

**NAJMY | THOMPSON** PL  
**ATTORNEYS AT LAW**

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**RECEIVED**  
**OCT 06 2020**

Board of County Commissioners  
Manatee County

OTHER OFFICES:  
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Sarasota (941) 907 - 3999  
New York (212) 220 - 6616

WWW.NAJMYTHOMPSON.COM

October 6, 2020

VIA HAND DELIVERY

The Honorable Betsy Benac  
Chair, At Large  
1112 Manatee Avenue West  
Bradenton, FL 34205

Re: Rezoning Request of Agricultural Zoned Parcel to Accommodate a  
High Intensity Motor Vehicle Dealership Operation (Cox Chevrolet)

Dear Commissioner Benac:

As you are aware, this law firm has been retained by numerous owners who live adjacent to and in close proximity to the above property which is being considered for rezoning from zoning district A-1 to PDC. Back in February, the Board of County Commissioners ("BCC") as a result of request by the applicant, agreed to a continuance of this matter. The applicant stated that one of the reasons for this continuance was to work with the neighbors and we assumed to hear our concerns and hopefully incorporate changes onto the plan. Unfortunately, there was only one (1) meeting held and that was only with the steering committee. We felt after this meeting, the developer would incorporate changes and schedule more meetings. This never happened and now it is a rush to judgement. It appears that the sole reason for the requested continuance was an attempt to wear down the neighbors/opposition.

It is my understanding that this matter is scheduled on the October 22, 2020 BCC land use meeting agenda. As of today, there has been one meeting between the applicant and the steering committee and no meetings with the adjacent neighbors. The developer has had over eight months to meet with the community and had only one meeting with selected representatives. For the BCC to move forward on this matter without the applicant having more discussion with the adjacent communities runs contrary to the commitment to community planning that Manatee County encourages.

It is evident that the developer's request for a continuance was only to wear down the opposition and to see whether the elections would result in a more favorable vote from the commission. Not pleased with the recent election results, it appears the developer is attempting to fast forward this request, with no consideration or input from the community.

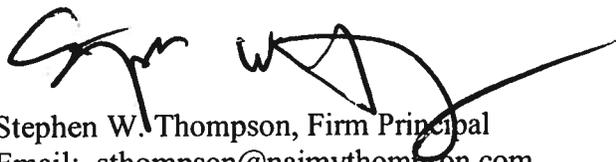
**NT**

The Honorable Betsy Benac  
October 6, 2020  
Page Two

This project will undoubtedly have numerous adverse impacts on the surrounding neighborhoods and its residents. It seems very strange that after eight months of making no changes to the plan, and not making a serious effort to engage the adjacent neighbors, they are now attempting to push this project further.

The purpose of this correspondence is to inform the BCC members of our objections and urge you to reschedule the BCC's consideration to a later meeting so that it may be completely and properly reviewed and there is an opportunity for the community to have meaningful input into this very important decision. Thanking the commissioners in advance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen W. Thompson', with a long horizontal flourish extending to the right.

Stephen W. Thompson, Firm Principal  
Email: [sthompson@najmythompson.com](mailto:sthompson@najmythompson.com)  
SWT/mko

Cc: Citizens of East Manatee for Reasonable Development  
Commissioner Priscilla Trace, District 1  
Commissioner Reggie Bellamy, Third Vice-Chair, District 1  
Commissioner Stephen R. Jonsson, District 3  
Commissioner Misty Servia, Second Vice Chair, District 4  
Commissioner Vanessa Baugh, District 5  
Commissioner Carol Whitmore, First Vice-Chair, At Large

George Druist  
236 Dahlia Court, Bradenton Florida 34212

February 11, 2020

The Honorable Betsy Benac  
Manatee County Board of Commissioners  
P.O. Box 1000  
Bradenton, FL 34206-1000

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FEB 19 2020

Board of County Commissioners  
Manatee County

BCC, Admin, Vida G.

Dear Commissioner Benac:

First, please accept my thanks for your service to our vibrant and growing community. And, best wishes for your courage and commitment to continue to serve.

Secondly, I ask you to consider the gradual changes in attitudes of the public toward their elected and unelected government officials when you vote on the merits of the recent approval of zoning in District One which would allow Cox Chevrolet to open an automobile dealership on SR 64 abutting several residential neighborhoods.

Protesting residents have successfully showcased their opposition to the Cox project in print *and* broadcast Media at Planning Board Meetings, and with their very public rally's. The question everyone is asking is "Why do those citizens feel that their voices will be heard now when in the past they were less confident? Don't they realize that such efforts are rarely successful?"

Perhaps citizens are more confident that their voices will be heard is that successful elected officials are now listening more to "We the People," not just the ruling class and "connected." Consider the painful (to some) transformation of the Republican Party. Does anyone remember Jeb Bush? Today we have a President who was given no chance of being elected. A President who, despite the coordinated efforts of the elected political class in both parties, the mainstream media, the academe, Hollywood elites, popular culture, a serious FBI spy operation supported by the Federal judiciary, the \$40 million dollar Mueller investigation, and a partisan impeachment, has maintained the support of ***we the people*** and is now the odds-on favorite to win reelection. With all of this change, why should it be surprising that that the people of this county are confident that their elected Commissioners will, as a collective body, find a political solution to take a closer look at this project and make both Cox and the voting public better off through better planning.

Best regards to you all and the wishing for best of outcomes for our community.

Sincerely,



George Druist  
[gdruist@gmail.com](mailto:gdruist@gmail.com)

P.S. Same text in letters to all Commissioners

**From:** KATHY WILHOIT <[klwrx@yahoo.com](mailto:klwrx@yahoo.com)>

**Sent:** Wednesday, February 19, 2020 9:35 PM

**To:** Betsy Benac <[betsy.benac@mymanatee.org](mailto:betsy.benac@mymanatee.org)>; Carol Whitmore <[carol.whitmore@mymanatee.org](mailto:carol.whitmore@mymanatee.org)>; Vanessa Baugh <[vanessa.baugh@mymanatee.org](mailto:vanessa.baugh@mymanatee.org)>; Misty Servia <[misty.servia@mymanatee.org](mailto:misty.servia@mymanatee.org)>; Stephen R Jonsson <[steve.jonsson@mymanatee.org](mailto:steve.jonsson@mymanatee.org)>; [reggie.bellamy@mymanatee.org](mailto:reggie.bellamy@mymanatee.org); Priscilla WhisenantTrace <[priscilla.whisenanttrace@mymanatee.org](mailto:priscilla.whisenanttrace@mymanatee.org)>; Priscilla WhisenantTrace <[priscilla.whisenanttrace@mymanatee.org](mailto:priscilla.whisenanttrace@mymanatee.org)>

**Subject:** Giddens/Commercial Development PDC-18-15(Z)) - is NOT COMPATIBLE - NO VEHICLE SALES

Dear Commissioners,

I am e-mailing you regarding the Cox Auto Dealership proposed at the intersection of SR 64 and 117th Street (A.K.A. Giddens/Commercial Development PDC-18-15(Z)).

I understand that the application does not specifically state CAR DEALERSHIP the proffered Schedule of Permitted and Prohibited Uses include and would allow for vehicle sales, furthermore the COX family is the proposed developer. Let's not kid ourselves as to what is being proposed here.

Staff is presenting this as if they have vetted through all issues and find this consistent with the CODE to allow for such a development in this location. While I am not a planner, I do understand that COMPATIBILITY is an important part of our Comp Plan, Land Development, and Zoning Codes. Staff appears to be ignoring this important part of community planning regarding this application.

I find it interesting that County Land Development Code under GC General Commercial Table 4-3 Vehicle Sales P/SP (Permitted/Special Permit) is a permitted use provided it goes through the Special Permit requirements (SEE Section 316)

#### 3.16.1 Purpose

The purpose of Special Permits to provide individual review of the location, design, configuration, operation and the public need for the particular use at the particular location proposed to assure consistency with this Code and the Comprehensive Plan. Each Special Permit may require the imposition of site-specific conditions to achieve such consistency and to ensure that the proposed use is appropriate at its particular location.

#### 3.16.2 Special Permits Required

Those uses listed in the schedule of uses in Chapter 4 as SP, and other development activities noted in other chapters of the LDC as requiring SP, may be established only after issuance and recordation of a Special Permit in accordance with this section. The issuance of a Special Permit does not waive the requirements for a building permit or other required approvals. Whenever the LDC requires Special Permit approval for an activity proposed in a Planned Development, the SP review may be conducted in conjunction with the Planned Development application, provided that the criteria for both are met (see Section 316.6 for SP criteria and Section 342.4 for PD criteria).

#### 3.16.6 Review Criteria

A Special Permit request shall not be approved unless the Hearing Officer finds that it meets the following.

d. Adequate measures shall already exist, or shall be taken, to provide ingress and egress to the

proposed use in a manner that minimizes traffic congestion in the public streets;  
e. 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);

Why would a Planned Development Commercial PDC with a general development plan allow for vehicle sales and NOT follow the same standards or requirement as GC Vehicle Sales???????

Compatibility shall mean a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

A Car Dealership is NOT compatible at the proposed location. This proposed development is surrounded by single family residential development on three sides and a multifamily development on the fourth side. The primary access from traffic will be on the local street (117th Street) which means Test Drive Trips, Tanker Trucks Delivering Gas, and Tractor Trailer Rigs delivering cars will be off of the local street. The applicant will tell you their primary access will be off of SR 64, but that is not true since there is NOT a Left Turn off of SR 64 into this site for traffic coming from the west. ONLY an UNSAFE U-Turn will allow for traffic coming from the west into this proposed development (Tractor Trailer rigs doing U-turns?). This type of use of the local street is not compatible. The delivery drivers will take the easiest route to access the site and therefore they WILL USE THE LOCAL STREET!! Furthermore, the attached pictures labelled COX indicate the type of care that is taken on one of their other sites in manatee county (debris stored on site or the potential unsightly gas storage tanks). Again not compatible.

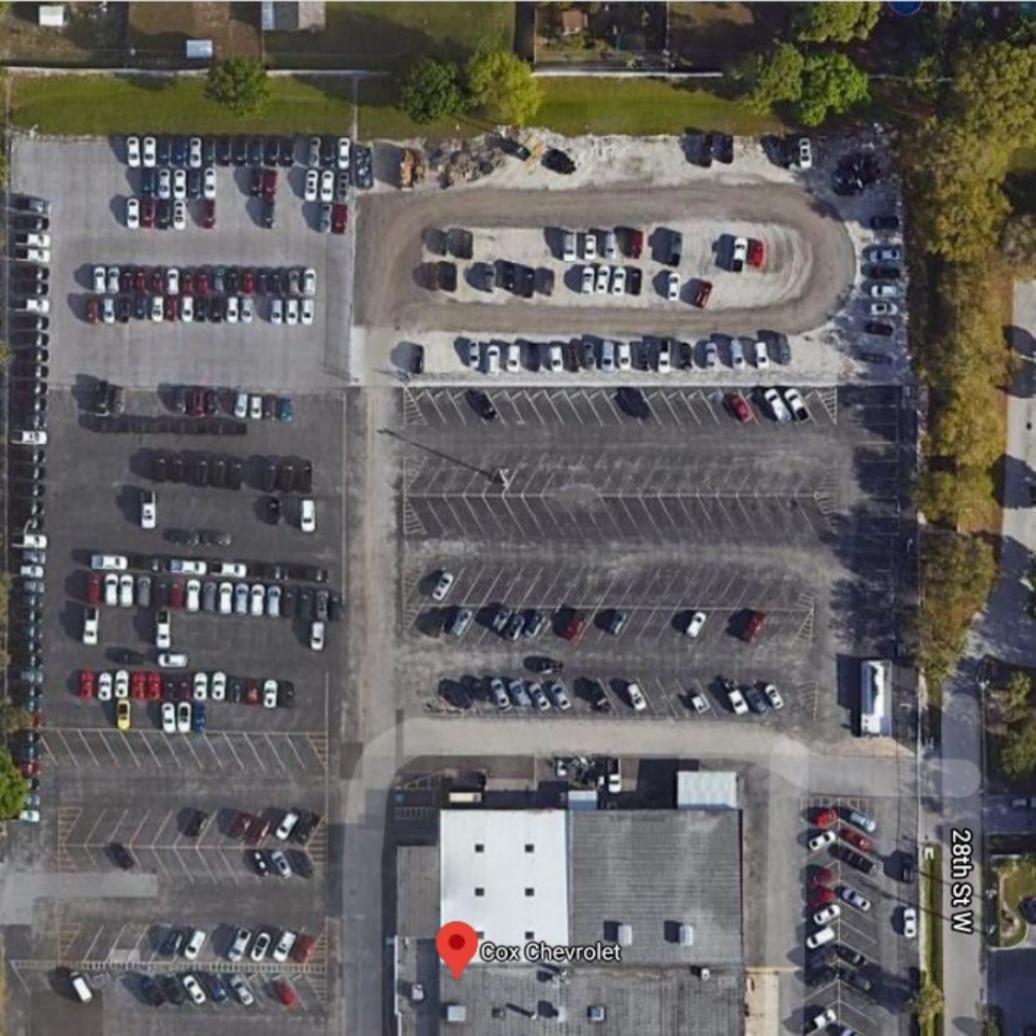
Finally, the INTERSECTION. The proposed improvement A CAR DEALERSHIP (PDC - Planned Development Commercial) will generate regional traffic trips from west of I-75 and areas outside of Manatee County coming off of I-75. Whereas a shopping center of the sort will generate more of the local internal capture traffic trips and NOT add trips to an already dangerous intersection. As I noted above in order to NOT use a local street for access the Large Delivery/Tanker Trucks arriving from I-75 will be required to perform an unsafe U-Turn at this already unsafe intersection. I have attached a photo (PDF) of my teenage daughter's car after a terrible accident at this very intersection last year. Her and three friends were heading west bound when a truck attempted to make a left turn onto 117th St. The truck driver was cited. This intersection is already dangerous without the addition of regional traffic! Please remember that our families including our children are affected by your decisions.

Please consider NOT approving this application for Vehicle Sales, by simply striking through the Vehicle Sales on the proffered Permissible Use Table or Not approving application as presented to the board. This project is NOT COMPATIBLE at this location. Furthermore, while I understand you, Manatee County has no say as to the transportation improvements on SR 64, but you do have the power and control of what development is approved/allowed along this corridor.

Thank You,

Dr. Kathryn Wilhoit





28th St W



Cox Chevrolet



**From:** Trevor Evans <[trevor.e@email.com](mailto:trevor.e@email.com)>

**Sent:** Wednesday, February 19, 2020 8:29 PM

**To:** Betsy Benac <[betsy.benac@mymanatee.org](mailto:betsy.benac@mymanatee.org)>; Carol Whitmore <[carol.whitmore@mymanatee.org](mailto:carol.whitmore@mymanatee.org)>;

Vanessa Baugh <[vanessa.baugh@mymanatee.org](mailto:vanessa.baugh@mymanatee.org)>; Misty Servia <[misty.servia@mymanatee.org](mailto:misty.servia@mymanatee.org)>;

Stephen R Jonsson <[steve.jonsson@mymanatee.org](mailto:steve.jonsson@mymanatee.org)>; Reggie Bellamy

<[reggie.bellamy@mymanatee.org](mailto:reggie.bellamy@mymanatee.org)>; Priscilla WhisenantTrace

<[priscilla.whisenanttrace@mymanatee.org](mailto:priscilla.whisenanttrace@mymanatee.org)>

**Subject:** Giddens Property Re-Zone

Please see the attached resolution from the Board of Directors of Osprey Master Homeowners Association Inc. (board), the resolution was adopted by the board on January, 22<sup>nd</sup> 2020. The resolution opposes the proposed changes to the current zoning of the Giddens property immediately south and adjacent to the Osprey Landing Subdivision, this zoning change shall be considered at the Manatee County Commissioners meeting 2/20/2020. Additionally, we have collected signatures of the residents of Osprey Landing opposing the zoning change, they are attached. I appreciate your attention to the matter.

Trevor Evans

President

Osprey Landing Master Homeowners' Association Inc.

Sent from [Mail](#) for Windows 10

**RESOLUTION 2020-1**

**Osprey Landing Master Homeowner's Association, Inc.**  
c/o Sunstate Association Management Group  
5602 Marquesas Cir. Ste. 103 Sarasota, FL 34233  
(941) 870-4920

**RESOLUTION REGARDING GIDDINS LAND DEVELOPMENT**

I certify that I am the Secretary, and the keeper of the records and minutes of meetings of the Osprey Landing Master Homeowner's Association, Inc., a Florida non-profit corporation ("the Corporation" or "Osprey Landing Homeowners Association"), and that pursuant to a meeting held by a majority of the Board of Directors of the Corporation on January 22nd, 2020, the following resolution was duly and legally adopted and has not been revoked, altered or amended:

**WHEREAS,**

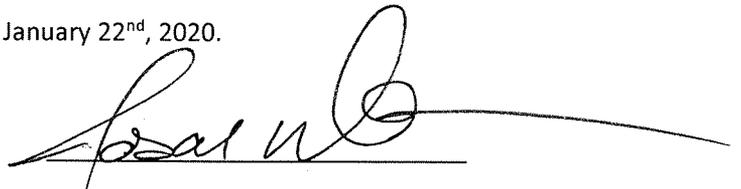
1. The board of directors for Osprey Landing Homeowners Association has cause for concern regarding the development of the land immediately adjacent to the south of Osprey Landing community known as the Giddens/Cox land development ("the subject property"). In summary, the development proposal calls for re-routing Gates Creek through the subject property to the Western boundary of the subject property, thus potentially changing the flow characteristics of Gates Creek that could increase the velocity of the water flow during a heavy rain event; additionally, the creation of a storm water/water retention system for the subject property that will, when at capacity, cause significant additional outflow into Gates Creek during a significant rain event, and the proposed subject property water retention system outflow will be near the Osprey Landing southern boundary.
2. Osprey Landing Homeowners Association previously has had to make significant costly repairs to the community's storm water retention system after a significant rain event causing a washout of Gates Creek into Osprey Landing's storm water retention system, which occurred without the additional significant water flow or water velocity into Gates Creek contemplated in the development proposal for the subject property.

BE IT RESOLVED, pursuant to unanimous vote of the Board of Directors of the Corporation at a meeting on January 22nd, 2020, the following the resolution opposing the Giddens/Cox land development is hereby adopted to oppose the proposed re-zoning from agricultural use to general commercial use for the subject property immediately to the south and adjacent to the Osprey Landing community.

Adopted at a meeting of the Board of Directors held January 22<sup>nd</sup>, 2020.



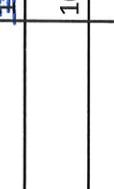
President Trevor Evans  
for Osprey Landing Master Homeowners  
Association, Inc.



Secretary Jason Wilson  
for Osprey Landing Master Homeowners  
Association, Inc.

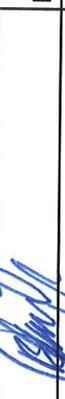
# OSPREY LANDING PETITION AGAINST THE GIDDENS PROPERTY

## PROPOSED ZONING CHANGE ON FEBRUARY 20TH 2020

SIGNATURE	Owner(s)	Situs Address	Postal City
	ALGER, WILLIAM R ALGER, TRACY L	11549 11TH AVE E	BRADENTON
	BACHMEIER, CORBIN J	11525 11TH AVE E	BRADENTON
	<del>BERNARDY, KATE WILLIAM</del> Rental EVANS, TREVOR J EVANS, SUNNIE G	<del>1155 11TH AVE E</del> 1016 116TH ST E	BRADENTON*
	EVANS, VICKIE LEE	1107 116TH ST E	BRADENTON
	FARREN, MATTHEW BENJAMIN KREIGER, CASSIE LEE	11521 11TH AVE E	BRADENTON
	GLASGOW, TRACY L	11557 11TH AVE E	BRADENTON *
	GLASS, SUSAN RODGERS, KAREN RODGERS, SCOTT	11611 11TH AVE E	BRADENTON
	GONZALEZ, RAFAEL RIVERON, YAILENYS	11533 11TH AVE E	BRADENTON
	GRAEFF, JORDAN GRAEFF, RACHEL	11545 11TH AVE E	BRADENTON
	QUANCHEZ, DANIEL IGNACIO LADENSACK, ALEXANDRA	1111 116TH ST E	BRADENTON
	HADRA, DANIEL HADRA, KRYSTINA	11569 11TH AVE E	BRADENTON
	HASSLER, JASON E HASSLER, ANDREA B	1025 116TH ST E	BRADENTON
	JOHNS, BRYAN WILLIAM JOHNS, MYSTI D	11558 11TH AVE E	BRADENTON
	JOHNSON, EARL JOHNSON, ELAINE	1115 116TH ST E	BRADENTON*
	KLINE, CHESTER KLINE, LORETTA	1020 116TH ST E	BRADENTON
	KUBIAK, WILLIAM L KUBIAK, KEVIN L	11517 11TH AVE E	BRADENTON

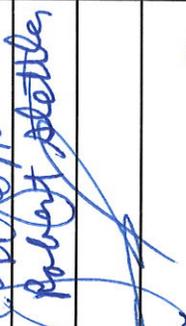
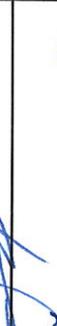
# OSPREY LANDING PETITION AGAINST THE GIDDENS PROPERTY

## PROPOSED ZONING CHANGE ON FEBRUARY 20TH 2020

	LANGEI, JOSHUA C LANGEI, JULIA A LANGEI JOINT REVOCABLE LIVIN	11513 11TH AVE E	BRADENTON
	LINNA, RANDY LINNA, JOEL	11529 11TH AVE E	BRADENTON
	MCANINCH, DUSTIN JOHN MCANINCH, BRANDY L R	11562 11TH AVE E	BRADENTON
	MENDEZ, JOSE MENDEZ, LINA	11561 11TH AVE E	BRADENTON
	NGUYEN, MAI LE, HUNG LE, ERIC HUY	11524 11TH AVE E	BRADENTON
	OSPINA, EDUARDO OSPINA, CARMEN MARIA	1021 116TH ST E	BRADENTON
<i>Home Owners For OLHOA Inc.</i>	OSPREY LANDING MASTER HOMEOWNERS ASSOCIATION INC	11620 11TH AVE E	BRADENTON
<i>Home Owners For OLHOA Inc.</i>	OSPREY LANDING MASTER HOMEOWNERS ASSOCIATION INC	11541 11TH AVE E 1010 11	BRADENTON
<i>Home Owners For OLHOA Inc.</i>	OSPREY LANDING MASTER HOMEOWNERS ASSOCIATION INC	1006 116TH ST E	BRADENTON
<i>Home Owners For OLHOA Inc.</i>	OSPREY LANDING MASTER HOMEOWNERS ASSOCIATION INC	11619 11TH AVE E	BRADENTON
	PARFITT, DANA PARFITT, KEVIN	1008 116TH ST E	BRADENTON
	PATEL, AYUSHI BIREN PATEL, BIREN H	11566 11TH AVE E	BRADENTON
	RULON, THOMAS E RULON, LAURA N <i>Vacant</i>	11512 11TH AVE E	BRADENTON
	ELIZABETH K BURCHETT, JASON M	11565 11TH AVE E	BRADENTON
	SCHAEFER, GAREN MARIE SCHAEFER, WILLIAM M	11509 11TH AVE E	BRADENTON
	SHUNK, DEREK PAUL SHUNK, SHEILA CHRISTINE	1029 116TH ST E	BRADENTON
<i>Maria Sine</i>	SINE, TERRY SINE, MARIA	11607 11TH AVE E	BRADENTON

# OSPREY LANDING PETITION AGAINST THE GIDDENS PROPERTY

## PROPOSED ZONING CHANGE ON FEBRUARY 20TH 2020

	SOMESON, MANDI SUE CRYSTAL	11615 11TH AVE E	BRADENTON
	STETTLER, ROBERT	11520 11TH AVE E	BRADENTON
	TEJEDA, LUIS CORTES, MAYRA W GONZALEZ	1012 116TH ST E	BRADENTON
	TRAN, KIM OANH THI	11570 11TH AVE E	BRADENTON
	VASQUEZ, RACHEL	11553 11TH AVE E	BRADENTON
	VELARDI, ANGELA	11508 11TH AVE E	BRADENTON
	WELLS, PAUL WELLS, MELODY M SPECIAL NEEDS TRUST DTD 8/11/11	11516 11TH AVE E	BRADENTON
	WILSON, JASON PORTER WILSON, MELANIE CELESTE	11554 11TH AVE E	BRADENTON

**From:** jay.d.osullivan <[jay.d.osullivan@gmail.com](mailto:jay.d.osullivan@gmail.com)>

**Sent:** Wednesday, February 19, 2020 4:13 PM

**To:** Vida Gordon <[vida.gordon@mymanatee.org](mailto:vida.gordon@mymanatee.org)>; Vida Gordon <[vida.gordon@mymanatee.org](mailto:vida.gordon@mymanatee.org)>; Priscilla WhisenantTrace <[priscilla.whisenanttrace@mymanatee.org](mailto:priscilla.whisenanttrace@mymanatee.org)>; Reggie Bellamy <[reggie.bellamy@mymanatee.org](mailto:reggie.bellamy@mymanatee.org)>; Stephen R Jonsson <[steve.jonsson@mymanatee.org](mailto:steve.jonsson@mymanatee.org)>; Misty Servia <[misty.servia@mymanatee.org](mailto:misty.servia@mymanatee.org)>; Vanessa Baugh <[vanessa.baugh@mymanatee.org](mailto:vanessa.baugh@mymanatee.org)>; Vanessa Baugh <[vanessa.baugh@mymanatee.org](mailto:vanessa.baugh@mymanatee.org)>; Betsy Benac <[betsy.benac@mymanatee.org](mailto:betsy.benac@mymanatee.org)>; [srudacille@blalockwalters.com](mailto:srudacille@blalockwalters.com); [sthompson@najmythompson.com](mailto:sthompson@najmythompson.com); William Clague <[william.clague@mymanatee.org](mailto:william.clague@mymanatee.org)>

**Cc:** [anneosu@gmail.com](mailto:anneosu@gmail.com)

**Subject:** Object to and Motion to Strike Request for Continuance under PETITION NO.: PDC-1815(Z)(G - Giddens Commercial Development

To All Members of the Manatee County Board of County Commissioners and to all Attorneys and other Applicable Persons:

I attach my moving papers titled as follows: Motion to Strike and Objection to Untimely and Unauthorized Request for Continuance of February 20, 2020 Quasi-Judicial Hearing by Petitioners.

I respectfully request this item be taken up before any argument or request for continuance by Petitioners Cox Chevrolet and the Giddens since my moving papers address that improper and untimely request for a continuance in this quasi-judicial proceeding.

Had Petitioners filed their letter seven days in advance of the quasi-judicial hearing tomorrow there would have been no need for this Objection to be filed and served the day before. The fact that Petitioners filed their request yesterday necessitated the filing of this response today.

Thank you for your consideration in this matter.

Jay D. O'Sullivan  
505 Chantilly Trail  
Bradenton, Florida 34212  
[Jay.D.OSullivan@gmail.com](mailto:Jay.D.OSullivan@gmail.com)  
(954) 579-3663 cell

MANATEE COUNTY FLORIDA BOARD  
OF COUNTY COMMISSIONERS

In Re: PETITION FOR REZONE

QUASI-JUDICIAL PROCEEDING

COX PROPERTIES IIIA, LLC, a Florida Limited  
Liability Company and RANDY AND HELAINE  
GIDDENS,

PETITION NO.: PDC-1815(Z)(G)

Petitioners.

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**MOTION TO STRIKE AND OBJECTION TO UNTIMELY AND UNAUTHORIZED REQUEST  
FOR CONTINUANCE OF FEBRUARY 20, 2020 QUASI-JUDICIAL HEARING  
BY PETITIONERS**

COMES NOW Jay D O'Sullivan, individually, as well as an Opponent and Affected Person, who is more properly identified as a Party pursuant to Fla. Stat. § 120.52(13)(b), brings this Motion to Strike the untimely and unauthorized Request for Continuance filed by the Petitioners in the above stated proceeding.

This Party submits that, as a quasi-judicial body, the Manatee County Florida Board of County Commissioners is required to hear and adjudicate all issues before it at the regularly scheduled quasi-judicial hearing of February 20, 2020 on the Petitioners' rezone request and rule immediately thereafter without delay. Further, in regard thereto, this Party submits the Board of Commissioners is required to deny the Petitioners' untimely and unauthorized request for an open-ended continuance, because, as a matter of law, no emergency circumstance exists.

As more fully explained below, any other course of action would be contrary to the Due Process Clauses of both the Florida and U.S. Constitutions, the applicable Florida Statutes, as well as the Florida Administrative Code, the Florida Uniform Rules of Procedure for a quasi-judicial body, as well as the Board Procedures established by the Manatee County Board of County Commissioners.

## I. STATEMENT OF FACTS

Petitioners' rezone request has been pending before the Manatee County Board of County Commissioners for almost two years, as well as pending for an equal amount of time before the United States Army Corps of Engineers and the Southwest Florida Water Management District.

The Petitioners have had more than sufficient time to establish a qualified basis for their Petition for rezone by appropriate fact-finding, investigation and understanding of the applicable laws, statutes and administrative regulations that govern the acceptance or rejection of such a Petition and then to then submit the same for adjudication by the Manatee County Board of County Commissioners .

During that time frame, with a nondelegable duty to do so, it is inconceivable that Petitioners, their counsel, Blalock Waters, and their engineering experts, ZNS Engineering, L.C. did not thoroughly investigate all applicable matters and circumstances, whether they be environmental, land use, the potential for increased flooding, access to the requested rezone property, roadway development or other related matters.

Accordingly, at all times material, the Petitioners, their engineering representatives and counsel, having a nondelegable duty to thoroughly investigate all applicable matters and circumstances related to their rezone request, cannot now assert they need more time to correct any of their omissions of fact or law in their Petition, as well as any of their material misrepresentations in the same.

As the Florida Uniform Rules of Procedure for a quasi-judicial body at Chapter 28-106, Decisions Determining Substantial Interests state:

The following standards of conduct are mandatory for all qualified representatives.

- (1) A representative shall exercise due diligence to insure that any motion or pleading is filed and argued in good faith.
- (2) A representative shall advise the client to obey the law.
- (3) A representative shall not:

- (a) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
  - (b) Engage in conduct that is prejudicial to the administration of justice;
  - (c) Handle a matter which the representative knows or should know that he or she is not competent to handle;
  - (d) Handle a legal or factual matter without adequate preparation;
  - (e) Communicate, or cause another to communicate, as to the merits of the proceeding with the presiding officer except on the record or in writing with a copy promptly delivered to the opposing party; or
  - (f) Communicate with an adverse party regarding matters at issue in the administrative proceeding where the representative knows that the adverse party is represented by an attorney or other qualified representative.
- (4) Failure to comply with these provisions shall authorize the presiding officer to disqualify the representative appearing in the administrative proceeding.

(Emphasis added). Fla. Admin Code § 28-106, Standards of Conduct for Qualified Representatives. See, Fla. Admin Code § 28-106(2)(a) for the definition of Qualified Representative.

As Petitioners have known, at all times material, any omissions of fact or law in their Petition or misrepresentations contained in the same by their agents or counsel cannot be papered over by an unauthorized and untimely request for continuance.

Such a request fully demonstrates why the Petition for rezone must be denied on February 20, 2020 by the Board.

## **II. STATEMENT OF AUTHORITIES**

Due process requires that there be standards and procedures governing a request for continuance affecting a quasi-judicial proceeding. Pursuant to the standards and procedures governing a request for continuance contained in the Board Procedures of the Manatee County Board of County Commissioners, the request for a continuance by Petitioners and their counsel cannot be entertained. It is not allowed.

Instead, the adopted Board Procedures of the Board of County Commissioners only allow the following to be a basis for a continuance:

#### **4.4 CONTINUANCE OF MEETINGS DUE TO EMERGENCY**

Where necessary to continue a public meeting due to an emergency, the Clerk, the County Administrator, the County Attorney or, in the case of Land Use meetings, the Planning Official are hereby delegated authority to continue the meeting to a date certain or indefinitely. The continuance shall be announced at the time and place where the meeting was scheduled to begin and, where possible, shall be publicly announced prior thereto so as to provide reasonable public notice thereof.

For purposes of this rule, an "emergency" means an emergency as defined in Florida Statutes § 252.34(3), as amended, or as declared by the Governor of Florida, or by the Board of County Commissioners, or a natural or manmade disaster or threat thereof that in the reasonable judgment of the Chair, the County Administrator or law enforcement renders the Board's meeting environment unduly dangerous to the Board, staff or the public.

(Emphasis added).

There are no other mechanisms or defined procedures in the Board Procedures to govern unsubstantiated and unfettered requests for continuance such as are now being proffered by the Petitioners and their counsel to the Board. They know their request is unauthorized and invalid, as well as having no procedural basis, all contrary to due process.

By statutory definition, no emergency of any sort exists. As adopted by the Florida Legislature and codified in the Florida Statutes under Title XVII, Military Affairs and Related Matters - Chapter 252, Emergency Management, Fla. Stat. § 252.34 defines an emergency as:

(4) "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Yet, acting contrary to Board Procedure 4.4 and Fla. Stat. § 252.34, by e-mail dated February 18, 2020, Ms. Bobbi Roy of Manatee County addressed all interested persons, stating therein:

Please be advised that on February 18, 2020 at approximately 2:30 p.m., the County received the attached request for a continuance to no date certain from the

Applicant's attorney. It is at the discretion of the Board of County Commissioners whether or not to grant the continuance request at the public hearing on February 20, 2020 at 9:00 a.m. or soon as thereafter may be heard.

(Emphasis added). That statement is directly contrary to law.

To exercise discretion, there must be an identifiable procedure and basis, which does not exist in this case for the purported "continuance" being requested by Petitioners and their counsel, as required by Article I, Section 9, Due Process, Fla. Const. Accord, Board Procedure 4.4 and Fla. Stat. § 252.34.

Further, any future rule established by the Board for continuances beyond what is contained in Board Procedure 4.4, must be just, reasonable and published. As Fla. Stat. § 125.018 states:

Rules and regulations — All rules and regulations promulgated and all impositions and exactions made by authority hereof shall be just and reasonable and consistent with public interest, and their application shall be subject to review by certiorari in any court of proper and competent jurisdiction. All rules and regulations shall be published and dispensed by the county at cost to all applicants therefor.

Finally, the request by Petitioners and their counsel to continue the hearing to a date unknown is another way of the Petitioners and their counsel saying they want to engage in conduct that is prejudicial to the administration of justice to the disadvantage of the Opponents to the same, having already had two years to investigate all the applicable issues, matters and circumstances related to their rezone request, as well having a nondelegable duty to do so competently.

Last, but not least, the Petitioners, their representatives and counsel cannot paper over the inapposite impact to their Petition created by Fla. Stat. § 163.3164 (Community Planning Act Definitions), which is another applicable statute not found in any of their submittals the Board of County Commissioners.

As Fla. Stat. § 163.3164(9) states:

“Compatibility” means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

By definition, an automobile dealership is not compatible with all the residential land use now surrounding the proposed site, creating thereby both direct and indirect negative impact on such residential use.

Finally, by way of an appearance of impropriety, it is noteworthy that the playing field appears to be improperly tilted against the Opponents to the Petition for a rezone of the property by employees of the County proffering speculative legal opinions. By way of example, as set forth in every e-mail sent to an opponent of the rezone, employees of the County asserted as follows:

Since this is a quasi-judicial matter, Commissioners must refrain from discussing the project outside the public hearing setting and must refrain from otherwise prejudging the project. Also, if you wish for your thoughts to be considered by the Board, you will need to appear at the hearing to provide sworn testimony. The public hearing is scheduled for February 20, 2020 at 9:00 a.m. or soon thereafter.

(Emphasis added).

Such a claim is problematic because, in the usual administrative setting, for a document to be considered and admissible it only needs to be under oath but does not necessarily have to be offered in person. As Fla Stat. § 92.525 state in material part:

(2) When it is authorized or required by law, by rule of an administrative agency, or by rule or order of court that a document be verified by a person, the verification may be accomplished in the following manner:

(2) Under oath or affirmation taken or administered before an officer authorized under s. 92.50 to administer oaths; or

(b) By the signing of the written declaration prescribed in subsection (2).

(2) A written declaration means the following statement: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true,” followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words “to the best of my knowledge and belief” may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

### III. CONCLUSION

The effort by the Petitioners to file an unauthorized and untimely request for a continuance is simply an effort to deny due process to the Opponents of the Petition for rezone and is contrary to law.

Accordingly, the Board of County Commissioners should summarily deny the request for continuance and thereafter deny the Petition for a rezone of Petitioners' property.

Respectfully submitted,

/s/ Jay D. O'Sullivan  
Jay. D. O'Sullivan

**From:** jay.d.osullivan <[jay.d.osullivan@gmail.com](mailto:jay.d.osullivan@gmail.com)>

**Sent:** Saturday, February 15, 2020 4:47 PM

**To:** Betsy Benac <[betsy.benac@mymanatee.org](mailto:betsy.benac@mymanatee.org)>

**Subject:** Opposition to Record No. PLN1807-0022, Item 4, PDC-18-15(Z)(G) - Request for Rezone by Cox Chevrolet & Giddon

Dear Commissioner Benac:

I attach my submittal opposing the rezone request of Cox Chevrolet and the Giddon's for the parcel of land at the intersection of SR 64 and 117 Street now set before the Board of County Commissioners on February 20, 2020. My submittal also contains an Exhibit 1.

Best regards,

Jay D. O'Sullivan  
Bradenton, Florida 34212  
[Jay.D.OSullivan@gmail.com](mailto:Jay.D.OSullivan@gmail.com)  
(954) 579-3663 cell

Jay D. O'Sullivan  
505 Chantilly Trail  
Bradenton, Florida 34212

February 15, 2020

Commissioner Priscilla Trace  
Manatee County Board of County Commissioners  
Administration Building  
1112 Manatee Avenue West  
Bradenton, Florida 34205  
[priscilla.trace@mymanatee.org](mailto:priscilla.trace@mymanatee.org)

Re: February 20, 2020 Quasi-Judicial Hearing  
Agenda: Record No. PLN1807-0022, Item 4, PDC-18-15(Z)(G) - Request  
for Rezone by Cox Chevrolet & Giddens  
Property Address: 1220 117th Street East, Bradenton, FL 34212  
Subject: Opponent and Affected Person Response to Cox Chevrolet  
Zoning Request

Dear Commissioner Trace:

I write in opposition to the Request of Cox Chevrolet and the Giddens to rezone two parcels from Agricultural-1 2 (A-1) to Planned Development - Commercial (PD-C).

#### **A. Introduction**

By way of introduction, I am a Florida attorney with more than 40 years of experience in defending architects and engineers in construction related matters, as well as product designers in product liability matters and other catastrophic loss cases nationwide in multiple courts and jurisdictions, both state and federal. In addition, I have represented cities and municipalities in the State of Washington on environmental issues as well as property issues concerning public health.

I am also an aerospace engineer who previously worked from 1971-1977 with Inland Division of the General Motors Corporation in the design, development and construction of manufacturing facilities in Dayton Ohio.

Last but not least, my 1971 undergraduate degree in Aerospace Engineering is from Rose Polytechnic Institute, now known as Rose Hulman Institute of Technology.

I am a member of the Florida Bar, as well as the Southern, Middle and Northern Florida Federal District Courts, the eastern and western Federal District courts of Washington, the Ninth Circuit Court of Appeals in the 11<sup>th</sup> Circuit Court of Appeals. Until last year, I was a member of the Washington State Bar since 1980.

#### **B. Summary of Opinion**

The Request for Rezone should be denied because it is based upon materially inaccurate statements and submittals by Cox/Giddon, along with a remarkably flawed analysis by the County's Planning Staff based upon those materially inaccurate statements and submittals.

## C. Statement of Facts

### 1. Fatal Flaw

At the most basic level, the Cox/Giddon Request for Rezone is fatally flawed because it asserts in its Traffic Impact Statement submitted by its agent, ZNS Engineering, L.C., the following materially incorrect statement in the Level of Service Analysis section:

There is a Project in the currently approved Manatee County Capital Improvement Program (CAP) to widen SR 64 to 6 lanes from Lakewood Ranch Boulevard to Loraine Road. This improvement should bring SR 64 to an acceptable LOS (level of service).

See Traffic Impact Statement – Rezone, p. 2.

This statement is false and materially inaccurate. There is no approved plan to widen SR 64 to 6 lanes by either Manatee County or by the Florida Department of Transportation.

To the contrary, a simple call to the Florida Department of Transportation would have apprised ZNS Engineering that FDOT is presently constructing three roundabouts on SR 64 between Loraine Road and 117<sup>th</sup> Street East, with the first one being constructed at or near Loraine Road, with 2 more already in the works, one at or near the entrance to Grayhawk Landing and one near the intersection of SR 64 and 117<sup>th</sup> St East, almost immediately adjacent to the proposed rezone plot for the new auto dealership under consideration involving Cox Chevrolet.

Having represented architects and engineers for many years, in my personal opinion, it is very problematic for any Florida licensed engineering firm to misrepresent the actual facts on the ground, particularly when that misrepresentation appears to be both intentional and material.

As the Florida Administrative Code at Rule 61G15-19.001 of the Board of Professional Engineers states:

(6) A professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall include, but not be limited to:

(a) Expressing an opinion publicly on an engineering subject without being informed as to the facts relating thereto and being competent to form a sound opinion thereupon;

(b) Being untruthful, deceptive or misleading in any professional report, statement or testimony whether or not under oath or omitting relevant and pertinent information from such report, statement or testimony when the result of such omission would or reasonably could lead to a fallacious conclusion on the part of the client, employer or the general public;

(c) Performing an engineering assignment when not qualified by training or experience in the practice area involved;

In addition, from my review of the submittals to the Manatee County Planning Commission, it appears that ZNS Engineering used this materially inaccurate statement to support its statements to County Staff, that the rezone request of its client, Cox Chevrolet, was in compliance with the Comprehensive Plan of Manatee County.

In my opinion, such an approach is likewise problematic because of Fla. Stat. § 837.06 (False Official Statements), which states:

Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

It appears that the Qualifier and Registrant for ZNS Engineering is Jeb C. Mulock, P.E.

Finally, since I was not there, it is my understanding that this same materially incorrect statement was made by ZNS Engineering in behalf of Cox and the Giddons under oath at the January 16, 2020 hearing before the Planning Commission, which I understand was videotaped.

## **2. Flooding**

Conspicuously absent from the Cox/Giddon zoning request is any reference to the Manatee County Code of Ordinances, Chapter 2-10-Drainage and Flood Control, Article II - Floodplain Management.

As stated in the same, Cox/Giddon zoning request is completely contrary to the same and very inapposite.

As Section 2-10-21 states:

(2) *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(3) *Intent.* The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- A. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- B. Require the use of appropriate construction practices in order to prevent or

minimize future flood damage;

- C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

As the Manatee Board of County Commissioners likely know, among many other things, the plots at issue for which a re-zone is requested are in 25 and 100 year flood plains. Already, there are serious issues of flooding occurring in the immediate vicinity.

Also absent from the Cox/Giddon submittals for this rezone are any reference to what happens when these two plots are filled in at an average elevation gain of two feet and become impervious surfaces. Where does all of that rain run-off go when it occurs?

Of course, it goes onto the neighboring properties and the abutting roadway. One of those roadways is 117<sup>th</sup> St. E. which is simple two-lane road that dead ends past the 2 entrances to Greyhawk Landing and one for Osprey Landing.

With an auto dealership in place, in a rain event it is easy to envision flooding occurring on 117<sup>th</sup> St. which would prevent households in Greyhawk Landing and Osprey Landing from leaving their own property, as well as emergency vehicles entering, let alone what happens when a weather event creates a major flooding incident.

In other words, Cox and Gibbons want to bring into existence more flooding to impact the safety and welfare of all of the surrounding residential communities.

This author submits that this zoning request should be denied on this basis alone

### **3. The Computer Modeling of Traffic Growth Presented by Cox/Giddons is Intentionally Inadequate**

Noticeably absent from the traffic study presented by Cox/Gibbons is an actual count of the traffic on both 117 Street East and State Route 64. In other words, through purported computer modeling, what was presented was garbage in and garbage out.

This is simply another effort at smoke and mirrors. To understand both existing traffic usage and thereby being able to accurately project rising roadway use into the future, Cox/Gibbons was required to undertake an actual traffic count through portable tube counters, radar equipment or other equally inexpensive methods.

The fact that they didn't speaks volumes as to their intent and, in this author's opinion, their efforts to misrepresent and intentionally minimize the harm their proposed rezone and auto dealership development would create.

**4. 17<sup>th</sup> Street north of SR 64 is a Two Lane Road Completely Incompatible with 48/96 Feet Long New-Car Transports or Other Large Transport Vehicles**

Also absent from any analysis by Cox/Giddons in their application for a rezone is the fact that there are only 2 roads bordering the 2 plots that Cox/Giddon's request be rezoned. One is SR 64 with roundabouts. Because SR 64 is a highway divided by a grass median, there is no place that with tractor-trailers that are new-car transports or other large transport vehicles coming from I 75 can turn into the 2 plots that Cox/Giddon's request be rezoned.

In short, the Cox/Giddon request for a rezone would create a serious impediment to safe traffic flow when heavy-duty vehicles attempt to do a U-turn on SR 64 to approach such a new automotive sale facility to enter the same from SR 64

The other applicable Street is 117<sup>th</sup> Street, which is a 2 lane roadway physically incapable of dealing with tractor-trailers that are new-car transports or other large transport vehicles, as well as such vehicles effectively blocking 117<sup>th</sup> Street if such vehicles attempt to utilize it to enter the new automotive dealership proposed by Cox Chevrolet.

**5. The Plan Drawings Prepared by ZNS Engineering and Presented to Manatee County are not Signed and Sealed**

As the Florida Administrative Code at Rule 61G15-30.003 of the Board of Professional Engineers states:

(4) Engineering drawings shall be legible and clearly define and delineate the work in the project. They must also comply with Chapter 61G15-23, F.A.C., Seals.

While there could be other reasons why ZNS Engineering did not properly sign and seal its plans, this author knows from experience that when engineers do not sign and seal their plans in behalf of a client, they do not want to take responsibility for any omissions and/or mistakes in the same.

**D. The Re-Zone Request Does Not Comply with the Manatee County Comprehensive Plan or its Land Development Code**

In addition to being based on a materially accurate premise (i.e. that SR 64 will be a 6 lane highway) the Cox/Giddons re-zone application asserts that it is in compliance with the Manatee Comprehensive Plan and its Land Development Code because the re-zone request is proper in light of the new Schedule of Uses allowed under the new 2019 Planned Development - Commercial (PD-C) designation.

In particular, the new Schedule of Uses allows a PD-C land use of “Vehicle Sales, Rental, Leasing”, which Cox Chevrolet asserts is a designation it fits under.

That is nothing short of smoke and mirrors. Of necessity, to get there, the Cox/Giddons approach and application intentionally ignores and fails to cite to multiple specific policies, objectives and standards applicable the Cox/Giddon rezone application:

Policy 2.3.3.4

“Prohibit habitable structures and major public and private investment within the existing/pre-development 25-year floodplain. Minimize impervious surfaces in a 25-Year floodplain”

Objective 2.10.3

“Adequate, safe and appropriate access to new commercial uses is required.”

Policy 2.10.3.1

“Access through single-family residential neighborhoods shall not be allowed.”

Standard 802.6.11

“No storage of hazardous material . . . including fuel storage tanks, may be located within a Floodway”.

Stormwater Management Standards Sec. 801.3

“All fill within the 25- and 100-year floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal highwater table . . . “

Land Development Code, Chapter 8 – Engineering Design and Utilities

“Improvements to or construction on a given property shall not exceed the rate of runoff so as to adversely impact adjacent property owners.”

Finally, it is noteworthy that the Comprehensive Plan repeatedly emphasizes as paramount the “Safety of the neighborhoods”.

**E. The Proposed Cox/Giddon’s Re-Zone Use is an Incompatible Use**

Suffice it to say, a Cox Chevrolet automobile dealership is not compatible with any of the surrounding residential communities which exist to the immediate north of the proposed site, (Osprey Landing), to the immediate west of the proposed site (Greyhawk Landing and Missionary Village) and immediately south of the proposed site on SR 64 (Woodleaf Hammock).

Compatibility is defined in the Plan as follows:

“A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that **no use or condition is unduly negatively impacted directly or indirectly by another use** or condition.”

It is equally obvious that in Manatee County a Cox Chevrolet auto dealership, with its acres of cars, acres of asphalt, auto repair shops, hazardous waste, bright lights, noise and other appurtenances can only be allowed in "Heavy Commercial District" and none other.

As defined in Manatee County, a Heavy Commercial District serves a singular purpose:

"The purpose of this district is to provide areas for intense commercial activities permitting commercial and service uses which have **greater external effects such as noise, traffic, vibration, outdoor storage** and other such impacts than those permitted in less intensive districts."

Such a purpose is completely incompatible with the residential neighborhoods completely surrounding the proposed Cox/Giddon's rezone and should be summarily denied.

#### **F. Conclusion**

The Cox/Giddon rezone request should be denied in its entirety for all the foregoing reasons.

Respectfully submitted,

/s/ Jay D. O'Sullivan  
Jay D. O'Sullivan  
Greyhawk Landing Homeowner

Memo

August 2, 2018

To: Our Neighbors at Greyhawk Landing

From: Rick Johnson  
c/o Bradenton Missionary Village – dba iL Villaggio  
12108 10<sup>th</sup> Ave. E.  
Bradenton, FL 34212 941-748-4100

Re: Auto Dealership, etc.....

We have taken this opportunity to provide you with correspondence we sent to the Army Corps of Engineers and others ( see enclosed list ).

Included, please find maps and drawings illustrating the water drainage issue which greatly concerns us and has a significant bearing on your interests as well.

You will notice we are voicing concerns over some of the same issues that you all are addressing.

I hope you find this information helpful.

We believe that our voice together with your efforts will be more effective pursued individually, hopefully other communities nearby are doing something as well.

You are welcome to contact us if you think we might have information that would be of value.

God bless you real good,  
Rick

Memo

August 2, 2018

To: District Engineer SJ-2017-02298 (SP-RGH)  
U.S. Army Corps of Engineers  
Tampa Permits Section  
10117 Princess Palm Ave. Suite 120  
Tampa, FL 33601 - 8302

From: Rick Johnson  
c/o Bradenton Missionary Village, dba iL Villaggio  
12108 10<sup>th</sup> Ave. E.  
Bradenton, FL 34212 941-748-9794

Re: Proposed construction at corners of S.R. 64 East and 117<sup>th</sup> St. East,  
Bradenton, Florida 34212

We have been made aware that there are plans to construct an auto dealership and a shopping center on the NWC and SEC of this intersection.

1] Since the storm water from Bradenton Missionary Village flows north and eventually into Gates Creek before flowing into the Manatee River, we have significant concerns about storm water run off. In recent years, Greyhawk Landing and other housing developments have contributed added storm water to the Gates Creek waterway which is the route our water takes on it's way North to the Manatee River. The only outlet for our stormwater is via a small concrete structure and 24 inch R.C.P. from our north east lake into what is now Greyhawk Landing. Missionary Village was built 1979 – 1981 to the existing code requirements of the day. As time progressed, the minimum floor elevations have increased. This has the effect of us being surrounded by neighborhoods with higher elevation requirements leaving us in the bottom of the "bowl" - if you will.

Until June 2018 we have never experienced the **reversal of water flow** This is no longer true. We recently had water flowing south into our lakes during heavy rain. Please see 2 attached statements by William Davies and David Bailey validating this fact.

We are more than concerned that the additional impervious surfaces created by these and future projects will further overwhelm the Gates Creek water way. When the water flow stops or is reversed, flooding will occur in our Village. We are aware that " all this is taken into consideration " when designing new installations. That is what we were told that prior to the permitting of the surrounding developments that are apparently the cause of us taking on water. That has never happened before.

In years past, ( prior to Greyhawk purchasing lands to our immediate north ) when we

experienced heavy rainfall and we would attempt to traverse these areas, we would encounter flooded fields ( stored run off water ) sometimes 1 or 2 inches deep and sometimes 6 to 10 inches deep spreading across 300 or 400 yards adjacent to the stream lazily leading away from Missionary Village. This water would stand for weeks before it disipated. It is our contention that this "storage capacity" is now gone and this water as well as water from streets, roof's, driveways, sidewalks, etc..... have had the cumulative effect of forcing water into Missionary Village rather than allowing for the ages old run off path to work. When Greyhawk first installed their streets, etc. we noticed no adverse effects. Now that it is nearing build out, and greater surfaces are lost to impervious surfaces, we are getting flooded. Greyhawk, in and of it's self is not THE contributor to the problem, but the cumulative effect of this development as well as others have significantly overwhelmed the capacity of Gates Creek to effectively dispose of storm water. It is apparent that if the water from Greyhawk cannot readily discharge through Gates Creek that it will back up. Any additional contributions of water entering Gates Creek will cause even more back up of water which ends up in Missionary Village because our water cannot freely exit and now even worse, this water is entering the Village ( flowing south ) rather than being discharged from the Village ( flowing north ).

We strenuously object to approval of any project without the **significant expansion of the Gates Creek water drainage system's capacity** to transfer water during and after heavy rainfall.

Traffic: The increase in traffic including, delivery trucks, solid waste removal trucks, as well as cars making turns into and out of these locations will cause greater difficulty for our residents entering and or exiting Missionary Village which is their home. Our Village is a 55 plus community of retired Missionaries, Pastors, etc..... In fact we have a number of residents in their 80's and several in their 90's who are still agile enough and blessed to live independently and drive themselves around . Our traffic currently enters and exits the Village on S.R. 64 East in the middle of the Village on our private road Aurora Blvd. We have plans and have made preperations to allow traffic to enter from 117<sup>th</sup> St. E. into our private road 12<sup>th</sup> Ave. East. See attached map. This can also be readily observed on Google Maps.

In recent years, the traffic pattern on S.R. 64 East has changed and now allows traffic from the new sub-division immediately to our south to make a U turn exactly at the entry to our Village entry / exit. This has proved to be a challenge for many of our residents as the cars that U turn do not stay in their lane and frequently cross both lanes of traffic and even run off the paved roadway where we must exit.

We believe that this would be alleviated, to a great extent, by installation of a **traffic signal** at this intersection.

In addition, we have other concerns about bright lights at night spilling over into our

residences ( note: even with shielding, the lights bouncing off the shiny new vehicles will produce an aura of light that cannot be contained ), noise from their operations and work activities, test driving cars & trucks on the roadways immediately adjacent to our village which unfortunately sometimes includes stomping on the gas to "see what this thing will do" . We are very concerned about our residents encountering vehicles that are going significantly above the posted speed limit.

- Recapping,
- 1] Storm water.
  - 2] Traffic and Traffic signal.
  - 3] Light bounce into residences
  - 4] Noise from daily work activities of auto dealership etc .

For years, we enjoyed our serene, secluded place where our residents lived a tranquil peaceful existence. More and more we find ourselves crowded on every side and dealing with more and more intrusions that take away from our peaceful enjoyment of our surroundings.

In addition to the expansion of the Gates Creek waterway, we would like to be sure that all interruptions / intrusions are minimized as much as possible.

Thank you for your kind attention to these issues.

END

District Engineer SJ-2017-02298 (SP-RGH)  
U.S. Army Corps of Engineers  
Tampa Permits Section  
10117 Princess Palm Ave. Suite 120  
Tampa, FL 33601 - 8302

Christian C. Zitzow 941-708-7450 Ext. 7319  
Senior Engineering Specialist  
Stormwater Management Division  
Manatee county Public Works  
1022 26<sup>th</sup> Ave. E. Christian.Zitzow@MyManatee.org  
Bradenton, FL 34208

Ed Herndon 941-708-4400  
c/o FDOT  
14000 FL 64 East  
Bradenton, FL 34212

Rachel Layton 941-748-8080  
c/o ZNS Engineering  
201 5<sup>th</sup> Avenue Drive East  
Bradenton, FL 34208

S.W.F.M.U.D. 941-377-3722  
6750 Fruitville Rd.  
Sarasota, FL 34240



MANATEE COUNTY

342

Bradenton

Proposed Auto Dealers

Proposed Outlet

MANATEE CHAMBER OF COMMERCE  
UNITED WAY SOUTH  
BRADENTON AREA ECONOMIC  
TOURIST INFORMATION CENTER

North

BRADEN RIVERS



FORT HANMER

Fort Hanmer Bridge

Upper Manatee River

Upper Manatee River Rd

Upper



Upper Manatee River Rd

Gates Creek



Mill Creek

Assumed to be a reasonable  
 representation of water drainage  
 Not yet verified with County &/or  
 SWFMD, etc.

Confirmed by  
 Manatee Co  
 Public Works via  
 phone 9-11-18

MISSIONARY VILLAGE

Auto DEALER

SHOPPING Serenity Creek

64

64

64

Eye Rd E

Manatee River

Upper Manatee River Rd

Upper Man

Greyhawk

Gates Creek

North

Upper Manatee River Rd

Greyhawk

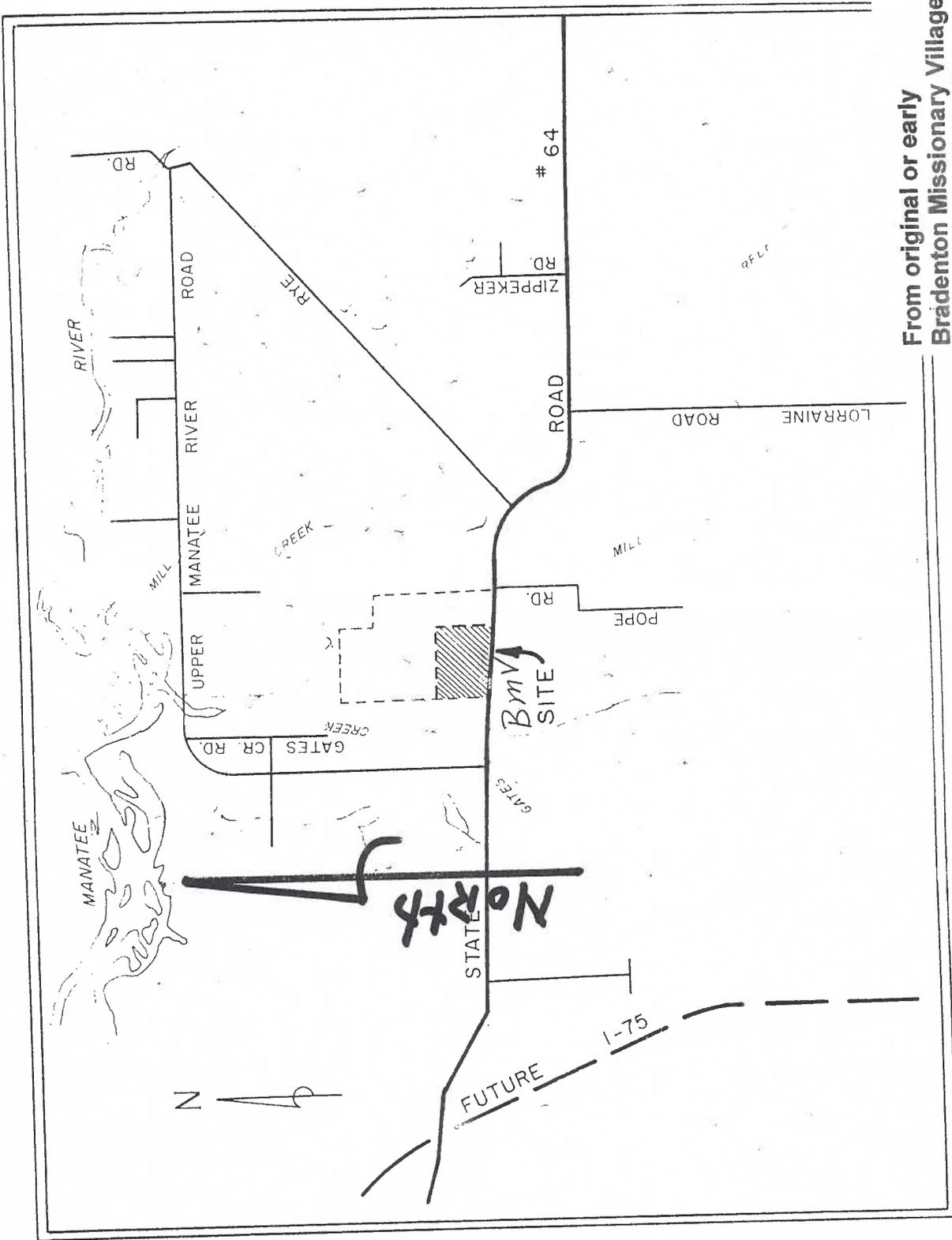
Mill Creek

Auto DEALER

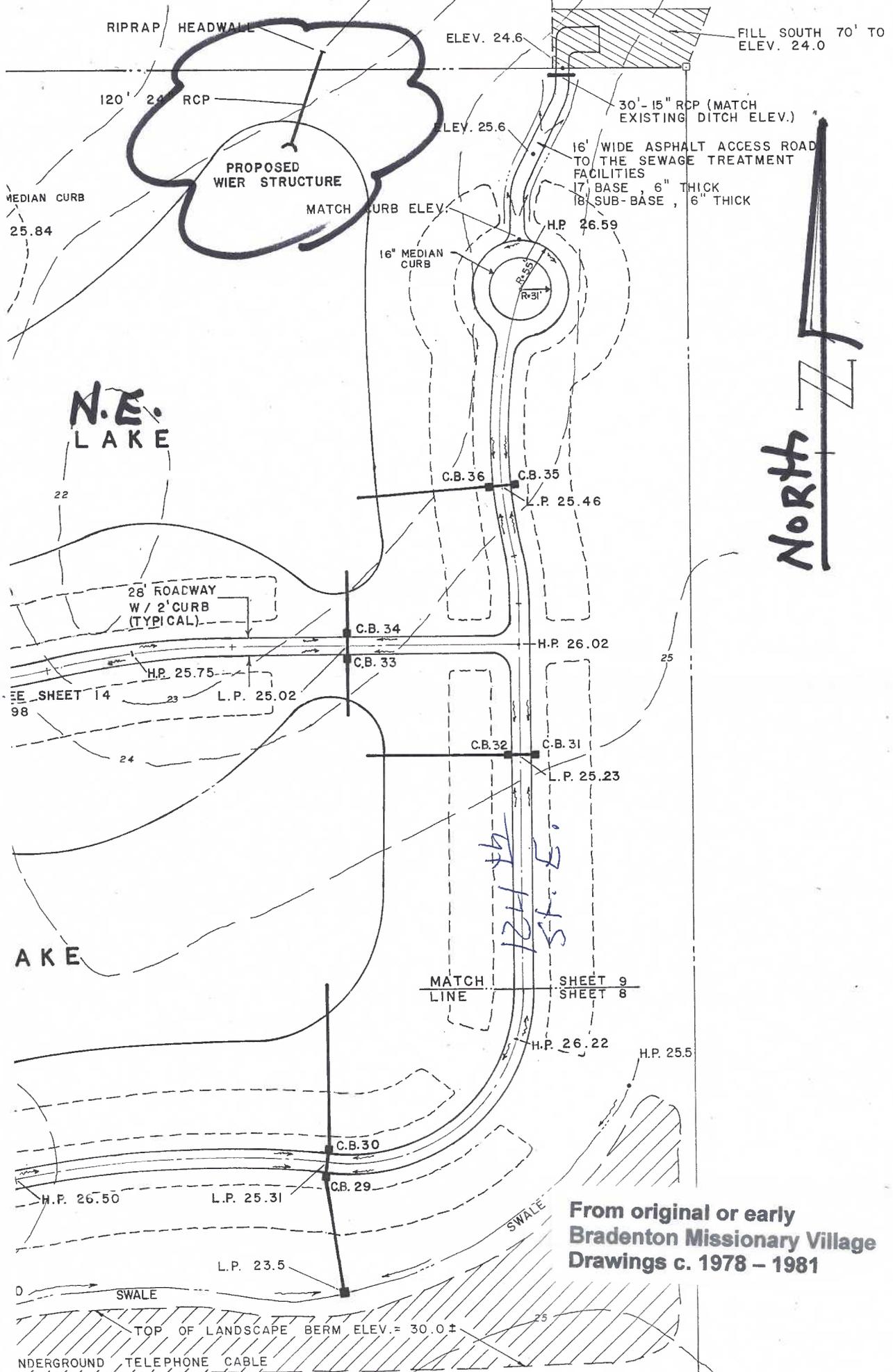
Missionary Village

Assumed to be a reasonable representation of water drainage





From original or early  
 Brantton Missionary Village  
 Drawings c. 1978 - 1981



MEDIAN CURB  
25.84

N.E.  
LAKE

12' x 4'  
AVE E

SEE SHEET 14  
98

LAKE

MATCH LINE SHEET 9  
SHEET 8

North

From original or early  
Bradenton Missionary Village  
Drawings c. 1978 - 1981

UNDERGROUND TELEPHONE CABLE

TOP OF LANDSCAPE BERM ELEV. = 30.0 ±

SWALE

SWALE

0

L.P. 23.5

H.P. 26.50

L.P. 25.31

C.B. 30

C.B. 29

H.P. 26.22

H.P. 25.5

C.B. 32

C.B. 31

L.P. 25.23

C.B. 34

C.B. 33

H.P. 26.02

C.B. 36

C.B. 35

L.P. 25.46

H.P. 26.59

16" MEDIAN CURB

MATCH CURB ELEV.

30'-15" RCP (MATCH EXISTING DITCH ELEV.)

16' WIDE ASPHALT ACCESS ROAD TO THE SEWAGE TREATMENT FACILITIES

17' BASE, 6" THICK  
18' SUB-BASE, 6" THICK

ELEV. 25.6

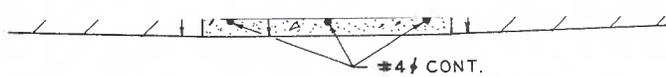
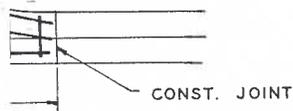
ELEV. 24.6

FILL SOUTH 70' TO ELEV. 24.0

RIPRAP HEADWALL

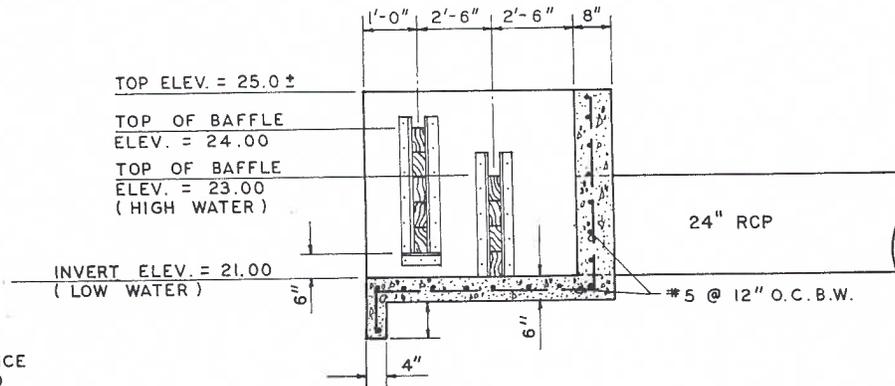
PROPOSED WIER STRUCTURE

120' RCP



SECTION

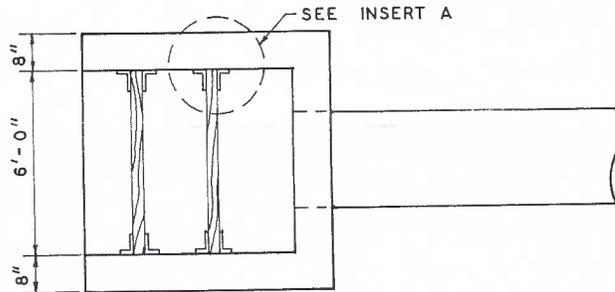
CURB CROSSING DETAILS



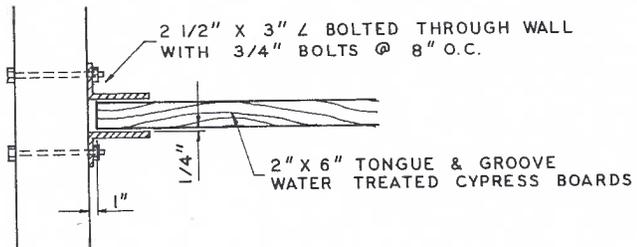
BE IN ACCORDANCE  
S FOR ROAD AND  
.530, LATEST OR

SECTION

5" O.C.)  
CHANNEL 5.4 LBS.  
1 FIELD COAT OF  
EPOXY PAINT



PLAN



INSERT A

From original or early  
Bradenton Missionary Village  
Drawings c. 1978 - 1981

OUTFALL CONTROL STRUCTURE DETAILS

ME	<b>MANATEE ENGINEERING, INC.</b>		
	CIVIL ENGINEERS		LAND PLANNERS
	223 6th AVENUE E. BRADENTON, FLORIDA		
	SCALE NONE	APPROVED	DESIGNED M.F.R.
DATE 8-18-78		DRAWN M.G.B.	
DRAWING NUMBER		CHECKED M.F.R.	
7802.0			



1813 Manatee Ave. W.  
Bradenton, FL 34205  
941-755-1166  
www.Hideawaystorage.com

Scanned  
RECEIVED

FEB 03 2020

Board of County Commissioners  
Manatee County

Bcc, Vida G.

January 28, 2020

Mrs. Betsy Benac, Chairwoman  
Manatee Board of County Commissioners  
County Administration Building  
1112 Manatee Ave. W., Suite 903  
Bradenton, FL 34205

RE: /Proposed Cox Dealership On S.R. 64 East (GDP on SR 64: PDC-18-15(Z)(G)/PLN1807-0022/Giddens/Commercial Development)

Dear Mrs. Benac:

Please enter this letter into the record showing me to be in favor of the above referenced application regarding the Cox dealership and I hope it is approved at your Feb. 20<sup>th</sup> meeting.

I listened to the issues presented at the Planning Commission by those opposed to the application, and they seemed to focus on light pollution, water quality and traffic. I have developed two large commercial properties on S.R. 64 east of I-75, and I know from experience that many of the nearby residents concerns are not based on fact. For instance:

- Under existing regulations, all new developments must conform to photometric requirements that keep light from "spilling" from a commercial property into residential areas.
- The engineering requirements for storm water treatment and retention mean that the water quality exiting the site will not harm nearby waterways or the environment regardless of the type of development.
- The traffic from this proposed dealership will be less than what a modestly active shopping center would generate.

For all of these reasons I believe the Board should approve this application.

Sincerely,

Steve Wilson  
Founder Hide-Away Storage



Scanned  
RECEIVED

FEB 03 2020

Board of County Commissioners  
Manatee County

BCC, Vida G.

Ms. Vanessa Baugh, County Commissioner, District 5  
Manatee County Administration Building  
1112 Manatee Ave West  
Bradenton, FL 34205

Re: Proposed Auto Dealership - SR 64 and 117th St E

Dear Commissioner Baugh,

On behalf of the 269 homes of Eagle Trace we are writing to you today to express our concerns about the proposed rezoning of the property at the corner of State Route 64 and 117th Street East, which would allow a for a car dealership. Existing and approved commercial developments in this area have been compatible with our residential areas and welcomed by us and our neighbors, however a car dealership brings extensive 24 hour lighting, vehicle transport trucks on site at any hour of the day, promotional lighting, flags, banners and other advertising displays, and the noise of mechanical and body repair work.

We also have concern about additional traffic on SR 64. The traffic to which we refer is beyond the typical traffic on this road which is already quite heavy. Specifically, we refer to vehicle owners bringing and picking up their cars before and after service, deliveries to the dealership, test drives by prospective owners and any other traffic generated to operate and/or serve the dealership. A traffic signal at the SR 64 and 117th Street intersection will only slow and further congest traffic over significant lengths of SR 64 and 117th Street East.

