

FILED FOR RECORD
R. B. SHORE

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

MANATEE COUNTY ZONING ORDINANCE
2011 APR 14 PM 2:29 PDR-11-02(P) - DTS# 20100214 - ROSEDALE ADDITION

CLERK OF
MANATEE COUNTY, FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT PERTAINING TO APPROXIMATELY 237.3 ACRES SOUTH OF THE FUTURE 44TH AVENUE EXTENSION, WEST OF LAKEWOOD RANCH BOULEVARD, AND EAST OF THE EXISTING ROSEDALE HIGHLANDS SUBDIVISION IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A NEW PRELIMINARY SITE PLAN FOR 475 SINGLE-FAMILY DETACHED LOTS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Newton Developments, Inc. (the "Applicant") filed an application for a new Preliminary Site Plan for approximately 237.3 acres described in Exhibit "A", attached hereto, (the "property") for 475 single-family detached lots; and

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

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 603.7.4.5, 722.1.4.3, 907.9.2.4, and 907.9.4.2 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the Preliminary Site Plan, Special Approval and Specific 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 March 10, 2011 to consider the 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 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 held duly a noticed public hearing on April 7, 2011 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.

B. 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.

C. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 603.7.4.5, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree because based on the proposed design, additional screening is not warranted.

D. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 722.1.4.3, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree because currently students are districted to elementary and middle schools which are beyond the 2 mile walking distance criteria of the LDC. Safe and efficient pedestrian access will not be compromised as students do not currently walk to the schools.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.2.4, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree because the roads will be private and consistent with the existing Rosedale development.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 907.9.4.2, the Board finds that the public purpose and intent of the LDC regulations are satisfied to an equivalent degree because public safety will not be compromised.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 475 single-family detached lots on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. The minimum front yard setback for housing units which have side loaded garages shall be twenty feet (20'). The front yard setback for housing units with front facing garages shall be twenty feet (20') provided that the homeowner's association documents for this Project requires all vehicles to be parked in the garage overnight and not on the driveways or streets. Otherwise, the front yard setback for these types of housing units shall be twenty five feet (25') to the garage and twenty feet (20') to the house.
2. The roadway buffer along 44th Avenue Extension shall be 40-feet-wide (with the exception of the very northeast corner which is 27' wide) and planted with 3 canopy trees (3-inch caliper as measured 6 inches from base of the tree, 12-feet high, and 5-foot spread) and 33 shrubs (30 inches at time of planting) per 100-feet with a 6' high decorative concrete wall. All required landscaping shall be planted on the exterior side of the wall. The wall shall not be required within wetlands or wetland buffers, however,

the required landscape material shall be installed except for the area within the jurisdictional limits of Wetland A. The landscape material that would have been required for the roadway buffer within the jurisdictional limits of Wetland A (approximately 300 feet) shall be planted elsewhere in the buffer around Wetland A. Landscape plant species shall be reviewed and approved with the FSP. The wall and landscaping to the east of Pond No. 2 shall be installed or bonded with the platting of Phase 1 and to the west of Pond No. 2, the wall and landscaping shall be installed or bonded with the platting of Phase 3.

3. No lots shall be platted through any greenbelt, landscape buffer, retention pond, wetland, or wetland buffer.
4. Rosedale Addition residents shall have full access to the existing recreational amenities within the existing Rosedale Community. This shall be noted on all future site plans and plats and included in the Homeowner Documents.

B. ENVIRONMENTAL CONDITIONS:

1. Existing native vegetation located within any required landscape buffers shall be preserved to the greatest extent possible. No overhead or underground powerlines, swales or stormwater facilities will be approved where landscape buffers contain desirable native vegetation, with the exception of limited crossings.
2. Prior to Final Plat approval, a Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers, and upland preservation areas shall be dedicated to the County.
3. An Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted for review prior to Final Site Plan approval.
4. Wetland buffers shall be provided adjacent to all post-development jurisdictional wetlands in accordance with Section 719 of the Manatee County Land Development Code. The Final Site Plan shall reflect the required 30' undisturbed wetland buffer for Wetland L.
5. An Integrated Pest Management Plan (IPM) for the application of fertilizers, pesticides and herbicides shall be submitted for review and approval prior to Final Site Plan approval. Where practicable, native xeriscape landscape materials shall be utilized in common areas. In addition the developer shall encourage individual homeowner's to participate in the Florida Yards and Neighborhood Program by disseminating program information to individual lot owners.
6. The applicant is aware that there is an abandoned, County owned, 2" x 25' monitoring well located within this project. The applicant shall coordinate with the Manatee County Public Works Department regarding proper abandonment and/or protection of the well during construction.
7. Due to the time lapse involved, an updated listed species survey shall be provided for review prior to Final Site Plan submittal. Such inventory shall be developed utilizing

procedures outlined in Section 721: Habitat and Endangered Species Protection, or other methodology acceptable to Manatee County.

C. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS:

1. Any gates or emergency access points within or to the project shall be accessible to emergency service providers by either a remote control or siren activated system in accordance with Manatee County Ordinance 04-30.
2. No construction traffic shall enter through the existing Rosedale community.
3. The Final Site Plan, Construction Plans, and Final Plat for Rosedale Highlands, Phase III, PDR-96-04(P)(R) shall be amended and approved to show the deletion of Lot D-61 to add a road connection to Rosedale Addition, prior to the Final Plat approval for Phase I of Rosedale Addition.
4. Prior to Final Site Plan approval, the developer shall submit a sidewalk deferral for the required sidewalk along 44th Avenue East, extending from the proposed entrance west to the northwest property line.

D. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS:

1. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plats along Williams Creek within the project boundaries. In addition, a 25-foot-wide Drainage Maintenance and Access Easement shall be dedicated on both sides of the drain. Any invasive or exotic plants shall be removed from the access easement.

E. NOTICES:

1. Notices 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 of:
 - a.) an emergency access and pedestrian tie will be made to Malachite Drive in the future,
 - b.) 44th Avenue East is designated as a Major Thoroughfare (6-lane facility) and will be extended over I-75 in the future,
 - c.) the joint use of the existing Rosedale amenities (i.e. golf course, club house, tennis courts, and pool) by the residents of Rosedale addition, and
 - d.) Manatee County has no obligation relative to Williams Creek to maintain, change, improve, clean, repair erosion, or restore the natural changes in the course of the stream bed.

Section 3. SPECIFIC AND SPECIAL APPROVALS. Specific Approval is hereby granted for alternatives to Sections 603.7.4.5, 722.1.4.3, 907.9.2.4, and 907.9.4.2 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. Special Approval is hereby granted for a project: 1) a gross density exceeding 1 dwelling unit per acre in the UF-3

Future Land Use Category and 2) a net density exceeding 1 dwelling unit per acre in the RES-1 Future Land Use Category. 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.

Section 4. 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 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. 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 7th day of April, 2011.

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

BY: _____

Carol Whitmore, Chairman

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



BY: _____

Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land lying in Section 7, Township 35 South, Range 19 East, Manatee County, Florida and described as follows:

Commence at the Southwest corner of the North 1/2 of Section 17, Township 35 South, Range 19 East, also being the Southeast corner of the North 1/2 of Section 18, Township 35 South, Range 19 East; thence S.89°34'40"E., along the South line of the North 1/2 of said Section 17, a distance of 187.55 feet to the intersection with the Westerly Right-of-way of Lakewood Ranch Boulevard (formerly Upper Manatee River Road Extension), a 120-foot wide public right-of-way as recorded in Official Record Book 1429, Page 3703 of the Public Records of Manatee County, Florida, said point being on the arc of a curve to the right, whose radius point lies N.63°58'46"E., a radial distance of 2310.00 feet; thence run northwesterly, along said westerly right-of-way for the following 4 calls; thence along the arc of said curve, through a central angle of 23°42'37", a distance of 955.93 feet to the point of tangency of said curve; thence N.02°18'37"W., a distance of 1736.20 feet to the intersection with the common section line to Sections 7 and 18, Township 35 South, Range 19 East, said point lying N.88°45'31"W., 141.64 feet from the section corner common to said Sections 7 and 18; thence continue N.02°18'37"W., a distance of 339.27 feet to the point of curvature of a curve to the right, having a radius of 4060.00 feet and a central angle of 04°58'40"; thence run Northerly along the arc of said curve, a distance of 352.73 feet to the south line of Malachite Drive, recorded in Official Record Book 1862, Page 3953, Public Records of Manatee County, Florida; thence N.89°57'17"W., along said southerly line and the westerly extension thereof, a distance of 2,576.52 feet to the POINT OF BEGINNING; thence continue N.89°57'17"W. along said westerly extension of the south line of Malachite Drive, a distance of 653.36 feet to a point on the east line of Rosedale Highlands, Subphase D, Unit 2 as recorded in Plat Book 44, Page 1 of said Public Records; thence N.00°20'51"W., along said east line of Rosedale Highlands, Subphase D, Unit 2 and the east line of Rosedale Highlands, Subphase A, Unit 1 as recorded in Plat Book 41, Page 31 of said Public Records, a distance of 1,153.14 feet; thence N.65°29'45"W., along the north line of said plat of Rosedale Highlands, Subphase A, Unit 1, a distance of 1,301.61 feet to the west line of the above mentioned Section 7; thence N.00°21'15"W. along said west line of Section 7, also being the east line of Rosedale 4B, recorded in Plat Book 31, Page 26 of said Public Records, a distance of 2,043.66 feet to a point on the north line of a gas line easement recorded in Official Record Book 27, Page 220 and Official Record Book 396, Page 91 of the Public Records on Manatee County, Florida; thence N.59°42'53"E. along said North line of said gas line easement, a distance of 257.17 feet to the point of curvature of a non-tangent curve to the left, of which the radius point lies N.05°39'45"E., a radial distance of 2,940.00 feet; thence easterly along the arc of said curve, through a central angle of 15°52'03", an arc length of 814.20 feet to the point of reverse curvature of a curve to the right having a radius of 2,790.00 feet and a central angle of 31°26'50"; thence easterly along the arc of said curve, an arc length of 1,531.31 feet to the point of reverse curvature of a curve to the left having a radius of 2,940.00 feet and a central angle of 24°02'05"; thence easterly along the arc of said curve, an arc length of 1,233.30 feet to the end of said curve; thence S.02°47'35"E. along a line radial to the last described curve, a distance of 12.50 feet to the point of curvature of a non-tangent curve to the left, of which the radius point lies N.02°47'35"W., a radial distance of 2,952.50 feet; thence easterly along the arc of said curve, through a central angle of 02°03'53", an arc length of 106.40 feet to the end of said curve; thence S.04°53'06"E. along a line non-tangent to the last described curve, a distance of 605.45 feet; thence S.08°14'34"W., a distance of 859.88 feet; thence S.27°44'24"W., a

distance of 782.09 feet to a point on the west line of premises described in Official Record Book 1859, Page 5334 of the Public Records of Manatee County, Florida; the following 2 calls are along said west line; thence S.19°38'22"W., a distance of 104.80 feet; thence S.42°12'14"W., a distance of 294.60 feet to the point of curvature of a non-tangent curve to the left, of which the radius point lies S.19°32'39"W., a radial distance of 5,159.35 feet; thence westerly along the arc of said curve, through a central angle of 06°32'39", an arc length of 589.29 feet to the point of tangency of said curve; thence N.77°00'00"W., a distance of 266.12 feet; thence S.32°22'12"W., a distance of 938.52 feet; thence S.00°00'00"W., a distance of 520.72 feet to the POINT OF BEGINNING.

Said tract contains 10,336,759 square feet or 237.2993 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 27th day of
April, 2011
R.B. SHORR
Clerk of Circuit Court
[Signature]
C.C.

FILED ON RECORD
R. B. SHORE



2011 APR 14 PM 2:29

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

RICK SCOTT
Governor

FLORIDA DEPARTMENT of STATE

DIVISION OF LIBRARY AND INFORMATION SERVICES

KURT S. BROWNING
Secretary of State

April 12, 2011

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

Attention: 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 April 7, 2011 and certified copies of Manatee County Ordinance Nos. PDPI-10-14(Z)(G), PDR-11-02(P), and PDC-10-15(Z)(P), which were filed in this office on April 11, 2011.

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

Sincerely,

Liz Cloud
Program Administrator

LC/vm

Enclosures

DIRECTOR'S OFFICE

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