

FILED FOR RECORD
R. B. SHORE

MANATEE COUNTY ZONING ORDINANCE

2008 MAY 19 AM 7: 58 PDW-07-03(Z)(P)- WATERFRONT VENTURES, LLC / NORTH SHORE POINT

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE 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 THE REZONING OF APPROXIMATELY 2.0 ACRES ON THE SOUTH SIDE OF 18TH STREET EAST, ± 550 FEET SOUTH OF US 301, AT 6015 18TH STREET EAST, ELLENTON FROM A-1 (SUBURBAN AGRICULTURE) AND A-1/CH (SUBURBAN AGRICULTURE/COASTAL HIGH HAZARD OVERLAY DISTRICT) TO THE PDW (PLANNED DEVELOPMENT WATERFRONT) AND PDW/CH (PLANNED DEVELOPMENT WATERFRONT); RETAINING THE COASTAL HIGH HAZARD OVERLAY ZONING DISTRICTS; APPROVING A PRELIMINARY SITE PLAN FOR A 14,470 SQUARE FOOT BOAT LIVERY WITH AN ACCESSORY SHIPS STORE, CAFÉ, OUTDOOR PATIO, PORTABLE FUEL, RV STORAGE, A BOAT LOAD-OUT, FLOATING DOCKS FOR BOAT STAGING, AND A WILDLIFE OBSERVATORY; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Waterfront Ventures, LLC (the "Applicant") filed an application to rezone approximately 2.0 acres described in Exhibit "A", attached hereto, (the "property") from A-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture/ Coastal High Hazard Overlay to the PDW (Planned Development Waterfront) and PDW/CH (Planned Development Waterfront) zoning district; retaining the Coastal High Hazard Overlay; and

WHEREAS, the applicant also filed a Preliminary Site Plan for 14,470 square foot boat livery with an accessory ship's store, café, outdoor patio, portable fuel, RV storage, a boat load-out, floating docks for boat staging, and a wildlife observatory on the property; and

WHEREAS, the applicant also filed a request for Special Approval for: 1) adjacent to a perennial stream, 2) Within an Entranceway, 3) Within the Coastal Evacuation Area, 4) Within the Coastal Planning Area, 5) Within the Coastal High Hazard Overlay, and 6) Partially in the Coastal Storm Vulnerability Area and

WHEREAS, the applicant filed a request for Specific Approval for alternatives to Sections 702.6.8, 603.14.8.3 , 710.1.6, 603.14.8.2, 711.4.2, 737, and 724 of the Land Development Code, and

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

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DEPT. OF STATE
TALLAHASSEE, FLORIDA

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on April 10, 2008 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval, 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 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-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture Coastal High Hazard Overlay District) to the PDW (Planned Development Waterfront) and PDW/CH (Planned Development Waterfront); retaining the Coastal High Hazard Overlay zoning district.

B. The Board of County Commissioners held duly a noticed public hearing on May 1, 2008 regarding the 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 the 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. 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 the site plan to meet the requirements of LDC Sections 702.6.8, 603.14.8.3, 710.1.6, and 603.14.8.2, and the Board finds that the purpose and intent of the LDC regulations have been satisfied to an equivalent degree because of the redevelopment nature of the project.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 711.4.2, the Board finds that the purpose and intent of the LDC regulations is satisfied to an equivalent degree by the proposed design because it improves onsite safety for this project.

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Sections 737 and 724, the Board finds to permit two monument signs and prohibit all other building signs, finding it is a superior alternative to the existing sign ordinance.

H. The Board has reviewed the application for compliance with Section 723.083, Florida Statutes, and finds that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 14,470 square foot boat livery with an accessory ship's store, café, outdoor patio, portable fuel, RV storage, a boat load-out, floating docks for boat staging and a wildlife observatory on the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Until existing contiguous residential uses to the west are eliminated the hours of operation shall be limited to 30 minutes before sunrise to 30 minutes after sunset.
2. Buildings shall be a maximum height of 50' from grade.
3. A maximum of four (4) tables and sixteen (16) chairs shall be permitted for the ships' store café and patio area.
4. Gas pumps will be used by storage facility clients only. There shall be no "Fuel" signs visible from the water.
5. Personal watercraft rentals, live aboards, and repair activities shall be prohibited. In-water boat maintenance or repair activities shall be prohibited for the life of the facility.
6. No boat slips shall be established along the existing dock. Use of dock shall be limited to short term tie up only, no overnight mooring shall be permitted.
7. Concurrent with Final Site Plan submittal, applicant shall provide an Archaeological Survey of this site for staff review.

