

RESOLUTION R-19-112

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING AN APPEAL OF ADMINISTRATIVE DETERMINATION AD-19-04; GRANTING THE APPEAL AND MODIFYING ADMINISTRATIVE DETERMINATION AD-19-04 SUBJECT TO THE CONDITIONS SPECIFIED HEREIN; SAID ADMINISTRATIVE DETERMINATION PERTAINING TO APPROXIMATELY 9.98 ACRES OF PROPERTY LOCATED AT 6701 AND 6711 US HIGHWAY 301 NORTH, ELLENTON, FLORIDA, SETTING FORTH FINDINGS INCLUDING SETTING FORTH CONCLUSIONS OF LAW; PROVIDING FOR A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, RFT Holdings, LLC and Canal Road Investments, LLC as the owners of the real property described herein, through Edward Vogler, II, Esq. as their agent (collectively referred to as “Applicant”) has filed an appeal to the Board of County Commissioners for the administrative determination of the Director of Public Safety (Administrative Determination No. 19-04 or AD-19-04) to deny Applicant’s request to have certain real property removed from the boundaries of the Coastal Evacuation Area - Level A (CEA-Level A) as described in the Comprehensive Plan; and

WHEREAS, on March 7, 2019, Frank Maloney electronically filed a Request for a letter of interpretation to the Director of the Building and Development Services Department asking that the real property located at 6701, 6711 and 6755 US Highway 301 North, Ellenton, Florida, be removed from the boundary of the Coastal Evacuation Area (CEA-Level A); and

WHEREAS, the Director of the Building and Development Services Department referred this request for an interpretation to the Director of Public Safety for a response; and

WHEREAS, on March 20, 2019, the Director of Public Safety, Division of Emergency Management issued an Administrative Determination (AD-19-04) denying the request to remove certain real property from the boundaries of the Coastal Evacuation Map (CEA-Level A); and

WHEREAS, Applicant timely filed an appeal of Administrative Determination (AD-19-04) (“Notice of Appeal”) to the Board of County Commissioners appealing the denial of the removal of certain real property comprised of approximately 9.98 acres located at 6701 and 6711 US Highway 301 North, Ellenton Florida 34222 from the boundaries of the Coastal Evacuation Map (CEA-Level A); and

WHEREAS, Section 370, Land Development Code provides that when an administrative determination of the Department Director has been timely appealed, the Board of County Commissioners shall conduct a public hearing which shall be advertised and conducted in accordance with Section 312, Land Development Code; and

WHEREAS, the Board of County Commissioners, after holding a duly noticed public hearing on September 5, 2019, granted Applicant's appeal of Administrative Determination 19-04 (AD-19-04) and modified the decision of the Department Director regarding the subject real property within the Coastal Evacuation Area - Level A (CEA-Level A) subject to the conditions specified herein; and

WHEREAS, Section 125.022(2), Florida Statutes, provides that a county's action on the approval or denial of a development permit must be reduced to writing and given to the applicant as written notice of denial, citing the reasons therefor and although this Resolution is not a development permit, it relates to pending development applications.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

Section 1. Findings of Fact. The recitals set forth above are true and correct and are hereby adopted as findings by the Board. The Board after considering the testimony, evidence, documentation, the recommendation of the Department of Public Safety staff, as well as all other matters presented to the Board at the public hearing date hereinafter referenced, hereby makes the following findings of fact:

- A. This Resolution pertains to the Property described in Exhibit A, a copy of which is attached hereto and made a part hereof by reference.
- B. The term "Comprehensive Plan" shall mean the version of the Manatee County Comprehensive Plan in effect as of March 20, 2019.
- C. The term "Land Development Code" or "LDC" shall mean the version of the Manatee County Land Development Code in effect as of March 20, 2019.
- D. The term "Comprehensive Emergency Management Plan 2018" shall mean the version of the Manatee County Emergency Management Plan 2018 adopted by the Board of County Commissioners by Resolution R-18-118 on August 21, 2018.
- E. The term "2018 Statewide Emergency Shelter Plan" shall mean the 2018 Statewide Emergency Shelter Plan dated January 31, 2018.
- F. The "Property" comprised of approximately 9.98 acres is located at 6701 and 6711 US Highway 301 North, Ellenton, Florida 34222 and is identified as DP#'s 835600059 and 836100008. (Although the real property located at 6755 US Highway 301 North, Ellenton, Florida was referenced in the Request for a letter of interpretation filed by Applicant, it was not addressed in the Notice of Appeal.)
- G. The Property is in the Coastal Evacuation Area - Level A (CEA-Level A) of the Comprehensive Plan.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and

considering the testimony, evidence, documentation, the staff report presented and a review of the applicable provisions of the Comprehensive Plan and the LDC, the Board hereby makes the following Conclusions of Law:

