- development flows.
23. There shall be a full 25-year attenuation on all stormwater ponds within the development.
24. 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.
25. Storage volume in existing wetlands and drainage ditches that are proposed to be permanently impacted shall be compensated with equal or greater volume in the proposed stormwater retention pond.

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 identified in Exhibit "A" herein 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 Official Zoning Atlas.

Section 4. 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 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. 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 12TH day of June, 2007.

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

BY: 
Chairman

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

BY: 
Deputy Clerk

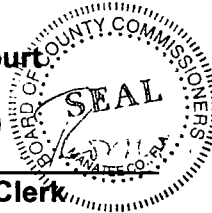


EXHIBIT "A"

LEGAL DESCRIPTION

W 1/2 of NW 1/4 Less Strip 65 ft off W to Tampa SOU RR – 3.97 acres – Less land to City of Bradenton Described in DB 2567 P 307 as follows: Commence at the NW Corner of Sec 8-35S-18E, thence S 88 Deg 41 Min 00 Sec E (true) as distance of 1303.8 ft to a pt; thence S (true) 793 ft for a POB; thence S True 50 ft; thence W (true) 60 ft; thence N (true) 50 ft; then E (true) 50 ft to the POB less .176 Ac M/L to DOT for Rd R/W as Desc in OR 974 pages 115 thru 124 PRMCF P-4, Also less O.R. 1755/3052 described as follows: Beg at the SE Corner of the SW ¼ of the NW 1/4 of SEC 8-35S-18E, thence run N 89 DEG 01 Min 41 Sec W ALG the S Ln of SD SW 1/4 of the NW 1/4, a distance of 1270.15 ft; thence N 00 Deg 25 min 10 Sec E along the Easterly R/W in of U.S. Hwy 301, FDOT SEC 13120-2506, a distance of 1931.65 ft; thence S 72 Deg 35 Min 00 Sec E, a distance of 759.37 ft; thence S 26 Deg 42 Min 00 Sec E, A distance of 194.58 ft; thence N 89 Deg 44 Min 10 Sec E, a distance of 435.19 ft; thence S 00 Deg 15 Min 50 Sec E, along the Wly R/W Lane of 30th St East, A distance of 215.17 ft; thence N 88 Deg 54 Min 00 Sec W along said R/W Lane a distance of 3.00 ft; thence S 00 Deg 27 Min 23 Sec E along Said R/W Lane, a distance of 1338.95 ft to the POB PI#16844.0010/9



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 19th day of

June, 2007

R.B. SHORE
Clerk of Circuit Court

By: Maggie Hamilton D.C.

FILED FOR RECORD
R. B. SHORE

2007 JUN 29 AM 9:51

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

CHARLIE CRIST
Governor



FLORIDA DEPARTMENT of STATE

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

June 25, 2007

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

Attention: Maggie Hamilton, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 19, 2007, and certified copies of Manatee County Ordinance No. PDR-06-40(Z)(P), which was filed in this office on June 21, 2007.

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

Sincerely,

Liz Cloud
Program Administrator

LC/lbh
Enclosure

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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STATE ARCHIVES OF FLORIDA
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LEGISLATIVE LIBRARY SERVICE
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RECORDS MANAGEMENT SERVICES
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