8. The design of the buildings shall be in substantial conformance with the elevations provided by applicant and presented before the Planning Commission and Board of County Commission meetings or a superior design as approved by staff.
9. Signage shall be limited to two monument signs at 80 square feet each, located as shown on the signage plan submitted by the applicant. There shall be no other free-standing signage permitted on site. Additionally, there shall be no building signs.

B. TRANSPORTATION CONDITIONS:

1. At the time of Final Site Plan and Construction Plan approval for each phase of the project, the developer shall be responsible for any additional on-site or off-site transportation operational and safety improvements attributable to this project, as determined by the Public Works Department, and in accordance with LDC Section 722.1.3.4., as well as any capacity improvements associated with the issuance of a Certificate of Level of Service.

C. INFRASTRUCTURE CONDITIONS:

1. Applicant shall construct a sidewalk along the project frontage on 18th Avenue East.

D. STORMWATER CONDITIONS:

1. Final engineering drainage design must be approved prior to Final Site Plan approval, including the following:
 - a.) An existing versus proposed structure volume calculation will be required for all encroachment within the FEMA 100-year floodway of the Manatee River.
 - b.) Any fill within the 25-year or 100-year floodplains of the Manatee River 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 shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
 - c.) There shall be a full 25-year attenuation on all stormwater ponds within the development.
 - d.) The existing 25-year flood elevation along the Manatee River shall be utilized as tailwater condition.
2. The post development discharge rate of stormwater discharge directed to 18th Street East shall be limited to the available capacity within the existing stormwater system along 18th Street East, taking into account the capacity reserved for proposed developments.

3. The proposed docks shall not inhibit the flow of drainage from the 18th Street East stormwater system or Government Hammock from discharging into the Manatee River.
4. The Drainage Model and Construction Plan shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.
5. The proposed design and construction of the stormwater vault shall be approved by EMD and Public Works Departments and comply with Public Works Standards prior to Final Site Plan and Construction Plan approval.

E. BUFFERS:

1. Existing native vegetation 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.
2. The buffer along west property line shall be 15' in width until the existing Contiguous residential uses to the west are eliminated, at which time the buffer may be reduced to 10' in width as shown on the Preliminary Site Plan.
3. Washingtonian and Sabal palms shall be planted in the roadway buffer in a staggered manner, among the canopy trees shown, adjacent to the buildings. Washingtonians shall be grouped together and Sabal palms clustered with same as part of this roadway buffer. These trees will be evenly divided among 15' – 18' tall trees at the time of planting.
4. Additional Washingtonian and Sabal palm trees shall be utilized in the landscape along the waterfront to break up the mass of the proposed buildings. Washingtonian and Sabal palms shall be planted in informal groupings to achieve a natural appearance. Details shall be shown on the Final Site Plan.

F. ENVIRONMENTAL CONDITIONS:

1. Methods and materials to be utilized to construct the ship's store/café and deck, especially where these improvements fall within the drip line of the tree to be preserved in that location, shall be reviewed and approved with the Final Site Plan.

2. Tree Protection requirements:

Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed unless approved by staff. 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 unless approved by staff;

- Pavement material and base for areas within drip lines of trees slated for preservation shall consist of materials and methods that will be least invasive to existing tree root systems and shall be approved by staff with the Final Site Plan.
 - The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the Planning Department. Location of barricades shall be reviewed with the Final Site Plan.
3. The Wetland Buffer Restoration Plan required by Section 719.11.2 of the LDC shall include details of native plantings within the proposed waterfront setback area.
 4. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted to the Planning Department for review prior to Final Site Plan approval.
 5. Prior to Final Site Plan approval the applicant shall provide the Spill Contingency Plan to staff in the format requested by the Environmental Management Department for their review and approval.
 6. Prior to Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (i.e., historical cattle dipping vats, underground/aboveground storage tanks, or buried drums), by a qualified environmental consultant. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation or mitigative measures.
 7. The Final Site Plan shall demonstrate that proposed docking facilities are in compliance with Sections 734 and 603.14 of the LDC, including but not limited to adequate water depths, distance from channel and seagrass beds, and other submerged habitat. Details shall be reviewed and approved with the Final Site Plan.
 8. A Conservation Easement for 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 Site Plan approval.
 9. All proposed mulch nature trails, board walks, and shade structures in wetland buffers and areas where native vegetation is to remain shall be designed in a manner that minimizes impacts to trees or areas of significant vegetation and in accordance with Section 719 of the LDC, if applicable.
 10. 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 508.3.34.7(j) of the LDC.

