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SPECIAL PERMIT NO. SP-05-08

MANATEE COUNTY SCHOOL BOARD-MIDDLE SCHOOL B-B

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER
MR. JOHN ROE ON BEHALF OF MANATEE COUNTY
GRANTING SPECIAL PERMIT NO. SP-05-08, TO ALLOW A
MIDDLE SCHOOL FOR 1150 STUDENTS IN THE A-1
(SUBURBAN AGRICULTURE) ZONING DISTRICT ON A SITE
BETWEEN VIRGIL MILLS ELEMENTARY AND BUFFALO
CREEK PARK ON THE NORTH SIDE OF ERIE ROAD;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

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 middle school for 1,150 students in the A-1 (Suburban Agriculture) zoning district; and

WHEREAS, on December 21, 2005, the aforementioned Hearing Officer held a public hearing to receive the staff, applicant, and public comment and argument regarding the proposed Special Permit for a 1,150 student middle school.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-05-08 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, and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The request is for approval of a Special Permit to allow a 1,150-student middle school. The site is at 7150 69th Street East in Ellenton.
- B. The site is zoned A-1 (Suburban Agriculture).
- C. Surrounding property includes a County park, Virgil Mills Elementary School, and single family residential.
- D. The site will have access from 69th Street East.
- E. The site will meet all drainage and other concurrency requirements.
- F. The applicant will leave a significant portion of land to the north of the proposed facility as it currently stands, leaving existing trees, wetlands and other vegetation.

Section 2. Conclusions of Law. Based upon the above Findings of Fact, the testimony, evidence, documentation, and the staff report presented and a review of the applicable provisions of the County Comprehensive Plan and Land Development Code the above, referenced 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.
- 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 upon the conditions of approval for SP-05-08, the proposed use is consistent with the P/SP-1 Future Land Use Category Policy 2.2.1.22 of the Comprehensive Plan. Policy 2.13.1.3 states that new and proposed school sites shall be compatible with existing or anticipated uses on adjacent properties based upon the type of school. Policy 2.13.2.2 states that new and proposed schools shall locate in areas where adequate public facilities, e.g., roads, potable water, and sanitary sewer, exist or where adequate facilities are budgeted for in the appropriate Capital Improvements Program. The use is also found to be consistent with general standards of review for Special Permits in Sections 505.2 and complies with the conditional use criteria set forth in Sections 704.65.1 of the Land Development Code.
- D. The proposed use as conditioned in this order will not impede the normal and orderly development and improvement of the surrounding properties for use permitted in the applicable zoning district.
- E. The proposed school is consistent with the community character of the area.
- F. With the proposed stipulations, the design will minimize adverse impacts.
- G. With the proposed Stipulations, the site will meet the requirements for screening buffers pursuant to Section 704.65.1 of the Land Development Code.
- H. There is a large amount of open space on the proposed plan. Buffers are proposed for the south property boundary.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to the Manatee County School Board for the property located at 7150 69th Street East, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a 1,150 student middle school, subject to the following conditions:

- A. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida, by the applicant and a copy of the recorded Order is received by the Planning Department.
- B. The site plan submitted with this application shall be part of this approval.
- C. The establishment, maintenance, or operation of the proposed use will not have a detrimental effect on the surrounding properties or on the public health, safety, or general welfare.

- D. A complete tree survey shall be submitted with the Final Site Plan. Tree removal and replacement information shall be provided at that time.
- E. All lighting of ballfields and parking lots shall be directed away from the south property line and towards the field of play or parking lot area. A lighting plan shall be submitted with the Final Site Plan.
- F. The driveway access shall be completed prior to opening and operation of the school facility. The applicant shall provide traffic control as necessary during morning drop-off and afternoon pick-up times.
- G. The applicant shall design the appropriate facility areas to serve as public shelters in accordance with Section 1013.372, F.S. Details shall be shown on the Final Site Plan.
- H. This facility must meet or exceed Sections 1013.37-1013.38, F.S., Building Codes and Construction for Education Facilities, and Section 423.25 of the Florida Building Code.
- I. Wetland buffer restoration activities shall be completed in accordance with the Wetland Buffer Restoration Plan prepared by Environmental Affairs Consultants, Inc. as submitted on October 6, 2005, unless otherwise approved by the Planning Department. Initial wetland buffer restoration shall be completed prior to opening of the school.
- J. Prior to opening of the school, a Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers shall be dedicated to the County in accordance with Section 719.11.1.3 of the LDC.
- K. Removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the opening of the school, in accordance with Section 715.4 of the LDC. The site shall be kept free of nuisance vegetation for the life of the project.
- L. If burning of trees and branches is required for land clearing, a burn permit must be first obtained from the Environmental Management Department. No burn permits will be issued until Final Site Plans and Construction Plans are approved.
- M. Irrigation for landscaping shall use the lowest water quality source available. Use of Manatee County public potable water supply shall be prohibited.
- N. Any wells discovered during land clearing shall be protected or abandoned in accordance with SWFWMD Rule Chapter 40D of the Florida Administrative Code.
- O. The roadway buffer on 69th Street East shall be a minimum of 20 ft. in width and shown clearly on the Final Site Plan. The landscaping within the roadway buffer shall be consistent with the preliminary landscape plan submitted with the application.
- P. Prior to the opening of the school, construct an eastbound left-turn lane and a westbound right-turn (deceleration) lane at the intersection of the project driveway and 69th Street East.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal, or unconstitutional by courts 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.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of 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 7th DAY OF February, 2006.

MANATEE COUNTY, FLORIDA

BY: J. B. Lee, as
Hearing Officer for Manatee County

The seal is circular with a dotted border. Inside the border, the words "MANATEE COUNTY, FLORIDA" are written in a circle. In the center, the words "CLERK OF THE CIRCUIT COURT" are written vertically.
ATTEST: R.B. SHORE
Clerk of the Circuit Court

BY: Nicole E. Vollmer
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION:

COMMENCE AT THE SW CORNER OF THE SE1/4 OF SECTION 27, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE N 01°07'21" E, ALONG THE WEST LINE OF SAID SE1/4, A DISTANCE OF 647.38 FEET TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF ERIE ROAD AS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 1910, PAGE 6195, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA AND THE EAST RIGHT-OF-WAY LINE OF DUMP ROAD FOR A POINT OF BEGINNING; THENCE CONTINUE N 01°07'21" E, ALONG THE SAID EAST RIGHT-OF-WAY LINE OF DUMP ROAD, ALSO BEING THE SAID WEST LINE OF THE SE1/4, A DISTANCE OF 1511.99 FEET; THENCE EASTERLY, ALONG THE CENTERLINE OF A 40 FOOT, MORE OR LESS, DRAINAGE DITCH THE FOLLOWING COURSES AND DISTANCES: S 84°01'42" E, 509.29 FEET; N 73°51'17" E, 349.46 FEET; N 77°15'15" E, 301.37 FEET; THENCE LEAVING SAID DITCH, RUN S 01°07'21" W, A DISTANCE OF 1622.69 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF ERIE ROAD; THENCE WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, 1133.98 FEET TO THE POINT OF BEGINNING, BEING AND LYING IN SECTION 27, TOWNSHIP 33 SOUTH, RANGE 18, MANATEE COUNTY, FLORIDA.

CONTAINING 39.60 ACRES, MORE OR LESS.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION