

FILED FOR RECORD
R. B. SHORE

2005 SEP -8 AM 8: 51

CLERK OF DISTRICT COURT
MANATEE CO FLORIDA

MANATEE COUNTY ZONING ORDINANCE
PDC-04-35(Z)(P) – LOTUS USA, INC.

2005 AUG 29 AM 9: 51
DEPARTMENT OF
TALLAHASSEE, FLORIDA

FILED

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY, ORDINANCE NO. 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF APPROXIMATELY 1.99 ACRES GENERALLY LOCATED AT 7259 NORTH TAMiami TRAIL, BRADENTON FROM THE GC/WR/HA/AI (GENERAL COMMERCIAL/ WHITFIELD RESIDENTIAL OVERLAY/HISTORICAL AND ARCHAEOLOGICAL OVERLAY/ AIRPORT IMPACT OVERLAY) ZONING DISTRICT TO THE PDC/WR/HA/AI (PLANNED DEVELOPMENT COMMERCIAL/WHITFIELD RESIDENTIAL OVERLAY/HISTORICAL AND ARCHAEOLOGICAL OVERLAY/AIRPORT IMPACT OVERLAY) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN TO ALLOW A 9,000 SQUARE FOOT ADDITION TO AN EXISTING FURNITURE STORE, FOR A TOTAL OF 28,532 SQUARE FEET; GRANTING SPECIAL APPROVAL FOR A PROJECT EXCEEDING 0.25 FAR IN THE R/O/R FUTURE LAND USE CATEGORY; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lotus USA, Inc. (the "Applicant") has filed a rezone application to rezone approximately 1.99 acres described in Exhibit A, attached hereto, (the "Property") from the GC/WR/HA/AI (General Commercial/Whitfield Residential Overlay/Historical and Archaeological Overlay/ Airport Impact Overlay) zoning district to the PDC/WR/HA/AI (Planned Development Commercial/Whitfield Residential Overlay/Historical and Archaeological Overlay/Airport Impact Overlay) zoning district; and,

WHEREAS, the Applicant has also filed a preliminary site plan application to allow a 9,000 square foot addition to an existing furniture store, for a total of 28,532 square feet, (the "Project") to be located upon the Property; and,

WHEREAS, the Applicant has also filed a request for Special Approval to allow a project exceeding a 0.25 FAR in the R/O/R Future Land Use Category; and,

WHEREAS, the Planning Staff has recommended approval of the rezone, Preliminary Site Plan, and Special Approval applications, subject to the stipulations contained in the Planning Staff report; and,

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on August 11, 2005 to consider the rezone, Preliminary Site Plan, and Special Approval applications, received the Planning Staff's recommendations 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 rezone and preliminary site plan 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 Planning Staff report and the granting of the special approval for a project exceeding 0.25 FAR in the R/O/R Future Land Use Category.

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 of said County, 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 the GC/WR/HA/AI (General Commercial/Whitfield Residential Overlay/Historical and Archaeological Overlay/ Airport Impact Overlay) zoning district to the PDC/WR/HA/AI (Planned Development Commercial/Whitfield Residential Overlay/Historical and Archaeological Overlay/Airport Impact Overlay) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on August 23, 2005 regarding said 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.

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 No. 89-01, the 2020 Manatee County Comprehensive Plan.

D. The Board finds that the public purpose and intent of Section 722.1.4.3 has been satisfied to an equal degree in this case because there appears to be no additional benefit by requiring the installation of the sidewalk as a sidewalk exists on the other side of the street.

E. The Board finds that the public purpose and intent of Section 603.11.4.3 has been satisfied to an equal degree in this case because the nonconformity will not be increased nor will additional impacts occur to the surrounding uses as the building has existed in its present location since the 1970s.

F. The Board finds that the public purpose and intent of Section 715.3.2 has been satisfied to an equal degree in this case because the fence will provide 100% opacity and the hedge is existing, although off-site.

Section 2. The Preliminary Site Plan is hereby APPROVED to allow a 9,000 square foot addition to an existing furniture store, for a total of 28,532 square feet, upon the Property subject to the Stipulations set out below. The Board hereby GRANTS Special Approval for a Project

exceeding 0.25 FAR in the R/O/R Future Land Use Category in accordance with Policies 2.2.1.17.4 of the Manatee County Comprehensive Plan, with the following Stipulations:

STIPULATIONS

1. The primary use of the site shall be limited to a furniture store. Any change in use shall require approval of a new Preliminary Site Plan by the Board of County Commissioners.
2. The 9,000 square foot addition shall be used as storage for the existing furniture store.
3. Trucks involved in deliveries shall be prohibited between the hours of 10 p.m. and 6 a.m.
4. One free-standing sign shall be permitted on-site. The existing pole sign on US 41 shall be allowed to remain. No additional free-standing signs shall be permitted. No signs shall be permitted on Pearl Avenue or Manatee Street.
5. The design and shielding of on-site lighting for the building (existing and proposed addition) shall comply with Section 709.2.2 of the LDC. In addition, pole and building mounted lights shall be limited to 16 feet in height and directed to the interior of the development using horizontal cut-offs. Lighting used after close of business shall be the minimum necessary to serve as security lighting. A photometric plan, including proposed design and shielding methods, shall be submitted to the Planning Department with the Final Site Plan.
6. The fence shown along the east perimeter shall be installed prior to issuance of Certificate of Occupancy. The fence shall not encroach within the visibility triangle of Pearl Avenue and Manatee Street. The visibility triangle and fence shall be shown on the Final Site Plan.
7. The landscaping shown along the east property line shall be planted on the exterior side of the fence.
8. The 9,000 square foot addition shall comply with the following:

The building facades of the addition shall include landscaping and design features which reduce the mass, scale, and uniform monolithic appearance of large unadorned walls.

Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar materials. Painted or exposed standard concrete block, or corrugated metal shall not be permitted. Architectural metals or standard concrete block with stucco type finish, in conjunction with other permitted building materials may be allowed, provided that at least fifty percent (50%) of the building face is constructed from other permitted materials.

In order to insure that the building does not project a massive blank wall, blank walls shall be no longer than 20 feet in length. Design elements including prominently visible architectural details (e.g., bumpouts, reveals and projecting ribs, cornice, offset building

planes, windows, shutters, areas of contrasting or different finish building materials, etc.) shall be applied to all sides of the proposed building.

Other methods, as determined by the Planning Director, may be approved, including increasing the referenced 20 foot spacing requirement, provided superior building materials and significant horizontal design features are incorporated as part of the building elevation.

Building elevations for the addition shall be submitted with the Preliminary and Final Site Plans to be reviewed and approved by the Planning Department.

9. All dumpster enclosures shall be constructed of similar materials as the building. The enclosure and gate or fence shall be painted a similar color to the building. Elevations of the dumpster enclosure and gate or fence shall be submitted to the Planning Department for review and approval prior to Final Site Plan approval.
10. Any new HVAC equipment and mechanical equipment (including roof mounted) shall be screened from view from US 41, Pearl Avenue, and Manatee Street. Screening shall be provided by materials and color consistent with the construction of the exterior finish of the building. Compliance with the building elevations shall be determined prior to Final Site Plan approval and field verified prior to issuance of C.O.
11. The applicant shall enter into a landscape maintenance agreement with the Transportation Department for the hedge within the right-of-way, prior to Final Site Plan approval.
12. The radii of the main entrance of US 41 shall be increased to 35 feet minimum. This shall be shown on the Final Site Plan.
13. The right-of-way where the drive on Pearl Avenue is being removed shall be restored. This shall be shown on the Final Site Plan.

Section 3. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County, Ordinance No. 90-01, the Manatee County Land Development Code, is hereby amended by changing the zoning district classification of the Property identified in Exhibit A herein from the GC/WR/HA/AI (General Commercial/ Whitfield Residential Overlay/Historical and Archaeological Overlay/ Airport Impact Overlay) zoning district to the PDC/WR/HA/AI (Planned Development Commercial/Whitfield Residential Overlay/Historical and Archaeological Overlay/Airport Impact Overlay) zoning district 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 said Official Zoning Atlas.

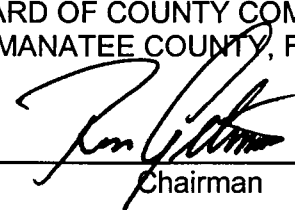
Section 4. SEVERABILITY. If any section, sentence, clause or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses or provisions of this Ordinance.

Section 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 23rd day of August, 2005.

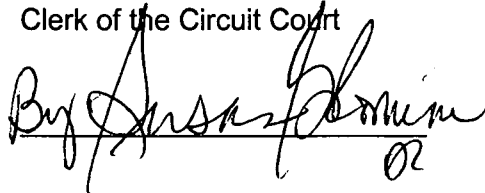
BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: _____


Chairman

ATTEST:

R. B. SHORE
Clerk of the Circuit Court


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EXHIBT A.
LEGAL DESCRIPTION OF THE PROPERTY

A PARCEL OF LAND LOCATED IN A PART OF THE NORTH ½ OF SECTION 26, TOWNSHIP 35 SOUTH, RANGE 17 EAST, AND A PART OF BLOCK 45, WHITFIELD ESTATES ON SARASOTA BAY, AS RECORDED IN PLAT BOOK 6, PAGE 33, OF PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA., TO WIT:

BEGINNING AT THE SOUTHERNMOST CORNER OF SAID BLOCK 45; THENCE ALONG THE EAST RIGHT OF WAY LINE OF TAMIAMI TRAIL, AND THE WEST LINE OF SAID BLOCK 45, N. 27° 43' 56" W., 214.54 FEET TO A POINT OF A CURVE; THENCE NORTHWESTERLY 34.69 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 24.42 FEET AND A CENTRAL ANGLE OF 81° 23' 39" AND A CHORD WHICH BEARS N. 15° 11' 12" E., A DISTANCE OF 31.85 FEET; THENCE N. 28° 34' 05" W., 70.97 FEET; THENCE N. 62° 01' 41" E., 67.09 FEET; THENCE N. 27° 58' 19" W., 24.07 FEET TO THE NORTH LINE OF SUBJECT SITE; THENCE ALONG SAID NORTH LINE, N.62° 01' 41" E., 182.32 FEET TO THE EAST LINE OF BLOCK 45; THENCE ALONG THE EAST LINE OF BLOCK 45; S. 27° 44' 30"E., 337.38 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 45; THENCE S. 63° 00' 00" W., 270.00 FEET TO THE POINT OF BEGINNING. CONTAINING 86,476 SQUARE FEET OR 1.9852 ACRES OF LAND.

TOGETHER WITH A SIGN MAINTENANCE EASEMENT DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN A PART OF THE NORTH ½ OF SECTION 26, TOWNSHIP 35 SOUTH, RANGE 17 EAST, AND A PART OF BLOCK 45, WHITFIELD ESTATES ON SARASOTA BAY, AS RECORDED IN PLAT BOOK 6, PAGE 33, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. SUBJECT PARCEL IS RESERVED FOR THE USE OF MAINTAINING AN ENTRANCE BUSINESS SIGN. TO WIT:

BEGINNING AT THE SOUTHERNMOST CORNER OF SAID BLOCK 45; THENCE ALONG THE EAST RIGHT OF WAY LINE OF TAMIAMI TRAIL, AND THE WEST BLOCK LINE OF SAID BLOCK 45, N. 27° 43' 56" W., 214.54 FEET TO A POINT ON A CURVE; THENCE NORTHEASTERLY 34.69 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 24.42 FEET AND A CENTRAL ANGLE OF 81° 23' 39" [AND A CHORD WHICH BEARS N.15° 11' 12" E., A DISTANCE OF 31.85 FEET]; THENCE N. 28° 34' 05" W., 12.62 FEET TO THE POINT OF BEGINNING; THENCE S. 62° 28' 59" W., 21.51 FEET TO THE EASTERLY RIGHT OF WAY OF TAMIAMI TRAIL; THENCE ALONG SAID RIGHT OF WAY, N. 27° 43' 56" W., 23.51 FEET; THENCE N. 63° 28' 59" E., 21.16 FEET; THENCE S. 28° 34' 05" E., 23.52 FEET TO THE POINT OF BEGINNING.



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 25th day of

August, 2005

R.B. SHORE
Clerk of Circuit Court

By: G. Caceredo D.C.

FILED FOR RECORD
R. B. SHORE

2005 SEP -8 AM 8:50

CLERK OF CIRCUIT COURT
MANATEE CO. FLORIDA



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

August 30, 2005

Honorable R. B. "Chips" Shore
Clerk of 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 August 26, 2005 and certified copies of Manatee County Ordinance Nos. 05-10, 05-53, PDC-04-32(Z)(P) and PDC-04-35(Z)(P), which were filed in this office on August 29, 2005.

As requested, the date stamped copies are being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/kcs

Enclosures

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