

MANATEE COUNTY ZONING ORDINANCE

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PDR-06-69(Z)(P) – SR 70 INVESTMENTS, LLC / OAKS AT CREEKSIDE

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 OF MANATEE COUNTY, ORDINANCE NO. 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 16.29 ACRES ON THE NORTH SIDE OF SR 70, ± 500 FEET EAST OF 33RD STREET EAST AT 3505 53RD AVENUE EAST FROM A-1 (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE) TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 96 MULTI-FAMILY UNITS IN 12 BUILDINGS, WITH AT LEAST 10% OF THE UNITS DESIGNATED AS WORKFORCE HOUSING; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, SR 70 Investments, LLC (the "Applicant") has filed a rezone application to rezone approximately 16.29 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 for 96 multi-family units in 12 buildings, with at least 10% of the units designated as workforce housing (the "Project") to be located upon the Property; and

WHEREAS, the Applicant has also filed a request for Special Approval for a project adjacent to a Perennial Stream; and

WHEREAS, the Applicant has also filed a request for Specific Approval, and for an alternative to Section 710.1.5.2 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, Preliminary Site Plan, Specific Approval, 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 August 9, 2007 to consider the rezone, Preliminary Site Plan, Specific Approval, 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 Rezone, Preliminary Site Plan, Specific Approval, and Special Approval 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 September 6, 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.
- D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 710.1.5.2, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree because the proposed design provides sufficient and conveniently arranged parking.
- E. For the purposes of granting Special Approval for a project adjacent to a perennial stream, 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 96 multi-family units in 12 buildings, with at least 10% of the units designated as workforce housing, upon the Property, subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

- 1. All driveways to individual units shall be 25' in length, measured from the garage door to the inside edge of sidewalk.
- 2. In addition to required guest parking and parking for the recreation facility, a minimum of

24 common parking spaces shall be provided interspersed throughout the project. All buildings shall have convenient access to the common parking spaces.

3. Except in front of driveways to individual units, non-mountable curbs shall be required unless sidewalks are setback a minimum of 3' from the project driveway.
4. Design for the multi-family structures shall be in substantial conformance with the elevation drawings entered into the record for this project, or of a superior design, as approved by the Planning Department.

B. TRANSPORTATION CONDITIONS:

1. Prior to FSP approval, the applicant shall provide a noise mitigation analysis for mitigation of noise from thoroughfare roads. Such analysis shall demonstrate noise mitigation based on projected 2025 traffic volumes. Noise mitigation measures 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. Stormwater ponds shall be designed to provide additional treatment and attenuation capacity to satisfy Southwest Florida Water Management District permitting requirements for future construction of 51st Avenue East to the east boundary of the site. The Final Site Plan shall demonstrate that additional capacity has been provided for the construction of a 24 foot wide street with curb and gutter and a five foot wide sidewalk on one side of the street. The developer shall provide drainage easements in favor of Manatee County over the stormwater ponds that provide the additional capacity and access easements to the stormwater ponds. The developer and future Home Owner Association shall consent to permit applications by the County to modify these stormwater ponds. Manatee County shall be responsible for any and all permitting or modifications of outfall structures.
3. The entrance gate to the project shall be accessible to EMS by either a remote control or siren activated system. Prior to Final Site Plan approval, the applicant shall receive written approval from EMS and the Fire Marshal approving the proposed system.
4. Prior to issuance of the first certificate of occupancy, the 50' wide right-of-way for 51st Avenue East shall be dedicated to Manatee County.
5. Private driveway improvements shall not be allowed in the right-of-way of 51st Avenue East. The construction of 51st Avenue East shall comply with County urban street design standards with curb and gutter and a 5 foot wide sidewalk on the south side of the street. All required construction of 51st Avenue East shall be shown on the Final Site Plan.
6. The project access at SR 70 shall be constructed in conformance with the requirements of the FDOT. In the event the FDOT requires relocating the access, such relocation shall not be considered a substantial modification requiring approval by the Board.

C. INFRASTRUCTURE CONDITIONS:

1. The Developer shall use the lowest quality of water available for irrigation purposes. Consideration shall be given to meeting the irrigation needs of the Project with the following sources, in order of preference: (1) reuse water, (2) treated stormwater; (3) non-potable quality groundwater. Prior to each Final Site Plan approval, the Developer shall identify the irrigation source which will be utilized. Use of Manatee County public potable water supply shall be prohibited for in-ground irrigation systems.
2. Fire hydrants shall be within 400 feet of entrances to the buildings and shall not be spaced more than 800 feet apart. The location of hydrants shall be determined and approved by the Fire Marshal prior to the Final Site Plan approval.
3. All service cleanouts and manhole rims shall be set 4 inches above the 100 year flood elevation.
4. All driveways shall be constructed above the 100-year flood elevation.

