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**DENIAL OF SPECIAL PERMIT
NO. SP-05-05**

CLERK OF DISTRICT COURT
MANATEE CO. FLORIDA

**MANATEE COUNTY SCHOOL BOARD-MANATEE TECHNICAL
INSTITUTE A FINAL ORDER OF MANATEE COUNTY HEARING
OFFICER JOHN ROE ON BEHALF OF MANATEE COUNTY
DENYING SPECIAL PERMIT NO. SP-05-05, TO ALLOW A
HIGH SCHOOL AND TECHNICAL COLLEGE FOR 1,000
DAYTIME STUDENTS, AND A COMMUNITY HIGH SCHOOL
FOR UP TO 400 DAYTIME STUDENTS AND 300 EVENING
STUDENTS IN THE A (GENERAL AGRICULTURE) ZONING'
DISTRICT AT 6545 S.R. 70 EAST**

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, the Manatee County School Board has requested a Special Permit to allow construction of a high school and technical college for 1,000 daytime students, a community high school for up to 400 daytime students and 300 evening students; and

WHEREAS, on February 22, 2006 and April 19, 2006, the Hearing Officer held public hearings to receive the staff, applicant, and public comment and argument regarding the proposed Special Permit.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-05-05 requested by the Manatee County School Board, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation, exhibits, viewing the parcel, and staff report presented, as well as all other matters presented at the public hearings above referenced, hereby makes the following Findings of Fact:

- A. The request is for approval of a Special Permit to allow a high school and college for 1,000 daytime students, and a community high school for up to 400 daytime students and 300 evening students. The site is at 6545 S.R. 70 East, Bradenton.
- B. The site is zoned A (General Agriculture).

- C. Surrounding property includes, single-family homes and subdivisions, a residential RV Park and Braden River High School.
- D. The site will share access with Braden River High School using the existing driveway on Caruso Road.
- E. The site will meet all drainage and other concurrency requirements.
- F. The design includes a fence or solid wall and landscaping to the north.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation, and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Land Development Code, the above reference Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code. The objection on April 19, 2006 by the Manatee County School Board as to the jurisdiction of the Hearing Officer is overruled. The Hearing Officer has jurisdiction over the Manatee County School Board pursuant to Section 4.3 of the Interlocal Agreement for Public School Facilities Planning, which omits the 90-day requirement raised by the Manatee County School Board manifesting an intent to supercede Section 1013. (12) Florida Statutes.

In the alternative the 90-day requirement was waived by the Manatee County School Board's participation in the February 22, 2006 hearing.

- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. Based on the conditions of approval for SP-05-05 the proposed use is inconsistent with and does not meet the general standards of review for Special Permits in Section 505.2. To wit:
 - 1. The establishment, maintenance or operation of the proposed use will have a detrimental effect on the surrounding properties or for uses permitted in the Zoning District.
 - 2. The proposed use is not consistent with the community character of the area.

3. Adequate measures do not exist and are not proposed to be taken, to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets.
4. The design of the proposed use does not minimize adverse effects, including visual impacts, of the proposed use on the adjacent property.
5. Adequate provision has not been made for buffers.
6. The proposed use is not consistent with the Comprehensive Plan. (2.13.1.3).

Section 505.1 of the Land Development Code requires each application for a Special Permit to be reviewed to determine the impact on its location, design, configuration, and the public need for the particular use at the particular location proposed.

It is the opinion of the Hearing Officer based on the record that:

1. The siting and design of the building on the parcel maximizes rather than minimizes the impact on the neighborhood. These impacts are sight, noise, light, and odor. For example, the building bay doors where classes involving welding, auto mechanics will be conducted are adjacent to single family residences.
2. Applicant introduced no evidence relative to the public need for this use at this location. The Hearing Officer must conclude that no siting study was conducted by the Board.
3. The traffic studies introduced by the applicant and the County were inadequate in not assessing the impact of traffic from I-75/SR70. No traffic estimates were furnished regarding the proposed day care center. No traffic estimates were furnished regarding the additional traffic generated by events which would be held at the School. While the two new lights on Caruso Road will no doubt help the neighborhood from a traffic perspective it is the opinion of the Hearing Officer that based on the record they will adversely affect traffic flow on Caruso Road should the school be built. The four lanes on Caruso Road is a positive traffic improvement into the area that would be negatively impacted by the proposed use since the four lane road ends just South of the River Forest entrance.
4. The Hearing Officer finds that based on the record presented that no adequate buffer/berm/wall can be constructed which will provide appropriate relief to the residential neighborhood from sight, noise, odor, and light impacts

created by the proposed use. Hearings did not reveal how the County and the Applicant would determine the acceptability of such a structure nor to what standards same would be built.

Section 3. Order. Based upon the foregoing the special Permit is denied for the property located at 6545 SR70 East and more particularly described in Exhibit "A" attached hereto and incorporated herein.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit, which shall remain in full force and effect.

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Section 5. Effective Date. The effective date of this denial of Special Permit shall be upon the recordation of an executed copy of this Order with the Clerk of the Circuit Court in and for Manatee County and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 17th day of May 2006.

MANATEE COUNTY, FLORIDA

BY: [Signature], as
Hearing Officer for Manatee County

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

BY: [Signature] D.C.
Deputy Clerk

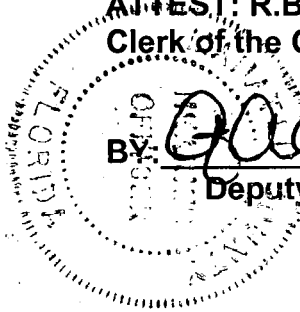


EXHIBIT "A"

LEGAL DESCRIPTION:

MTI CARUSO ROAD SITE

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 10, TOWNSHIP 35 SOUTH, RANGE 18 EAST, SAME BEING THE NORTHWEST CORNER OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 11, TOWNSHIP 35 SOUTH, RANGE 18 EAST, FOR A POINT OF BEGINNING; THENCE N89°48'19"W, ALONG THE NORTH LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 10, SAME BEING THE SOUTHERLY LINE OF "DUDE RANCH ACRES", A SUBDIVISION AS RECORDED IN PLAT BOOK 12, PAGE 29, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, A DISTANCE OF 1295.47 FT. TO THE INTERSECTION WITH THE EASTERLY MAINTAINED RIGHT-OF-WAY OF CARUSO ROAD, AS RECORDED IN ROAD PLAT BOOK 9, PAGES 90 THROUGH 100, SAID PUBLIC RECORDS, THENCE S00°45'58"E, ALONG SAID EASTERLY MAINTAINED RIGHT-OF-WAY, 1011.04 FT.; THENCE N89°14'02"E, 2052.26 FT.; THENCE N00°29'52"E, A DISTANCE OF 972.98 FT. TO THE INTERSECTION WITH THE NORTH LINE OF THE SOUTHWEST $\frac{1}{4}$ OF AFORESAID SECTION 11; THENCE N89°32'47"W, ALONG SAID NORTH LINE, SAME BEING THE SOUTHERLY LINE OF AFORESAID "DUDE RANCH ACRES", A DISTANCE OF 778.61 FT. TO THE POINT OF BEGINNING, BEING AND LYING IN SECTIONS 10 AND 11, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.

CONTAINING 47.03 ACRES, MORE OR LESS.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION