

FILED FOR RECORD
R.B. SHORE
CLERK OF CIRCUIT COURT
MANATEE COUNTY, FLORIDA

JAN 18 9 00 AM '94



FLORIDA DEPARTMENT OF STATE

Jim Smith, Secretary of State
DIVISION OF ELECTIONS
Bureau of Administrative Code
The Elliot Building
Tallahassee, Florida 32399-0250
(904) 488-8427

January 13, 1994

Honorable R. B. Shore
Clerk of the Circuit Court
Manatee County Courthouse
Post Office Box 1000
Bradenton, Florida 34206

Attention: Denise Oswald, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letters of January 7, 1994, and certified copies of Manatee County Ordinance Numbers 93-54, PDR 92-12(Z)(G) and Ord. Z-89-46(C)(R-1), which were received and filed in this office on January 13, 1994.

The duplicate copies showing the filing date are being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb

Enclosures (3)

EXHIBIT "A"

ORDINANCE 93-54

FILED FOR RECORD
R.B. SUGRUE
CLERK, CIRCUIT COURT
MANATEE COUNTY, FLORIDA

JAN 13 1994

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, OF MANATEE COUNTY, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE UNIVERSITY COMMONS DEVELOPMENT OF REGIONAL IMPACT, ALSO KNOWN AS TBRPC DRI #190; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

JAN 13 8 16 AM '94

FILED

Upon motion by Commissioner Chetlain, seconded by Commissioner Hooper, the following ordinance was adopted by a vote of 7 to 0.

WHEREAS, on June 3, 1992, the Board of County Commissioners of Manatee County (the "Board of County Commissioners") adopted a Development Order, Ordinance 92-31, (the "Development Order"), approving, with conditions, the University Commons Development of Regional Impact (DRI No. 190) (the "University Commons DRI"); and

WHEREAS, on June 16, 1992, Manatee County (the "County") rendered the Development Order to the State of Florida Department of Community Affairs (the "Department"), the Tampa Bay Regional Planning Council ("TBRPC"), and the Owner/Developer of the University Commons DRI, University Commons, L.P. ("University Commons"); and

WHEREAS, on July 31, 1992, and pursuant to Section 380.07, Florida Statutes, the Department filed an administrative appeal of the Development Order with the State of Florida Land and Water Adjudicatory Commission (Case No. APP-92-037) (the "Appeal"), based on the Department's claim that the Development Order does not adequately address certain issues pertaining to transportation, air quality, affordable housing, consistency with the State Comprehensive Plan and the State Land Development Plan, the rendering of the Development Order, and the identification of the amount of parking spaces which will serve the project's retail uses; and

WHEREAS, University Commons and the County dispute the Department's claim and contend that the Development Order adequately addresses all applicable issues pertaining to transportation, air quality, affordable housing, consistency with the State Comprehensive Plan and the State Land Development Plan, the rendering of the Development Order, and the identification of the amount of parking spaces which will serve the project's retail uses, and that the Development Order is otherwise consistent and in compliance with all applicable laws, rules and regulations including, Chapters 163, 187 and 380, Florida Statutes; Chapters 9J-2 and 9J-5, Florida Administrative Code ("F.A.C."); the "Future of the Region, A Comprehensive Regional Policy Plan for the Tampa Bay Region" (the "FRCRPP"); the TBRPC's Final Report and Recommendations concerning the University Commons DRI; the Manatee County Comprehensive Plan; and the Manatee County Land Development Code; and

WHEREAS, to avoid the expense and uncertainty of litigating the disputed issues raised in the Appeal, the Department and University commons negotiated and reached agreement as to specific revisions to the Development Order which, if adopted by the Board of County Commissioners, would satisfy the Department that the said disputed issues raised in the Appeal have been fully and properly addressed and resolved; and

WHEREAS, the TBRPC has duly reviewed and analyzed this Ordinance (alternatively referred to as this "Development Order Amendment"), including the specific revisions to the Development Order as set forth herein, and has found it to be consistent and in compliance with the FRCRPP and the TBRPC's Final Report and Recommendations concerning the University Commons DRI, and do not constitute a substantial deviation requiring further development of regional impact review pursuant to Subsection 380.06(19), Florida

93-54 University Commons - DRI #19

1501

Statutes; and

WHEREAS, The Board of County Commissioners, as the governing body of the local government having jurisdiction pursuant to Chapter 380, Florida Statutes, is authorized and empowered to consider this Development Order Amendment; and

WHEREAS, all public notice requirements applicable to this Development Order Amendment have been adhered to and fulfilled; and

