

SPECIAL PERMIT NO. SP-98-01
SKYWAY MEMORIAL GARDENS ACQUISITION, INC.

JUN 8 10 06 AM '98

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER JAMES A. PAULMANN ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-98-01 TO ALLOW THE ADDITION OF A 3,200 SQ. FT. MAUSOLEUM TO AN EXISTING CEMETERY LOCATED ON THE EAST SIDE OF U.S. 19 NORTH, APPROXIMATELY 1,200 FEET NORTH OF EXPERIMENTAL FARM ROAD, IN THE A-1 (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE) AND A-1/CH (SUBURBAN AGRICULTURE, 1 DWELLING UNIT PER ACRE/COASTAL HIGH HAZARD AREA OVERLAY) ZONING DISTRICT (± 41.52 ACRES); 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, Skyway Memorial Gardens Acquisition, Inc. has requested a Special Permit to allow the addition of a 3,200 sq. ft. mausoleum to an existing cemetery located on the east side of U.S. 19 North, approximately 1,200 feet north of Experimental Farm Road, in the A-1 (Suburban Agriculture, 1 dwelling unit per acre) and A-1/CH (Suburban Agriculture, 1 dwelling unit per acre/Coastal High Hazard Area Overlay) zoning district ($41.52 \pm$ acres); and

WHEREAS, on May 7, 1998 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for Skyway Memorial Gardens Acquisition, Inc.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-98-01 requested by Skyway Memorial Gardens Acquisition, Inc. states 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. This request is for a Special Permit to allow the addition of a 3,200 sq. ft. mausoleum to an existing cemetery.

B. The site is located on the east side of U.S. 19 North, approximately 1,200 feet north of Experimental Farm Road.

C. The site is zoned A-1 (Suburban Agriculture, 1 dwelling unit per acre) and A-1/CH (Suburban Agriculture, 1 dwelling unit per acre/Coastal High Hazard Area Overlay). The Future Land Use Designation of the property is RES-9 (Residential, 9 dwelling units per acre).

D. The site is currently utilized as a cemetery. To the north is vacant property zoned PDMU. To the south is vacant property zoned RSF-6 and PDR. To the east is a mobile home park on property zoned RSMH-6 and a single-family home on property zoned A-1. To the west, across U.S. 19, there are several uses including a restaurant, a bed and breakfast, and single-family homes on property zoned PDMU/CH and NC-M/CH.

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Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, the above referenced Hearing Officer hereby makes the following Findings 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. The proposed use is consistent with Policy 2.2.1.13.2 of the Manatee County Comprehensive Plan, which allows for residential support uses in the RES-9 (Residential, 9 dwelling units per acre) Future Land Use Category.

D. The proposed use is consistent with Objective 2.6.4 of the Manatee County Comprehensive Plan, requiring compatibility between adjacent land uses.

E. The proposed use is consistent with Objective 2.1.3., Conceptual Location of New Nonresidential Development, of the Manatee County Comprehensive Plan,

F. The establishment of the proposed use will not impede the normal and orderly development of the area. The proposed 3,200 sq. ft. mausoleum will be centrally located within a complex of five existing buildings. Adjacent properties to the north and south are currently vacant. There are both commercial and residential uses to the west, however, they are separated from this site by U.S. 19 North. The mobile home park to the east is well over 1,000 feet from the proposed mausoleum building.

G. An existing driveway off U.S. 19 North, which connects to an interior circular drive, provides adequate ingress and egress for this site in a manner that minimizes traffic congestion.

H. The proposed use is consistent with the community character of the immediate neighborhood, which is developed with a variety of commercial and residential uses. Possible future impacts on the adjacent residential areas to the south, which are currently vacant, are mitigated to some degree by the extensive existing vegetation.

I. Adequate provisions have been made to provide landscaping buffers in association with the proposed additions. The street frontage on U.S. 19 North is adequately buffered by the proposed trees and shrubs shown on the site plan. The mausoleum proposed with this application is naturally screened with an existing tree line which runs diagonally through the center of the site. This tree line provides adequate screening and buffering to meet the intent of the Manatee County Land Development Code.