- A. The Applicants have met their burden of proof to demonstrate that granting the appeal and adopting an interpretation having the effect of removing the Property from the Coastal Evacuation Area – Level A (CEA-Level A) is consistent with the Comprehensive Plan and complies with the standards for approval in the applicable provisions of the LDC.
- B. The Applicants have demonstrated that the placement of the Property within the Coastal Evacuation Area - Level A (CEA-Level A) in the Comprehensive Plan was due to a mapping error as alleged in the Notice of Appeal.
- C. The Applicants have demonstrated that the Property has unique characteristics and thus should be exempt from the goals, objectives and policies of the Comprehensive Plan applicable to all other properties within the Coastal Evacuation Area – Level A (CEA-Level A) as alleged in the Notice of Appeal.
- D. The Board specifically grants the Appeal of Administration Determination No. 19-04 based upon the specific factual and legal conclusions set forth in this Resolution and the public hearing record. Consequently the Board hereby modifies the decision of the Department Director regarding Applicant’s request for an interpretation having the effect of excluding the Property from the goals, objectives, policies and mapping of the boundaries of the Coastal Evacuation Area - Level A (CEA- Level A) of the Comprehensive Plan as follows subject to the conditions stated below:

(INSERT CONDITIONS AFTER PUBLIC HEARING)

1. _____

2. _____

Section 3. Description of the Property. This Resolution applies to that certain real property owned by Applicants and referred to by the Manatee County Property Appraiser’s Office as DP#’s 835600059 and 836100008 comprised of approximately 9.98 acres located at 6701 and 6711 US Highway 301 North, Ellenton, Florida 34222 and described in Exhibit A.

Section 4. Severability. It is hereby declared to be the intention of the Board that the phrases, clauses, sentences, paragraphs, and sections in this Resolution be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution.

Section 5. Effective Date. The effective date of this Resolution shall be the date

of adoption of this Resolution.

DULY ADOPTED with a quorum present and voting this ____ day of _____, 2019.

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

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

EXHIBIT A

Parcel 835600059

FROM THE CENTER OF SEC 10, TWN 34S, RNG 18E, RUN S 87 DEG 24 MIN 37 SEC E ALONG THE N LN OF THE SE1/4 OF THE SD SEC 10, A DIST OF 160.10 FT TO THE SLY R/W LN OF US 301 (SR43); TH S 60 DEG 01 MIN 00 SEC W ALONG SD R/W LN, A DIST OF 1870.58 FT TO THE POB; TH S 06 DEG 43 MIN 45 SEC E A DIST OF 557.08 FT; TH S 02 DEG 11 MIN 50 SEC E A DIST OF 290.00 FT TO THE M/H/W LN OF THE MANATEE RIVER; TH SWLY ALONG SD M/H/W LN TO A PT WHICH LIES AT THE TERMINATION OF THE FOLL TWO MEANDER LINE COURSES: TH S 72 DEG 59 MIN 06 SEC W A DIST OF 187.25 FT; TH S 49 DEG 39 MIN 52 SEC W A DIST OF 278.01 FT TO SD THERMINATION PT; TH N 01 DEG 45 MIN 30 SEC E A DIST OF 452.16 FT; TH N 59 DEG 59 MIN 05 SEC E A DIST OF 133.44 FT TO THE PT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 75.00 FT; TH NLY ALONG THE ARC OF SD CURVE TO THE LEFT, A DIST OF 117.81 FT THROUGH A C/A OF 90 DEG 00 MIN 00 SEC TO THE PT OF TANGENCY; TH N 30 DEG 00 MIN 55 SEC W A DIST OF 316.94 FT TO A PT ON THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS PT LIES N 29 DEG 13 MIN 02 SEC W A DIST OF 2917.79 FT; TH NELY ALONG THE ARC OF SD CURVE TO THE LEFT ALSO BEING THE SLY R/W LN OF US 301, A DIST OF 39.01 FT THROUGH A C/A OF 00 DEG 45 MIN 58 SEC TO THE PT OF TANGENCY; TH N 60 DEG 01 MIN 00 SEC E ALONG SD SLY R/W LN OF US 301, A DIST OF 325.99 FT TO THE POB (1743/3854) PI#8356.0005/9

Parcel 836100008

COM AT A PT FOUND BY MEASURING FROM E M CLOUDS SE COR IN LOT 1, SEC 10, WHICH IS ON THE WATERS EDGE OF MANATEE RIVER; RUN N ALG BDRY LN BETWEEN E M CLOUDS & FLORIDIN CO, 415 FT; N 30 DEG 00 MIN W ALG BDRY LN OF E M CLOUD, & FLORIDIN CO 410 FT TO S BDRY LN OF U S 301; N 59 DEG 30 MIN E, ALG S BDRY LN OF U S 301, A DIST OF 847.91 FT TO POB; S 59 DEG 30 MIN W ALG S BDRY LN OF U S 301, A DIST OF 273.95 FT; LEAVING SD S BDRY LN OF U S 301 S 7 DEG 15 MIN 40 SEC E, 556.92 FT; S 2 DEG 51 MIN 30 SEC E 268.0 FT TO MANATEE RIVER; ELY ALG MANATEE RIVER, 160 FT M/L TO PT S OF POB; TH N 935 FT M/L TO POB, RIP RTS (OR 216 P 621) PI#8361.0000/8