

FILED FOR RECORD
R. B. SHORE

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**MANATEE COUNTY ZONING ORDINANCE
PDC-05-24(Z)(P) – CIRCLE K STORES, INC.**

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 2.563 ACRES AT 9700 U.S. 41 N., PALMETTO FROM NC-M (NEIGHBORHOOD COMMERCIAL - MEDIUM) AND A-1 (SUBURBAN AGRICULTURE) TO THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVAL OF A PRELIMINARY SITE PLAN FOR A 9,929 SQUARE FOOT CONVENIENCE STORE WITH GAS PUMPS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, Circle K Stores, Inc. (the "Applicant") filed an application to rezone approximately 2.563 acres described in Exhibit "A", attached hereto, (the "property") from NC-M (Neighborhood Commercial - Medium) and A-1 (Suburban Agriculture) to the PDC (Planned Development Commercial) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan application for a 9,929 square foot convenience store with gas pumps (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project in the Coastal Planning Area; and

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

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on January 10, 2008 to consider the rezone, Preliminary Site Plan, and Special Approval, received the staff recommendation and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

WHEREAS, the Manatee County Planning Commission, as the County's Local Planning Agency, found the applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code and recommended approval of the applications, subject to the stipulations contained in the staff report.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. FINDINGS OF FACT. The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners, after considering the testimony, evidence, documentation, application for amendment of the Official Zoning Atlas, the recommendation and findings of the

Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for Official Zoning Atlas Amendment as it relates to the real property described in Exhibit "A" of this Ordinance from NC-M (Neighborhood Commercial - Medium) and A-1 (Suburban Agriculture) to the PDC (Planned Development Commercial) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on February 7, 2008, regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code, and has further considered the information received at said public hearing.

C. The proposed amendment to the Official Zoning Atlas regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01, the 2020 Manatee County Comprehensive Plan.

D. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the Preliminary Site Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 9,929 square foot convenience store with gas pumps, upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. Prior to Final Site Plan approval the applicant must provide a letter from Community Services that the existing frame residence marked to be removed does not qualify for affordable housing.
2. The Final Site Plan shall include a revised tree removal and replacement plan which shows an attempt to remove fewer trees than shown on this plan, and replaces more trees on site. If this will necessitate the relocation of certain functions on site, such as truck parking, pump dispenser locations, canopy area, or parking, etc. this may be done administratively with the Final Site Plan.
3. All roof mounted H.V.A.C. equipment, loading zones, and dumpsters shall be screened from view from adjacent right-of-way and nearby residences. Screening shall be provided by materials consistent with the exterior finish materials of the buildings, landscaping, or other opaque materials.
4. The applicant shall be limited to one freestanding pole sign, maximum 20 ft. in height, and one freestanding monument sign for this site. All signs must meet the 12 ft. setback from the right-of-way and meet all sign regulations.

5. Prior to the Final Site Plan approval, the design and shielding of on-site lighting shall comply with Section 709. In addition, pole mounted lights shall be limited to 20' in height and directed to the interior of the development using horizontal cut-offs. A photometric plan shall be submitted to the Planning Department along with the Final Site Plan for approval.

B. TRANSPORTATION CONDITIONS:

1. Prior to any form of C.O. the applicant must demonstrate that all right-of-way or easement dedications, specifically the 55 feet along Moccasin Wallow Road, have been completed and accepted by Manatee County.
2. Impact fee credits shall be determined pursuant to Chapter 8 of the Land Development Code; however, impact fee credits for dedication of right-of-way shall be limited to a maximum of \$55,408 which represents the purchase price of \$5.82 per square-foot. The developer shall waive claim for impact fee dedication credits for the first 22 feet of right-of-way dedicated, and any impact fee exceeding the maximum amount stated above.

C. STORMWATER CONDITIONS:

1. The Drainage Model and Construction Plan shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.

D. BUFFERS:

1. The applicant shall provide a minimum 6 ft. wall along the east and north property lines within the screening buffer. 2 canopy trees and 2 understory trees per 100 l.f. shall be provided within this buffer.
2. All required landscaping within buffers shall be located outside of the required drainage easements and on the outside of the required walls.