11. 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.

G. FLOODPLAIN MANAGEMENT:

1. Flood vents (one square inch for every square foot of enclosure) will be required in the storage buildings.

Section 3. SPECIAL AND SPECIFIC APPROVALS. Special Approval is hereby granted for: 1) adjacent to a perennial stream, 2) within an Entranceway, 3) within the Coastal Evacuation Area, 4) within the Coastal Planning Area, 5) within the Coastal High Hazard Overlay, and 6) partially in the Coastal Storm Vulnerability Area. This Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Specific Approval is hereby granted for alternatives to Sections 702.6.8, 603.14.8.3, 710.1.6, and 603.14.8.2 of the Land Development Code. The Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site 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 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 A-1 (Suburban Agriculture) and A-1/CH (Suburban Agriculture/ Coastal High Hazard Overlay to the PDW (Planned Development Waterfront) and PDW/CH (Planned Development Waterfront); retaining the Coastal High Hazard 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 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. 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 1st day of May, 2008.

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

BY: 
Chairman



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

BY: 
Deputy Clerk

EXHIBIT "A"

Legal Description

Parcel 823000005

THAT CERTAIN PARCEL OF LAND, DESCRIBED AND RECORDED IN O.R. BOOK 1326, PAGE 1631, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, TO-WIT:

LOT FOUR (4) AND THE EAST 14 FEET OF LOT FIVE (5) B, AND ALSO A LOT KNOWN AS "PRICE LOT" IN PHILLIPS' AND ALLEN'S RESUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 308 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, TOGETHER WITH ALL FURNITURE, FURNISHINGS, FIXTURES AND EQUIPMENT, AND ALL IMPROVEMENTS LOCATED ON SAID PREMISES; ALSO, ALL OF THAT LAND IN U.S. LOTS 1 AND 2, WHICH LIES NORTH OF THE LOTS HEREIN DESCRIBED, AND SOUTH OF THAT CERTAIN HIGHWAY KNOWN AS THE TAMiami TRAIL, INCLUDING RIPARIAN RIGHTS.

ALSO: BEGINNING AT A POINT 17.27 FEET NORTH AND 14 FEET WEST OF THE NORTHEAST CORNER OF LOT 5B OF THE PHILLIPS' AND ALLEN'S RESUBDIVISION, PLAT BOOK 1, PAGE 308 OF THE PUBLIC RECORDS OF MANATEE COUNTY, GO SOUTH 17.27 FEET; EAST 64 FEET; NORTH APPROXIMATELY 32 FEET TO THE SOUTH RIGHT-OF-WAY OF OLD U.S. HIGHWAY 41; THENCE WEST ALONG SAID RIGHT-OF-WAY LINE TO P.O.B.

LESS PROPERTY DESCRIBED IN QUIT CLAIM DEED RECORDED IN O.R. BOOK 1656, PAGE 2648, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.



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 8th day of

May 2008

R.B. SHORE
Clerk of Circuit Court

By: Deane E. Vallman



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

FILED FOR RECORD
R. B. SHORE
2008 MAY 19 AM 7:57
CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA
KURT S. BROWNING
Secretary of State

May 12, 2008

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

Attention: Ms. Vicki Jarratt

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 8, 2008 and certified copies of Manatee County Ordinance Nos. 08-34, PDC-05-30(Z) (P), PDW-07-03 (Z) (P), Z-07-20, 08-20, and 08-21, which were filed in this office on May 12, 2008.

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

Sincerely,

[Handwritten signature: Liz Cloud]

Liz Cloud
Program Administrator

LC/srd
Enclosure

RECEIVED
MAY 19 2008
BOARD RECORDS

DIRECTOR'S OFFICE
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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