

**SPECIAL PERMIT NO. SP-22-02
MEMPHIS CEMETERY PLN2205-0102**

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Manatee County Florida Clerk
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FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-22-02 FOR A SCATTER GARDEN, MONUMENT/MEMORIAL SPACE, AND ASSOCIATED PARKING AND INFRASTRUCTURE AT THE EXISTING MEMPHIS CEMETERY ON THE APPROXIMATELY 3.97 ACRE PARCEL ZONED RSF-4.5 (RESIDENTIAL SINGLE-FAMILY 4.5 DWELLING UNITS PER ACRE) LOCATED SOUTH OF 25TH STREET WEST AND WEST OF US-41 N, COMMONLY KNOWN AS 201 25TH STREET WEST, PALMETTO (MANATEE COUNTY); PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code (LDC), Manatee County Ordinance 15-17, as amended; and

WHEREAS, pursuant to the LDC, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, Manatee County requested a Special Permit to allow a scatter garden, monument/memorial space, and associated parking and infrastructure at the existing Memphis Cemetery; and

WHEREAS, on December 21, 2022, the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Special Permit.

NOW, THEREFORE, after consideration of the application for Special Permit 22-02 requested by Manatee County, 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 site is in the RSF-4.5 (Residential Single Family 4.5 dwelling units per acre) zoning district.
- B. The site is in the RES-6 (Residential-6 dwelling unit per acre) Future Land Use Category.

- C. The request is to approve a Special Permit to allow a scatter garden, monument/memorial space, and associated parking and infrastructure at the existing Memphis Cemetery.
- D. The overall site lies in Zones X FIRM Panel 12081C0162F, effective 8/10/2021.

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 Manatee County LDC, 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 LDC.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval Cty 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. The proposed use is consistent with the Manatee County Comprehensive Plan, including Policy 2.2.1.12.2 which list public and semi-public uses in the range of potential uses in the RES-6 (Residential-6) Future Land Use Category, and Policy 2.1.2.7 which requires review for all proposed development for compatibility and appropriate timing.
- D. The proposed use is in compliance with the Manatee County LDC, including Section 316.6 (Special Permit Review Criteria), and Section 531.11 (Cemeteries (including Human and Pet)).
- E. The proposed use will not be detrimental to or endanger the public health, safety or general welfare.
- F. The proposed use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district.
- G. Adequate measures will be taken to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets.
- H. The use, as proposed, is compatible with the surrounding uses and the general desired character of the area (height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance).
- I. Development of the proposed use will not have a substantial adverse effect on a known archaeological, historical or cultural resource located on or off

the parcel proposed for development as there are no known resources located on or near the subject site.

- J. Adequate provisions have been made for screening and buffers to improve compatibility and harmony of the proposed uses and structures with the uses and structures of adjacent and nearby properties.
- K. The proposed use will not have a significant adverse effect on the natural environment, including land, air, water, wetlands, minerals, flora, fauna, and ambient noise.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Manatee County to allow a scatter garden, monument/memorial space, and associated parking and infrastructure at the existing Memphis Cemetery located on a parcel south of 25th Street West and west of US-41 N, commonly known as 201 25 Street West in Palmetto, as more particularly described in Exhibit "A" attached hereto and incorporated herein, subject to the following conditions:

A. DESIGN AND LAND USE STIPULATIONS

- 1. 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 Building and Development Services.
- 2. The site plan submitted with this application will be part of this approval. Administrative approval by Manatee County of a Final Site Plan will be required subsequent to the approval of this Special Permit.

B. ENVIRONMENTAL

- 1. All other applicable state or federal permits shall be obtained prior to commencement of development.
- 2. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance. No wetlands exist on site.
- 3. If wells are encountered, a Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the EPS for review and approval prior to recommencing construction activities. 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.

4. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

C. UTILITIES

1. If any utility connections are to be made, connection to the County potable water and wastewater systems is required pursuant to the Manatee County Comprehensive Plan. The cost of connection, including the design, permitting and construction of off-site extensions of lines, shall be the responsibility of the Applicant. Such off-site extension shall be designed and constructed in accordance with the appropriate County Master Plan. The connection shall be designed, engineered and permitted by the Applicant consistent with Manatee County Public Works Standards and approved by County Engineer through the construction plans review process for the project.

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.

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 and receipt of a copy of the recorded Order by the Building and Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 23rd day of Feb., 2023.



MANATEE COUNTY, FLORIDA

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

ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: [Signature]
Deputy Clerk

EXHIBIT "A"

A TRACT OF LAND LYING IN SECTION 11, TOWNSHIP 34 SOUTH, RANGE 17 EAST, CONSISTING OF A PORTION OF BLOCKS D, E, F, & G AND A PORTION OF PROPERTY LABELED AS "RESERVED" ON THE PLAT OF ACADEMY HEIGHTS, RECORDED IN PLAT BOOK 1, PAGE 147 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 11, SAID POINT BEING REFERENCED BY A DEPARTMENT OF NATURAL RESOURCES (DNR) SECTION CORNER REFERENCE SHEET NUMBER 114751; THENCE S.00°35'30"W, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 11, A DISTANCE OF 382.36 FEET; THENCE N.89°23'11"W., A DISTANCE OF 37.68 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°23'11"W. ALONG THE NORTHERLY LINE OF PREMISES DESCRIBED IN OFFICIAL RECORD BOOK 279, PAGE 208 OF SAID PUBLIC RECORDS, A DISTANCE OF 241.40 FEET; THENCE S.00°36'49"W., ALONG THE WESTERLY LINE OF SAID PREMISES, A DISTANCE OF 254.00 FEET; THENCE N.89°23'09"W., ALONG THE NORTHERLY LINE OF PREMISES DESCRIBED IN OFFICIAL RECORD BOOK 655, PAGE 917 OF SAID PUBLIC RECORDS AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 377.70 FEET TO THE EAST LINE OF THE ATLANTIC COAST LINE RAILROAD; THENCE N.28°43'33"E., ALONG SAID EAST LINE, A DISTANCE OF 556.53 FEET; THENCE S.85°29'30"E., ALONG THE SOUTH LINE OF 25TH STREET WEST, A DISTANCE OF 324.86 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF 25TH STREET WEST, S.42°27'11"E., A DISTANCE OF 43.85 FEET TO THE WEST LINE OF 2ND AVENUE WEST; THE FOLLOWING THREE (3) CALLS ARE ALONG SAID WEST LINE OF 2ND AVENUE WEST; THENCE S.00°35'08"W., A DISTANCE OF 130.00 FEET; THENCE S.85°29'30"E., A DISTANCE OF 2.75 FEET; THENCE S.00°36'49"W., A DISTANCE OF 52.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 172,996 SQUARE FEET OR 3.9714 ACRES, MORE OR LESS.

Angelina "Angel" Colonnese
Clerk of the Circuit Court of Manatee County Florida
1115 Manatee Avenue West, Bradenton, Florida 34205
P.O. Box 25400, Bradenton, Florida 34206
Phone (941) 749-1800 - Fax (941) 741-4082
www.manateeclerk.com

Recorded By: TALLRED
Cashiered By: TALLRED

Receipt#: 900551217 **Payee Name:** MANATEE COUNTY PROPERTY MGMT DEPT AR700003
Receipt Date: 02/14/2023 1112 MANATEE AVE WEST 8TH ATTN: PAT KELLY
BRADENTON, FL 34205

Instrument(s): 202341015050-GOVERNMENT RELATED

Receipt Total:	\$44.00
Amount Tendered:	\$0.00
Overage:	\$0.00
Service Fee	\$0.00
Total PAID	\$0.00

Instrument: 202341015050 GOVERNMENT RELATED	
001000000341100	RECORDING FEE \$5/\$4 \$21.00
199000000341150	PRMTF \$1/\$.50 \$3.00
001000000208911	PRMTF FACC \$.10 \$0.50
199000000341160	PRMTF CLERK \$1.90 \$9.50
001000000208912	PRMTF BCC \$2 \$10.00
Instrument Total:	\$44.00