E. ENVIRONMENTAL CONDITIONS:

1. The applicant shall demonstrate compliance with LDC tree replacement requirements with the Final Site Plan, which may include payment into the Tree Trust Fund.
2. A copy of the Environmental Resource Permit (ERP) approved by SWFWMD shall be submitted to the Planning Department for review prior to Final Site Plan approval.
3. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or stormwater facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.

4. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the Planning Department.
5. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for a project in the Coastal Planning Area. This Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

Section 4. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County (Ordinance No. 90-01, the Manatee County Land Development Code) is hereby amended by changing the zoning classification of the property identified in Exhibit "A" herein from NC-M (Neighborhood Commercial – Medium) and A-1 (Suburban Agriculture) to the PDC (Planned Development Commercial) zoning district, and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Planning Department, are hereby instructed to cause such amendment to the Official Zoning Atlas.

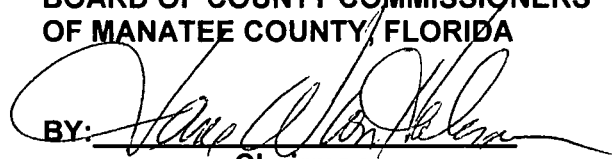
Section 5. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, clause, sentence, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 7. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 7th day of February, 2008.

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

BY: 
Chairman

ATTEST:

R. B. SHORE
Clerk of the Circuit Court




BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND BEING PART OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:
PARCEL 1:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA SAID POINT BEING WEST 0.14 FEET OF THE CENTERLINE SURVEY OF STATE ROAD 45 (US 41); THENCE N89°58'13"E (BEARING BASED ON AN ASSUMED MERIDIAN) ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST 1/4 OF SECTION 18, SAID LINE ALSO BEING THE CENTERLINE OF STATE ROAD 683 (MOCCASIN WALLOW ROAD), A DISTANCE OF 210.00 FEET; THENCE N00°01'47"W A DISTANCE OF 25.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD 683 (MOCCASIN WALLOW ROAD), SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N81°55'58"W ALONG SAID NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 683 (MOCCASIN WALLOW ROAD), A DISTANCE OF 78.07 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID STATE ROAD 45 (US 41), SAID POINT ALSO BEING A POINT ON A CURVE; THENCE IN A NORTHERLY DIRECTION ALONG SAID RIGHT OF WAY LINE AND CURVE TO THE RIGHT, HAVING A RADIUS OF 22786.32 FEET WHOSE CENTER BEARS S89°05'34"E, A CENTRAL ANGLE OF 00°08'07", AN ARC DISTANCE OF 53.77 FEET TO THE POINT OF TANGENCY; THENCE N01°02'33"E ALONG SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 45 (US 41), A DISTANCE OF 330.30 FEET; THENCE N89°58'13"E, A DISTANCE OF 280.16 FEET; THENCE S00°01'47"E, A DISTANCE OF 320.00 FEET; THENCE S89°58'13"W, A DISTANCE OF 100.00 FEET; THENCE S00°01'47"E, A DISTANCE OF 75.00 FEET TO A POINT ON SAID NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 683 (MOCCASIN WALLOW ROAD); THENCE S89°58'13"W ALONG SAID NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 683 (MOCCASIN WALLOW ROAD), A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.392 ACRES, MORE OR LESS. SUBJECT TO RESTRICTIONS AND EASEMENT OF REORD.

PARCEL II;

BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 33 SOUTH, RANGE 18 EAST, RUN THENCE EAST 140 YARDS FOR THE POINT OF BEGINNING, THENCE NORTH 100 FEET, THENCE WEST 100 FEET, THENCE SOUTH 100 FEET, THENCE EAST 100 FEET TO THE POINT OF BEGINNING, LYING AND BEING IN MANATEE COUNTY, FLORIDA, CONTAINING 0.171 ACRES (7,461 SQUARE FEET MORE OR LESS).



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 12th day of February, 2008
R.B. SHORE
Clerk of Circuit Court
By: Maggie Hamilton D.C.