

**MANATEE COUNTY ZONING ORDINANCE
PDR-12-03(Z)(G) – ROWE VENTURES, LLC/THE AVIARY AT RUTLAND RANCH
DTS#20120045**

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 A REZONE OF APPROXIMATELY 400 ACRES 1800 FEET EAST OF 161ST AVENUE EAST AND NORTH OF C.R. 675, AT 16410 C.R. 675, PARRISH FROM A/NCO (GENERAL AGRICULTURE/NORTH CENTRAL OVERLAY DISTRICT) TO THE PDR/NCO (PLANNED DEVELOPMENT RESIDENTIAL/NORTH CENTRAL OVERLAY DISTRICT); APPROVE A GENERAL DEVELOPMENT PLAN FOR 784 RESIDENTIAL UNITS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION, AND PROVIDING AN EFFECTIVE DATE.

2013 JAN 14 PM 1:15
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

FILED

WHEREAS, Rowe Ventures, LLC (the "Applicant") filed an application to rezone approximately 400 acres described in Exhibit "A", attached hereto, (the "property") from A/NCO (General Agriculture/North Central Overlay District) to the PDR/NCO (Planned Development Residential/North Central Overlay District); and

WHEREAS, the applicant also filed a General Development Plan application for 784 residential units (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) adjacent to a perennial stream; 2) gross density greater than 1 d.u. per acre in the UF-3 Future Land Use Category, and 3) within the 25-year flood plain; and

WHEREAS, the applicant also filed a request for Specific Approval for an alternative to Section 714.8.7 of the Land Development Code; and

WHEREAS, Planning staff recommended approval of the rezone, General Development Plan, Special Approval and Specific Approval applications, subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held public hearings on September 13, 2012, November 8, 2012 and December 13, 2012 to consider the rezone, General Development Plan, Special Approval, and Specific Approval applications, 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 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 A/NCO (General Agriculture/North Central Overlay District) to the PDR/NCO (Planned Development Residential/North Central Overlay).

B. The Board of County Commissioners held duly a noticed public hearing on January 3, 2013 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance 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 Manatee County Comprehensive Plan subject to Ordinance 12-02 becoming effective.

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 714.8.7, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the required number of trees and canopy will be provided.

Section 2. GENERAL DEVELOPMENT PLAN. The General Development Plan is hereby approved for 784 residential units upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. At time of Final Site Plan, the landscape planting design shall comply with the North Central Overlay District, LDC Sections 604.10.3, 604.10.3.3 and 604.10.3.5, as amended.

B. TRANSPORTATION CONDITIONS:

1. To allow for future widening of C.R. 675, dedication of right-of-way is required at Final Plat or FSP approval, as appropriate, to provide Manatee County with up to a 75-foot half section from the existing centerline on C.R. 675. After dedication of right-of-way takes place, impact fee credits shall be available to the property owner, with final amount to be determined in accordance with the requirements of Chapter 8 of the LDC.
2. To allow for the construction of the future Rye Road Extension, dedication of right-of-way for the road, wetland mitigation, floodplain compensation, and attenuation volume is required at Final Plat or FSP approval, as appropriate, to provide Manatee County with a 42 foot half section along a portion of the property's eastern boundary. After dedication of right-of-way takes place, impact fee credits shall be available to the property owner, with final amount to be determined in accordance with the requirements of Chapter 8 of the LDC.
3. Typical boulevard cross section must be designed to Manatee County Transportation Department Highway, Traffic & Stormwater Standards, 2007, Index #401.2 (120 foot – Four Lane Divided Roadway). The landscape buffer cannot be included within the 120 foot right-of-way.
4. The precise location and alignment of the site's access to C.R. 675/Rutland Road shall be coordinated with the Public Works Department during the review of the PSP/FSP/Construction plan submittal.
5. Signs shall be posted at all future inter-neighborhood ties identifying the future connections. Sign locations and content shall be provided with FSP submittal.

C. STORMWATER CONDITIONS:

1. This project shall provide wetland mitigation, floodplain compensation and attenuation volume for the portion of the future alignment of Rye Road Extension within the project boundaries. After these improvements have been made, impact fee credits shall be available to the property owner, with final amount to be determined in accordance with the requirements of Chapter 8 of the LDC. These credits would be considered for the dedication of right-of-way of land, construction cost, and engineering design and permitting.

2. This project shall provide stormwater facilities for improvements associated with the proposed project entrance off of Rutland Road (C.R. 675).
3. Any fill within the 25-year or 100-year floodplains of the Gamble Creek shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year and 25-year floodplain compensation in dual use facilities (i.e., stormwater attenuation and floodplain compensation) shall be compensated above the 25-year Design High Water Level (DHWL).
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 Gamble Creek. Modeling shall be used to determine pre- and post- development flows.
5. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat along Gamble Creek within the project boundaries. In addition, a Drainage-Maintenance Access Easement shall be provided along Gamble Creek. Manatee County is only responsible for maintaining the free flow of drainage through these systems

D. ENVIRONMENTAL CONDITIONS:

1. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas shall be dedicated to the County prior to or concurrent with Final Plat approval.
2. The developer shall provide an updated study, consistent with Policy 3.3.2.3 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval.
3. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
4. The Final Site Plan shall identify wildlife connections between preservation areas severed by roadway construction. Oversized culverts, rumble strips or wildlife crossing signage may be required for wildlife connections and shall be approved with the Final Site Plan.
5. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or stormwater facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.

6. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Environmental Planning Division. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. Tree protection methodology shall be approved with the Final Site Plan.
7. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 519 of the LDC.
8. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Environmental Planning Division for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.

E. INRASTRUCTURE

1. The provisions of the Manatee County Comprehensive Plan and Land Development Code require that adequate capacity exist with respect to sewer line collection capacity, sewer plant treatment capacity, potable water distribution line capacity and potable water treatment plant capacity to obtain concurrency approvals for wastewater and potable water. By the adoption of this ordinance, the County has not assumed the obligation, either expressly or by implication, to bear any of the expenses to provide water, sewer or reclaimed water to the Property including, without limitation, any obligation to provide for adequate circulation of potable water or reclaimed water within the lines by flushing or otherwise to ensure proper circulation of water in the mains. Any new waste water facilities shall be located and constructed in accordance with the most recent version of the North Manatee County Wastewater Master Plan in effect at the time of such design however, this shall not require the developer to oversize water or wastewater mains unless requested to do so by Manatee County and any cost associated with such oversize shall require participation or reimbursement by the County as further detailed in a written agreement.

F. 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 in the project of the:
 - a) Lots located within a flood zone;
 - b) A and A-1 zoning districts surrounding the site and potential agricultural uses and operations permitted which may impact residents with noise and odor;
 - c) The potential extension of Rye Road extending from C.R. 675 to S.R. 62 over Gamble Creek as a future 6 lane divided arterial roadway;
 - d) The potential expansion of C.R. 675 to a future six-lane divided roadway; and
 - e) Future interneighborhood ties to east and west if site.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for a project: 1) adjacent to a perennial stream; 2) gross density greater than 1 d.u. per acre in the UF-3 Future Land Use Category and 3) within the 25-year flood plain. Special Approval shall continue in effect and shall expire concurrent with the General Development Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for an alternative to Section 714.8.7 of the Land Development Code. The Specific Approval shall continue in effect and shall expire concurrent with the General Development 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 classification of the property identified in Exhibit "A" herein from A/NCO (General Agriculture/North Central Overlay District) to the PDR/NCO (Planned Development Residential/North Central Overlay) 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. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 8. 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 3rd day of January, 2013.

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

BY: 
Larry Bustle, Chairman

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

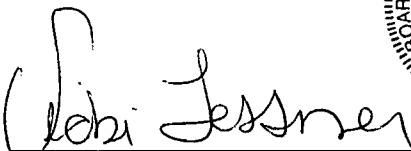
BY: 
Deputy Clerk



EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTIONS 26 AND 35, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 35; THENCE S 00°12'00" W, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 35, A DISTANCE OF 51.29 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY RIGHT-OF-WAY LINE OF S.R. 675 (RUTLAND ROAD); THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES: 1) S 44°26'31" E, A DISTANCE OF 116.57 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 34327.47 FEET; 2) ALONG THE ARC OF SAID CURVE IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 43.50 FEET THROUGH A CENTRAL ANGLE OF 00°04'21", TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES: 1) CONTINUE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 705.41 FEET THROUGH A CENTRAL ANGLE OF 01°10'39" TO THE POINT OF TANGENCY; 2) S 45°41'31" E, A DISTANCE OF 252.53 FEET; THENCE N 37°01'42" E, A DISTANCE OF 563.72 FEET; THENCE N 25°34'23" E, A DISTANCE OF 3222.26 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 35; THENCE N 00°57'03" E, ALONG SAID EAST LINE, AND THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 2682.99 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 26; THENCE N 00°57'03" E, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1,558.25 FEET; THENCE N 64°58'22" W, A DISTANCE OF 2847.59 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE S 00°03'14" W, ALONG SAID WEST LINE, A DISTANCE OF 2654.18 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE S 00°01'26" W, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2657.96 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE S 00°12'02" W, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 35, A DISTANCE OF 1713.47 FEET; THENCE S 45°41'31" E, A DISTANCE OF 847.56 FEET; THENCE S 44°41'31" E, A DISTANCE OF 712.75 FEET TO THE POINT OF BEGINNING.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS-OF-WAYS AND RESTRICTIONS OF RECORD.

CONTAINING 400.0 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 January, 2013
R.B. SHORE
Clerk of Circuit Court
By: [Signature] D.C.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 14, 2013

RECEIVED
JAN 23 2013
BOARD RECORDS

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

Attention: Vicki Jarratt, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 10, 2013 and certified copies of Manatee County Ordinance Nos. 13-02, PDC-12-09(Z)(P), PDMU-97-05(P)(R5), PDMU-12-06(G), PDPI-09-12(P)(R) AND PDR-12-03(Z)(G) which were filed in this office on January 14, 2013.

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

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure