

**MANATEE COUNTY ZONING ORDINANCE
PDC-09-08(Z)(P) –MARK CAHILL INVESTMENTS, LLC/ MAGNOLIA PLAZA DTS
#20080395**

FILED FOR RECORD
R. B. SHORE

2010 DEC 14 PM 2:27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS 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 A REZONE OF APPROXIMATELY 1.45 ACRES ON THE SOUTH SIDE OF STATE ROAD 64, APPROXIMATELY ONE MILE EAST OF LENA ROAD, AT 10008 STATE ROAD 64 EAST, BRADENTON, FROM A-1 (SUBURBAN AGRICULTURE) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; AND APPROVAL A PRELIMINARY SITE PLAN FOR APPROXIMATELY 12,000 SQUARE FEET OF COMMERCIAL USE; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
2010 DEC - 8 AM 11:41
FILED

WHEREAS, Mark Cahill Investments, LLC (the "Applicant") filed an application to rezone approximately 1.45 acres described in Exhibit "A", attached hereto, (the "property") from A-1 (Suburban Agriculture) to the PDC (Planned Development Commercial) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan application for approximately 12,000 square feet of commercial use (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project in the MU (Mixed Use) Future Land Use Category; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 714.8.7, 715.3.2.c.2, Figure 715.C, 722.1.2.1, 722.2.1, 722.2.2, and 728.5.1.2 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

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on November 10, 2010 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 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 -1 (Suburban Agriculture) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on December 2, 2010 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 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. 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 this plan to comply with the requirements of Land Development Code Section 714.8.7, the Board finds that the intent to provide the required replacement canopy, as proposed, will be met.

F. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 715.3.2.c.2 and Figure 715.C, the Board finds that the intent to ensure compatibly and buffering between two types of uses, as proposed, will be met since the area to the south is undeveloped and heavily wooded.

G. Notwithstanding the failure of this plan to comply with the requirements of Land Development Sections 722.1.2.1, 722.2.1, and 722.2.2, the Board finds that the intent to provide sufficient and safe access, as proposed, will be met.

H. Notwithstanding the failure of this plan to comply with the requirements of Land Development Section 728.5.1.2, the Board finds that the intent to provide sufficient distance from surrounding uses and structures will be met with the proposed design.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for approximately 12,000 square feet of commercial uses upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. No access shall be directly to SR 64. Access to SR 64 shall be to the east over the area shown as right-of-way to the east of the site and such access may be constructed to commercial driveway standards.
2. If the adjacent right-of-way is vacated, a joint access agreement, between this site and the parcel to the east, shall be recorded prior to Final Site Plan approval.
3. The drive aisle that goes behind the building shall be designated as one-way only on the Final Site Plan.
4. No parking signs, with the Ordinance reference, shall be placed on the west, south, and east sides of the building. In addition, the rear portion of the drive aisle shall be marked in accordance with the Land Development Code requirements for fire lane marking.
5. All parking spaces shall meet the dimensions as required by the Land Development Code.
6. Freestanding signs shall be limited to one ground sign.
7. If the adjacent right-of-way to the east of the site is vacated, then the proposed dumpster shall meet the required 10' setback from the property lines.

B. ENVIRONMENTAL CONDITIONS:

1. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted to the Natural Resources Department for review prior to Final Site Plan approval.
2. Replacement trees in the amount of 30 @ 3" caliper and 21 @ 4" caliper are required for this project. Replacement may be accomplished through upsizing of minimum required roadway buffer, perimeter buffer and vehicle use area canopy trees to 3" and 4" caliper size.

Section 3. SPECIFIC AND SPECIAL APPROVALS. Specific Approval is hereby granted for alternatives to Sections 714.8.7, 715.3.2.c.2, Figure 715.C, 722.1.2.1, 722.2.1, 722.2.2, and 728.5.1.2 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. Special Approval is hereby granted for a project in the Mixed Use Future Land Use Category. The Special 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 classification of the property identified in Exhibit "A" herein from A-1 (Suburban Agriculture) to the PDC (Planned Development Commercial) 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 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 2nd day of December, 2010.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: 
Donna G. Hayes, Chairman



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

BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

(as provided by Title Resources Guaranty Company, Policy #7905080044)

Lot 21, and the east 100.00 feet of Lot 22, of RICHLAND FARMS, as per Plat thereof recorded in Plat Book 6, Page 63, of the Public Records of the County of Manatee in the State of Florida.

LESS AND EXCEPT that part thereof lying within 50 feet of the survey line of State Road 64, Section 1305, said survey line being described as follows: Begin on the west boundary of section 26, Township 34 South, Range 18 East at a point 601.52 feet North of a ¾" Iron Pipe, locating the Southwest corner of said Section 26, said point also designated as Station 286+71.42 on said survey line; thence run South 74 degrees 24' East, 1985.55 feet to the beginning of a curve to the left with a radius of 2083.48 feet; thence along said curve 557.58 feet, through a total central angle of 15 degrees 20' to end of said curve; thence South 89 degrees 44' East, 799.06 feet to the beginning of a curve to the right with a radius of 2864.79 feet; thence along said curve 1628.33 feet, through a total central angle of 32 degrees 34' to the end of said curve; thence South 57 degrees 10' East 1701.18 feet to the beginning of a curve to the left with a radius of 2864.79 feet; thence along said curve 1545.83 feet through a total central angle of 30 degrees 55' to the end of said curve; thence South 88 degrees 05' East, 6084.06 feet; thence South 88 degrees 13' East, 1656.03 feet to the East boundary of Section 30, Township 34 South, Range 19 East at a point 310.85 feet North of a 4' x 4' lightwood stake locating the Southeast corner of said Section 30, less existing rights-of-way as conveyed to State of Florida pursuant to that Quit-Claim Deed recorded in Deed Book 316, Book 117, of the Public Records of Manatee County Florida.

AND FURTHER LESS AND EXCEPT therefrom that part described as follows:

Those portions of lots 21 and 22, RICHLAND FARMS, according to the Plat thereof, as recorded in Plat Book 6, Page 63, of the Public Records of Manatee County, Florida, being described as follows:

Begin at the intersection of the East line of said lot 21 and the Southerly existing right-of-way line of State Road 64 (per Section 1305-2500) thence along said East line, South 00 degrees 43'20" West a distance of 45.01 feet; thence leaving said East line, North 87 degrees 50'00" West a distance of 219.04 feet to the West line of the East 100.00 feet of said Lot 22; thence along said West Line, North 00 degrees 44'10" East a distance of 45.01 feet to said Southerly existing right-of-way line; thence along said Southerly existing right-of-way line, South 87 degrees 50'00" East a distance of 219.03 feet to the Point of Beginning; as conveyed to state of Florida Department of Transportation pursuant to that Warranty Deed recorded in Book 2062, Page 5896, of the Public Records of Manatee County, Florida.

All of said lands situate, lying and being in 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 20th day of December, 2010
R.B. SHORE
Clerk of Circuit Court
By: [Signature] D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

FILED FOR RECORD
R. B. SHORE
2010 DEC 14 PM 2:26
CLERK OF CIRCUIT COURT
MANATEE COUNTY, FLORIDA
DAWN K. ROBERTS
Interim Secretary of State

December 9, 2010

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

Attention: Ms. Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated December 3, 2010 and certified copies of Manatee County Ordinance Nos. 10-44, 10-65, 10-72, PDMU-91-01 (G)(R5) and PDC-09-08 (Z)(P), which were filed in this office on December 8, 2010.

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

Sincerely,

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6282 • TDD: 850.922.4085 • <http://dliis.dos.state.fl.us>

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