J. This request meets all the standards set forth in the Manatee County Land Development Code, Section 704.12, Conditional Use Criteria for Cemeteries, Columbariums, and Mausoleums.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Skyway Memorial Gardens Acquisition, Inc. for the property located on the east side of U.S. 19 North, approximately 1,200 feet north of Experimental Farm Road, in the A-1 (Suburban Agriculture, 1 dwelling unit per acre) and A-1/CH (Suburban Agriculture, 1 dwelling unit per acre/Coastal High Hazard Area Overlay) zoning district, and more particularly described in Exhibit "A" attached hereto and

incorporated herein, for a Special Permit to allow the addition of a 3,200 sq. ft. mausoleum to an existing cemetery, subject to the following conditions:


- A. This Special Permit will 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. Prior to final site plan approval, the Engineer of Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow and drainage design.
- D. Only those items shown on the site plan submitted with this request are being approved with this Special Permit.

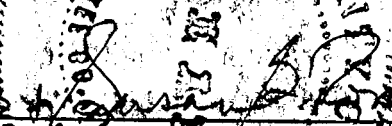
Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force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

ORDERED ON BEHALF OF MANATEE COUNTY this 8 day of June, 1998.

MANATEE COUNTY, FLORIDA

BY: 
James A. Paulmann, as
Hearing Officer for Manatee County

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


Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

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EXHIBIT "A"

LEGAL DESCRIPTION:

THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, LESS RIGHT-OF-WAY FOR STATE ROAD NO. 55 (U.S. HIGHWAY NO. 19), ALSO THE SOUTH 337.5 FEET OF THE WEST 1287 FEET OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 36, LESS RIGHT-OF-WAY FOR COUNTY ROAD ON WEST, THE ABOVE MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA; THENCE S89°32'42" E, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 132 FEET TO ITS INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NO. 55 FOR THE POINT OF BEGINNING; THENCE CONTINUE S89°32'42" E, ALONG SAID SOUTH LINE, 1188 FEET; THENCE N00°18'42" W, ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 1320.7 FEET; THENCE N89°32'42" W, 33 FEET; THENCE N00°18'42" W, 337.5 FEET; THENCE N89°32'42" W, 1262 FEET; THENCE S00°18'42" E, ALONG THE EAST RIGHT-OF-WAY LINE OF A 50 FOOT WIDE COUNTY ROAD, 684.76 FEET TO ITS INTERSECTION WITH A CURVE, CONCAVE TO SOUTHWEST, HAVING A RADIUS OF 2042 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, ALSO BEING THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE OF STATE ROAD NO. 55, A DISTANCE OF 664.03 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S00°18'42" E, ALONG SAID EAST RIGHT-OF-WAY LINE, 320.65 FEET TO THE POINT OF BEGINNING.

LESS PORTION LYING WITHIN RIGHT-OF-WAY OF PALM VIEW ROAD;

AND LESS THE NORTH 200 FEET OF THE SOUTH 337.5 FEET OF THE WEST 1287 FEET OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, LESS THE WEST 25 FEET FOR ROAD RIGHT-OF-WAY.

TOGETHER WITH: SITUATE AND BEING IN SECTION 36, TOWNSHIP 33 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FOUND BY MEASURING FROM THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 36, S89°32'42" E, A DISTANCE OF 1320.0 FEET TO A CONCRETE MONUMENT, THIS BEING THE ABOVE MENTIONED POINT OF BEGINNING; THENCE N00°18'42" W, AND PARALLEL WITH THE WEST LINE OF SAID SECTION 36, A DISTANCE OF 636.5 FEET TO A CONCRETE MONUMENT; THENCE S89°58'52" E, A DISTANCE OF 16.0 FEET TO A CONCRETE MONUMENT IN THE CENTER OF AN EXISTING CANAL; THENCE SOUTHWESTERLY, ALONG THE CENTER OF SAID CANAL, 637 FEET, MORE OR LESS, TO A CONCRETE MONUMENT WHICH IS S89°32'42" E, AND 7.3 FEET FROM THE POINT OF BEGINNING; THENCE N89°32'42" W, 7.3 FEET TO THE AFOREMENTIONED POINT OF BEGINNING.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

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R.B. SHREVE CLERK OF CIRCUIT COURT MANATEE COUNTY FL