Although we understand that the developers are proposing infrastructure that they believe exceeds standards for stormwater management, an auto dealership necessitates the use of many pollutants that, if an accident occurs, could seriously affect the surrounding neighborhoods, possibly including ours. Further, there are many recent examples of stormwater exceeding the capacity of approved management structures which, if such a storm happens, will most likely affect surrounding residential areas first.

We are hoping that the County Commissioners will effectively respond to the adverse impacts that an auto dealership will have on the quality of life that we currently enjoy in our neighborhood.

Sincerely yours,

Reeves Fairey, President, Eagle Trace Board of Directors, 1923 Crystal Lake Trail  
Steve Jarolin, Vice President, Eagle Trace Board of Directors,  
John Hagerty, Treasurer, Eagle Trace Board of Directors, 1924 Orange Lake Cove  
Kristina Kaplan, Secretary, Eagle Trace Board of Directors, 12315 Halfmoon Lake Terrace, Bradenton  
Bill Harris, Eagle Trace Board of Directors, 12332 Whisper Lake Drive

pc: Priscilla Trace, District 1  
Reggie Bellamy, District 2  
Stephen R. Jonsson, District 3  
Misty Servia, District 4  
Carol Whitmore, At Large  
Betsy Benac, At Large

-----Original Message-----

From: Carol Whitmore

Sent: Monday, January 20, 2020 5:52 PM

To: Margaret Tusing <Margaret.Tusing@mymanatee.org>; Bobbi Roy <bobbi.roy@mymanatee.org>;

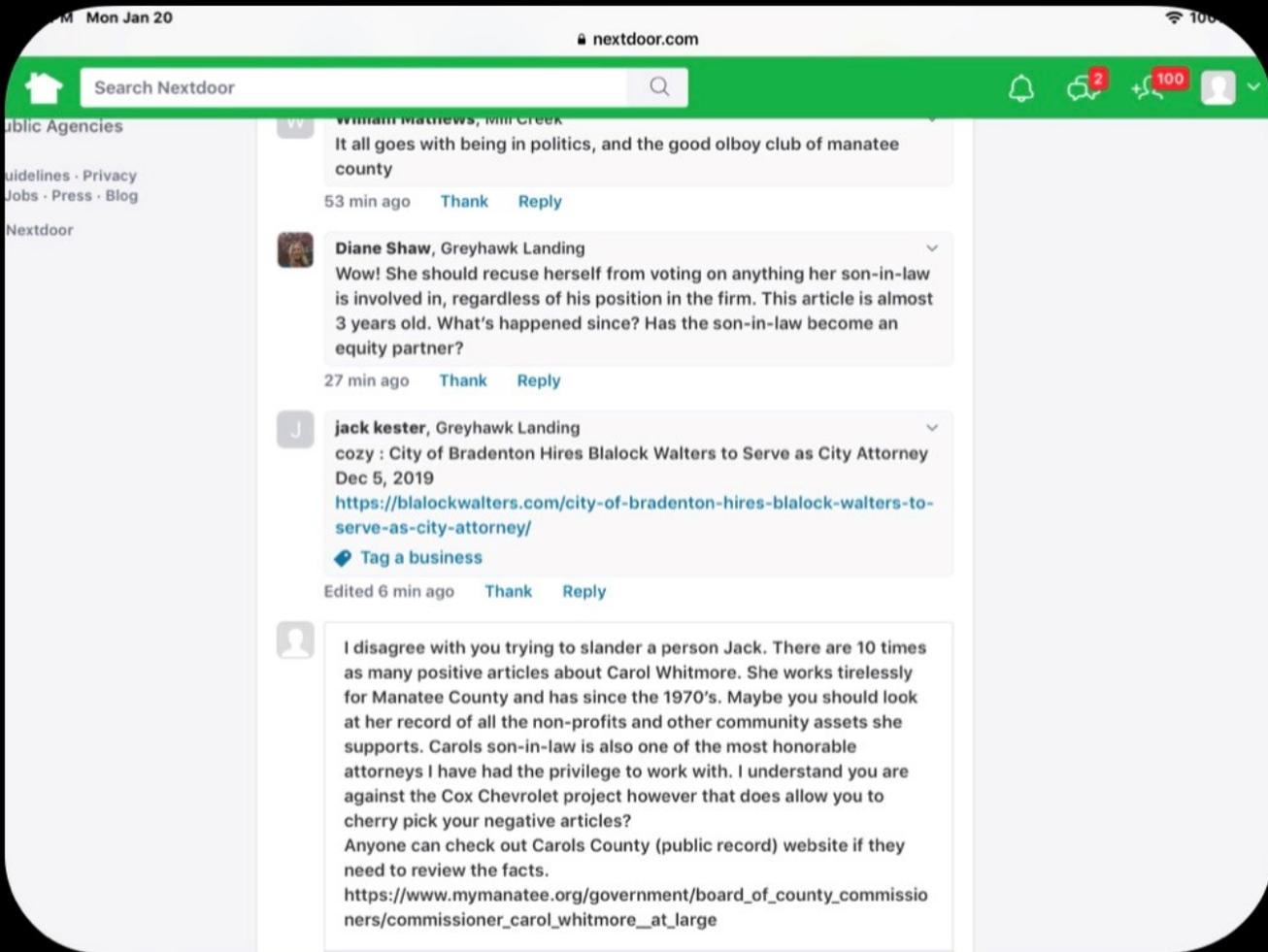
Sarah Schenk <sarah.schenk@mymanatee.org>; Mitchell Palmer <mitchell.palmer@mymanatee.org>;

Cheri Coryea <cheri.coryea@mymanatee.org>; John Barnott <john.barnott@mymanatee.org>

Subject: [REDACTED] Hi Carol, I hope this finds you well Dave G

FYI and please put this in public record. I will have a response at the meeting whenever it is.

Carol



Hi Carol, I hope this finds you well? Dave G.

January 8, 2020

Betsy Benac  
PO Box 1000  
Bradenton, FL

Scanned  
**RECEIVED**

**JAN 13 2019**

Board of County Commissioners  
Manatee County

BOCC, Admin

Dear Commissioner Benac:

We are writing to ask you to oppose the proposed Cox dealership at 1112 Manatee Avenue for the following reasons.

1. The operation of a car dealership is not compatible with the surrounding properties which are residential neighborhoods.
2. Changes to the existing waterway and floodplain will create additional flooding that have a high potential for imparting property damage during significant rainfall events.
3. A car dealership will increase and adversely affect traffic flow at the intersection of SR-64 and 117th Street East (already heavily used by 5 communities), and require access for large car carrier vehicles that together create an unsafe environment for residents and potential customers alike.

There are many sites closer to I-75 that are much more appropriate for a car dealership. We are asking for your support for our community's safety.

Thank you for your support.



Sincerely,  
David and Arlene Raterman  
554 Chantilly Trail  
Bradenton, FL 34212

**From:** Vida Gordon

**Sent:** Wednesday, January 8, 2020 9:52 AM

**To:** dalehubbard@verizon.net

**Cc:** Debbie Bassett <debbie.bassett@mymanatee.org>; Bobbi Roy <bobbi.roy@mymanatee.org>; Betsy Benac <betsy.benac@mymanatee.org>; Carol Whitmore <carol.whitmore@mymanatee.org>; Misty Servia <misty.servia@mymanatee.org>; Priscilla WhisenantTrace <priscilla.whisenantrace@mymanatee.org>; Reggie Bellamy <reggie.bellamy@mymanatee.org>; Stephen R Jonsson <steve.jonsson@mymanatee.org>; Vanessa Baugh <vanessa.baugh@mymanatee.org>

**Subject:** FW: Proposed Cox Dealership

Mr. Hibbard,

Thank you for writing to share your concerns. Please accept this email as acknowledgment that your message was received by the Board of County Commissioners and will be shared with staff of Building & Development Services and the County Attorney's Office and included as public comment for this hearing.

Since this is a quasi-judicial matter, Commissioners must refrain from discussing this project outside the public hearing setting and must refrain from otherwise prejudging the project. As well as your written correspondence, you are welcome to attend the hearing, currently scheduled for **January 16, 2020 at 9:00 a.m.**, to offer your comments and opinions.

On behalf of Chairman Benac and the other Commissioners, thank you for your interest and participation.

*Vida Gordon*

**Executive Administrative Assistant**

**Board of County Commissioners**

**Phone: 941-745-3721**

**Fax: 941-745-3790**

**E-mail: [vida.gordon@mymanatee.org](mailto:vida.gordon@mymanatee.org)**



**From:** DALE E HIBBARD <[dalehibbard@verizon.net](mailto:dalehibbard@verizon.net)>

**Sent:** Tuesday, January 07, 2020 4:39 PM

**To:** Betsy Benac <[betsy.benac@mymanatee.org](mailto:betsy.benac@mymanatee.org)>

**Subject:** Proposed Cox Dealership

January 7, 2020

Hon. Betsy Benac  
At Large Commissioner  
Manatee County Commission  
betsy.benac@mymanatee.org

Dear Commissioner Benac:

We are writing to voice our objection to the proposed establishment of a car dealership on the corner of 117<sup>th</sup> St. East and SR 64. A car dealership is an inappropriate and not a compatible use of the land at that location. There are private residences and developments in each direction of the proposed use. A car dealership that operates seven days a week and is illuminated throughout the night will have a profound deleterious effect on all the surrounding neighborhoods.

We reside at 1027 Calico Glen in the Greyhawk Landing development. The closest access to our home is from 117<sup>th</sup> St. East. This is our primary route of ingress and egress. We have witnessed the dramatic increase in traffic on 117<sup>th</sup> St. as developments have been established and grown. The developments, including Greyhawk Landing, are still growing which will result in further increased traffic volume on this two-lane roadway that has no shoulder. A proposed use of a car dealership with anticipated high volume of customer traffic and large trucks will create an untenable safety risk to vehicle and pedestrian traffic as well as the residents of the five surrounding communities.

The proposed car dealership will create a large macadam area that alters the natural drainage of rainfall in that area. The necessary changes to the waterway and floodplain to accommodate the proposed use will create a high likelihood of flooding whenever there is the typical downpour that occurs on a regular basis. Substantial property damage is a foreseeable result if the car dealership is allowed at this location.

Even a cursory examination of SR 64 west of Lakewood Ranch Blvd. or east of Lorraine Rd. reveals multiple locations that are more suitable for a car dealership that would not severely impact surrounding property owners as does the current proposal.

We are requesting that you exercise your authority to deny the necessary alteration of the Master Plan and zoning designation for this location.

Respectfully,

Dale & Elizabeth Hibbard

December 6, 2019

Manatee County Building and Development Services  
112 Manatee Avenue West, 4<sup>th</sup> Floor  
Bradenton, FL 34205  
Attn: Dorothy Rainey, Case Manager

**RE: Gidden/Commercial Development/Cox Chevrolet**  
PDC-18-115(Z)(G)  
PLN1807-0022

Dorothy, please include the following information in the review package being submitted to the Planning Commission and the Board of Commissioners concerning the proposed Gidden/Commercial Development/Cox Chevrolet development.

John Rhodes and I represent a large group (thousands) of concerned residents in Osprey Landing, CopperLeaf, Greyhawk Landing, Gates Creek, Bradenton Missionary Village, and Windsong Acres that oppose this type of development in this location, and we would like to present our issues of concern.

It should be noted that the community has no issues with Cox Chevrolet as a business, and in fact, there are residents that have purchased vehicles from Cox. We also have no direct issues with their engineering firm, ZNS Engineers. The core issue is that a car dealership, for multiple reasons, is not a compatible use for the site from a practical and regulatory basis.

A car dealership at the proposed location should not be approved for multiple reasons, including the following:

1. The type of operations of a car dealership are not compatible with the surrounding properties of residential neighborhoods.
2. Changes to the existing waterway and floodplain will create additional flooding that have a high potential for imparting property damage during significant storm events.
3. A car dealership will increase traffic flow, adversely affect traffic flow at the intersection of SR-64 and 117<sup>th</sup> Street East, and require access for large car carrier vehicles that together create an unsafe environment for residents and potential customers alike.

### **Incompatible with the surrounding residential neighborhoods**

The property is directly adjacent to Osprey Landing subdivision (to the North), Villagio Village (to the East across 117<sup>th</sup> Street East), and private property designated as agricultural (to the West). South of this property and across SR-64 are Eagle Trace and Serenity Creek subdivisions. CopperLeaf, Greyhawk Landing, and Windsong Acres subdivisions surround the previously mentioned properties. Gates Creek subdivision is North and adjacent to CopperLeaf subdivision. As you can see, this property is totally adjacent and/or surrounded by residential development.

According to the Manatee County's Comprehensive Plan **a car dealership is a Commercial-Heavy operation**. We contend that a car dealership is **regional-serving**, not just community-serving. And, with the proposed Service and Body Shop facilities, this commercial use will be **intense**.

Cox Chevrolet, as well as other dealerships in the region, is currently identified as Commercial-Heavy land use.

The following definitions are from the **Comprehensive Plan, Future Land Use**. I have highlighted the words/phrases that support the claim that a car dealership is a Commercial-Heavy, regional-serving, intense business, incompatible with the surrounding properties.

**Compatible:** A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is **unduly negatively impacted directly or indirectly by another use or condition**.

**Commercial Use—Region-Serving:** Commercial establishments or groupings thereof which serve any or all commercial needs of a **broadly distributed population and work force** (e.g., regional malls, major recreational facilities) in addition to including community-serving and other commercial uses. Certain region-serving commercial uses **may also be considered as intensive commercial uses**. The uses may also include wholesale trade uses, all office uses, and office showroom uses or similar uses. However, region serving commercial uses shall not include bulk warehousing or uses for which distribution of goods to other than a residential end-user is a primary or major use.

**Commercial Use, Intensive:** A commercial use which is either:

- Carrying out the **sale of large or bulky items** (e.g., building supplies or heavy equipment), or
- Providing services other than those usually associated with the normally recurrent needs of a residential area (e.g., **automobile body repair shops**), or
- Engaging in a commercial activity normally associated with **significant outdoor storage**, adverse noise or other adverse sensory impact (all-night lighting, outdoor intercom systems, tool noise, truck noise, etc.), or large amounts of heavy vehicular traffic.

**Intensive commercial uses are typically community or region-serving in nature. However, many community- or region-serving commercial uses are not intensive commercial uses.**

Intensive commercial uses may include certain retail trade, wholesale trade, personal service, or professional service uses which, by nature of either the customary operation of the use, or the manner in which such uses customarily utilize a site, **are likely to have adverse impacts on adjacent or nearby residential uses**. Retail or office uses may not be determined to be intensive solely on the basis of gross building area or **level of traffic impact**, or building height.

The following policies are from the **Comprehensive Plan, Future Land Use**:

**Policy 2.8.2.1.** Prohibit designations on the Future Land Use Map which reflect zoning districts, or existing uses which are **inconsistent with prevalent community character**, or inconsistent with adopted goals, objectives, and policies in this Comprehensive Plan from serving as precedents for plan amendment(s) and other development order approvals which are inconsistent with this Comprehensive Plan or prevalent community character.

**Policy 2.10.4.3.** Require that all proposed commercial uses meet, in addition to commercial locational criteria, the following commercial development standards.

(3) No proposed commercial site shall represent an intrusion into any residential area.

Essentially, the site is currently designated as ‘agriculture’ and now surrounded by residential neighborhoods. The most practical and probable use of the site is for a light commercial establishment that serves the neighborhoods of several thousand dwellings not a regional intense commercial operation serving the region.

### **Changes to the existing waterway and floodplain will create additional flooding causing property damage**

A critical issue that needs to be fundamentally addressed is that nearly 50% of the site is within a 25-year flood plain and any filling of the site will directly impact flooding potential to adjacent neighborhoods. The drainage basin has seen historic flooding and it will only get worse with any filling of the site. In fact, maybe its best usage with minimal impact is what it was before; a tree farm/nursery.

Gates Creek tributary runs through the property as well as a wetland located in the Southeast corner. During an average Florida summertime rain event, this property experiences flooding. In fact, the private property to the West has experienced additional flooding since Osprey Landing was built.



So, if flooding already occurs, it seems inconceivable to pave nearly 80% of this property. This will increase the stormwater runoff and reduce the overall capacity of the floodplain creating even more flooding. The engineering solution proposed is to “pipe” Gates Creek tributary, build a retention pond capturing the property runoff, floodplain compensation area, and retain the wetland as is.

The retention pond will retain the runoff until it exceeds capacity, which can be a relatively short period during some of Florida’s typical rain events. Thus, it will overflow and potentially flood neighborhoods to the North causing property damage.

The following policies are from the **Comprehensive Plan, Future Land Use**. I have highlighted the words/phrases that support the claim that development of this site for a car dealership is in violation of county standards/requirements.

#### **Objective 2.3.3. - Floodplain Management.**

Direct development away from areas subject to flooding to reduce risks to life and property and to minimize costs to County residents for replacing damaged infrastructure.

**Policy 2.3.3.4. Prohibit habitable structures and major public and private investment within the existing/pre-development 25-year flood plain, except where a finding of overriding public interest has been reached by the Board.**

- **Minimize impervious surface in the 25-year floodplain;**

Adding thousands of yards of fill to the site to make it at grade with SR 64 and paving nearly 80% of this property will reduce the capacity of the floodplain and increase “impervious surface in the 25-year floodplain”, not minimize impervious surface.

**From the Manatee County Land Development Code, Chapter 8 - Engineering Design and Utilities:**

**802.6. Floodplain Management Standards. A. General Standards.** All proposed development and construction activities in the one hundred (100) year floodplain shall meet the following requirements, in addition to the applicable standards identified elsewhere in this code.

**6. Improvements to or construction on a given property shall not increase the rate of runoff so as to adversely impact adjacent property owners.**

**11. No storage area for hazardous or acutely hazardous waste material and no other hazardous substance material including fuel storage tanks may be located within a Floodway.**

Again, because of the increase in impervious surface and reduction of the floodplain capacity, this development will “increase the rate of runoff” and will “adversely impact adjacent property owners”.

Also, according to previous site plans, the dealership will construct a Service/Body Shop on the site, and if that’s the case, “hazardous waste material” (fuels, solvents, paints, etc.) will be present.

### **Excessively increase traffic and adversely affect traffic flow will cause vehicular accidents**

A car dealership will increase traffic (from the region) and adversely affect traffic flow at the intersection of SR-64 and 117<sup>th</sup> Street East which will create an unsafe environment causing vehicular accidents.

Please note, that at this location, the speed limit on SR-64 is 50 miles per hour.

In previous submittals, 117<sup>th</sup> Street East is referred to as a thoroughfare. 117<sup>th</sup> Street East is not a thoroughfare. It is currently classified as a rural collector that basically dead-ends. In fact, when you turn on 117<sup>th</sup> Street East from SR-64 there is a “NO OUTLET” sign posted. 117<sup>th</sup> Street East serves as access to/from the following residential neighborhoods: Osprey Landing, Greyhawk Landing, CopperLeaf, and Gates Creek subdivisions. Approximately 700 dwellings within these subdivisions utilize 117<sup>th</sup> Street East on a daily basis.



As part of ZNS Engineering's submittal, ZNS conducted a Traffic Impact Statement – Rezone, dated May 31, 2018. The Traffic Impact Statement does not appear to address the impact of traffic on 117<sup>th</sup> Street East, which again, is exclusively used by many residents within Osprey Landing, Greyhawk Landing, CopperLeaf, and Gates Creek subdivisions.

John Rhodes and I conducted a traffic count study, August 29, 2018 during morning peak hours (7:00 to 9:00 am) and late afternoon peak hours (3:00 to 6:00 pm) to determine the amount of traffic entering and leaving 117<sup>th</sup> Street East from SR 64. We observed over 1,700 vehicles entering or leaving 117<sup>th</sup> Street East. Keep in mind, we just observed traffic for 5 hours and that the subdivisions previously mentioned are not built-out. Thus, the actual number of residential vehicles using 117<sup>th</sup> Street East on a daily basis are more than we counted and will be increasing. In addition, since our study, northbound traffic on 117<sup>th</sup> Street East, South of SR-64 has been opened which has increased traffic at this intersection.

The following policies are from the **Comprehensive Plan, Future Land Use**. I have highlighted the words/phrases that support the claim that development of this site for a car dealership is in violation of county standards/requirements.

**Policy 2.1.4.2.** Continue enforcing the LDC provisions to mitigate the impact of light industrial uses on neighboring residential uses through the utilization of appropriate measures such as transition/landscape buffering, building design, setbacks, noise barriers, exterior lighting controls, operating hour limits, vibration limits, **truck access/routing limits**, binding agreements to benefit and protect the community, and other practices as necessary to **protect and enhance neighborhoods** and community character.

**Objective 2.10.3. - Required Access to Commercial Uses.**

Adequate, **safe** and appropriate access to new commercial uses is required.

**Policy 2.10.3.1.** Require that access to commercial uses be established on at least one (1) roadway classified as a collector or higher and operating at, or better than, the adopted level of service. **Access through single family residential neighborhoods shall not be allowed.** An exception shall be made for projects on roadways under the State jurisdiction not allowing access from such road, and for projects that are approved with commercial uses located internally to the project and whose main project access is located on a road designated as a collector or higher.

I want to make special note to Policy 2.10.3.1. Prior to a recent Future Land Use, Comprehensive Plan change, it read as follows:

**Policy 2.10.3.1.** Require that access to commercial uses be established on at least one (1) roadway, operating at, or better than, the adopted level of service. **Access which is limited only to roadways that carry traffic within residential neighborhoods shall be considered unacceptable for commercial uses.** An exception shall be made for **neotraditional** projects that have commercial uses located internally to the project and whose main project access is located on a road designated as a collector or higher. An exception shall be made for DRIs and Large Project developments that have mixed uses with a residential component and meet minimum development characteristics to have commercial uses located internally to neighborhoods if the main neighborhood access is located on a road designated as a collector or higher.

As proposed, access to the property will be from SR-64 and 117<sup>th</sup> Street East. Policy 2.10.3. should apply and the use of 117<sup>th</sup> Street East should “be considered unacceptable for commercial use”, especially **Commercial-Heavy**. And, as far as “neotraditional projects” are concerned, according to the Comprehensive Plan, Element 1 – Definitions for UF-3 Future Land Use designation, “Neo-traditional development is limited to Small Neighborhood Retail Uses – wholesale uses not allowed”.

Regardless of where access to the property comes from. If I’m going eastbound on SR-64, how will I access the property? Will I turn onto 117<sup>th</sup> Street East with all of the residential traffic coming/going and access the rear entry? If so, I will have to drive through the car dealership to the Auto Dealer, Large Facility, or main building. This does not seem practical. Or, will I make a U-turn on SR-64 to access the main entrance? Nothing could be more dangerous than a U-turn at a busy intersection with traffic going 50 mph. In fact, during the traffic count study conducted, we witnessed more than 140 U-turns (eastbound to westbound) at this intersection, and a number of them nearly caused an accident.

According to a Site Plan submitted, there does not appear to be a median cut proposed for a left turn into the front entrance of the property off SR-64 for eastbound traffic. If that’s the case, then using 117<sup>th</sup> Street East or a U-turn will be required. Based upon a quick review of FDOT Turn Lanes Standards, we don’t think the distance between an existing westbound median cut (on SR-64) for a left turn into the Publix complex and the proposed main entrance of the dealership will accommodate a median cut for a left turn going eastbound on SR-64.



Not enough room here for a turn lane into the proposed site.

Another concern is exactly how will a 65-foot+ car carrier going eastbound (typically east coming from I-75) access the property to unload their cars? They won’t be making a U-turn. They will have to use 117<sup>th</sup> Street East. Again, 117<sup>th</sup> Street East is a small, narrow rural collector exclusively used by over 1,700 residents daily. Thus, creating very unsafe traffic environment. The Gettel car dealer on SR 64, just west of I-75, has a four-lane access road to their site. Route 117 St East is a narrow two-lane (dead end) road used only for residential traffic.



According to the Manatee County Comprehensive Plan, “safety of the neighborhood” is cited throughout. If the Planning Commission and the Board of County Commissions truly want to ensure safety to its citizens and not increase the potential for property damage due to additional flooding, a car dealership is not the “appropriate development” for this property.

Sincerely,

Rex Cowden  
(407) 902-4569  
Greyhawk Landing

John Rhodes  
(941) 708-3164  
Greyhawk Landing