D. STORMWATER CONDITIONS:

1. Any fill within the 100-year floodplain of the Pearce Drain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
2. There shall be full 25-year attenuation on all stormwater ponds within the development.
3. The existing 25-year flood elevation along the Pearce Drain shall be utilized as tailwater condition.
4. 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.
5. Drainage Easements shall be shown on the Final Site Plan along the Pearce Drain tributary and the east-west ditch within the project. In addition, Drainage-Maintenance Access Easements shall be provided along Pearce Drain and the ditch. Such 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. All such easements shall be recorded prior to the first certificate of occupancy.
6. Existing storage volume in existing wetlands or drainage ditches that are proposed to be permanently impacted shall be compensated with equal or greater volume in the proposed stormwater retention pond.
7. 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.

8. 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.
9. Drainage runoff from residential lots north of the access road into the project (51st Avenue East extension) and east of 33rd Street East shall be investigated and a bypass conveyance system shall be provided along the access road to the Pearce Drain Tributary if warranted. Any proposed conveyance system shall be approved by Stormwater Management Division prior to Final Site Plan approval.

E. BUFFERS:

1. A 20' roadway buffer shall be provided along S.R. 70 and the right-of-way for 51st Avenue East. Required landscaping shall include 4 canopy trees (minimum 3" caliper, 10 feet in height, and 5' spread) and 33 shrubs (3 gallon, minimum 24" height) per 100 linear feet of buffer.
2. The greenbelt buffers along the east and west boundaries shall be a minimum width of 15 feet. Required landscaping shall include 4 canopy trees (minimum 3" caliper, 10' height, and 5' spread) and 33 shrubs (3 gallon, minimum 24" height) per 100 linear feet of buffer. A 6' high wall or fence, measured from finished grade, shall be required. All required landscaping shall be placed on the outside or roadway side of the fence.
3. 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.
4. Overhead power lines or detention or retention ponds shall not be located within landscape buffers, greenbelts, or tree stands designated for preservation or conservation.
5. All required landscaping within buffers shall be outside of the required drainage easements.
6. Required landscaping shall be maintained and pruned in a manner that preserves the natural shape and growth characteristics of the species. Pruning that lollipops or grossly alters the natural characteristic form is prohibited.

F. ENVIRONMENTAL CONDITIONS:

1. The design shall include wildlife connection pipes (RCP's or similar methods) to maintain wildlife passage through the canal. The connection pipes shall be kept free of sedimentation, litter and debris for the life of the project.
2. An updated evaluation for the presence of listed species shall be provided prior to Final Site Plan approval. The evaluation shall be conducted in accordance with Section 721.3.1.2. of the LDC.

3. An ERP approved by SWFWMD shall be provided to the Planning Department for review prior to Final Site Plan approval.
4. There shall be no burning of trees or branches for land clearing.
5. All proposed mulch nature trails, board walks and shade structures located in wetland buffers and areas where native vegetation is to remain shall be designed in a manner that minimizes impacts to trees or areas of significant vegetation and in accordance with Section 719 of the LDC.

G. RECREATIONAL:

1. A pedestrian access shall be provided to the John H. Marble Recreational Complex. The access shall be provided through the passive recreation area in the southeast corner of the site and it shall extend from the project driveway to the east boundary of the site.
2. The Parks and Recreation Department shall identify appropriate recreational amenities in the passive recreation area and those amenities shall be shown on the approved Final Site Plan.

H. 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 of the future construction of 51st Avenue East from the west boundary of the site to connect to 37th Street East.
2. The applicant, and their heirs, assigns, or transferees, are hereby notified that a payment of an impact fee for emergency shelter facilities may be required if such a program is adopted by the Board of County Commissioners.

Section 3. SPECIAL AND SPECIFIC APPROVALS: Special Approval is hereby granted for a project 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. Specific Approval is hereby granted for alternatives, as shown on the Preliminary Site Plan, to Section 710.1.5.2 of the Land Development Code.

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 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 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, sentence, clause, 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 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 6th day of September, 2007.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

BY: 

Chairman

ATTEST:

R. B. SHORE
Clerk of the Circuit Court

BY: 

Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

DESCRIPTION: (written by the signing Surveyor & Mapper)

EAST 1/2 OF SW 1/4 OF SE 1/4 OF SECTION 8: LESS: PARCEL 109: COMMENCE AT THE SE CORNER OF THE SW 1/4 OF THE SE 1/4 OF SECTION 8; THENCE ALONG THE EAST BOUNDARY OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 8, N 00°07'19"E, 40.9.8 FEET TO THE NORTH EXISTING R/W LINE OF STATE ROAD 70 (PER SEC 1316-101) FOR A POB; THENCE ALONG SAID NORTH EXISTING R/W LINE N 89°33'08"W, 664.03 FEET; THENCE N 00°07'45"E, 30 FEET; THENCE S87°01'18"E, 161.28 FEET; THENCE S 85°06'23"E, 131.02 FEET; THENCE N 00°26'52"E, 342.27 FEET; THENCE S 89°33'08"E, 370.43 FEET TO SAID EAST BOUNDARY OF THE SW 1/4 OF THE SE 1/4; THENCE ALONG SAID EAST BOUNDARY S 00°07'19"W, 355 FEET TO THE POB.



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

September, 2007

R.B. SHORE
Clerk of Circuit Court

By: Wanda F. Esner D.C.