WHEREAS, The Board of County Commissioners of Manatee County, on the 4th day of January, 1994, held a duly noticed public hearing on the proposed amendment to the Development Order and has solicited, received and considered all testimony, reports, comments, evidence and recommendations submitted by all interested parties, departments, agencies and members of the general public.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA IN A REGULAR MEETING ASSEMBLED THIS 4TH DAY OF JANUARY, 1994, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT:

The Board of County Commissioners hereby makes the following findings of fact:

- A. The Development Order for the University Commons Development of Regional Impact, which was approved on June 3, 1992 and rendered by the County on June 16, 1992, was appealed on July 31, 1992 by the Department.
- B. To avoid the expense and uncertainty of litigating the various disputed issues raised in the Appeal, the Department and University Commons negotiated and reached agreement as to specific revisions of the Development Order which, if adopted by the Board of County Commissioners, would require the Department to voluntarily dismiss the Appeal.
- C. The Board of County Commissioners has received and considered the said specific revisions to the Development Order, which specific revisions are set forth in Section 3. of this Development Order Amendment.
- D. The Board of County Commissioners held a duly noticed public hearing on January 4, 1994 regarding the Development Order Amendment, and has considered all testimony, reports, comments, evidence and recommendations from all interested parties, departments, agencies and members of the general public.
- E. All statutory procedures, and all procedures required by agency rule or local government regulation or policy, have been duly adhered to.

SECTION 2. CONCLUSIONS OF LAW:

- A. Based upon the previous findings of fact and the following Conditions of Development Approval*, the Board of County Commissioners of Manatee County concluded that:
 - 1. The Development* will not unreasonably interfere with the achievement of the objectives of the Adopted State Land Development Plan applicable to the area.
 - 2. The Development* is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the Future of the Region, A Comprehensive Regional Policy Plan for the Tampa Bay

Region, and The Manatee County Comprehensive Plan, Ordinance 89-01, as amended.

3. The Development*, as conditioned by this Development Order Amendment, is consistent with the report and recommendation of TBRPC issued on April 8, 1991.
- B. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, the Developer* is authorized to conduct development as described in the original Development Order, subject to the conditions, restrictions and limitations set forth in the Development Order, as modified by this Amendment.
- C. That the review by the County, the Planning Commission, the TBRPC and other participating agencies and interested citizens reveals that the impacts of the Development* are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of the Development Order, this Amendment and the ADA*. To the extent that the ADA* is inconsistent with the terms and conditions of this Development Order Amendment, the terms and conditions of this Development Order Amendment shall prevail.

SECTION 3. REVISIONS TO DEVELOPMENT ORDER:

The Development Order is hereby amended as follows:

- A. Footnote 2 of Table 1 in Section 3. of the Development Order is amended to read:

Commercial acreage and square footage figures include the existing 250,000 square foot shopping center, which is located on 30± acres in the southeast corner of the Project*. The Development shall comply with the Manatee County Land Development Code pertaining to minimum parking space requirements, which would currently require 1,280 parking spaces for the retail uses approved on-site including the existing 250,000 square foot shopping center.

- B. Section 4. of the Development Order is amended by adding the following definitions:

"Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, roadways or roadway improvements that are scheduled for construction completion within the first year of the Sarasota County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be

within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.

"Funding Commitment", "Funding", "Funded" or "Fund" shall mean a commitment by the Developer or other private entity, to fund the Developer's required improvements in the form of a contract, bond, letter of credit or other financial security deemed acceptable by Manatee County, or, for governmental entities, scheduled for construction completion in the first two years of the FDOT's adopted five-year work program or within the first two years of a local government's adopted capital improvement program.

"Responsible Entities" shall mean entities which will be responsible for construction of a given transportation facility, which entities may include the Developer or other private entity subject to a local government development agreement entered into pursuant to Chapter 163, Florida Statutes, or a governmental entity.

- C. Subsection 5.A.(1) of the Development Order is amended to read:

This Approval is limited to the Development* and Development* schedule listed in Table 1 in Section 3 of this Development Order. Phase I is specifically approved. Phase II is conceptually approved subject to further Section 380.06(6), Florida Statutes, analysis and review on affordable housing, air quality and transportation. The Development Order shall be amended to grant specific approval to Phase II. Development of the hospital referenced in Section 3.A.2.c is subject to the Developer* applying for and being granted an amendment to the FLUM of the County's Comprehensive Plan which would designate the land upon which the hospital is to be located Public/Semi-Public (2), or such other land use designation which would allow the hospital as it is proposed and as it has been reviewed, as part of this DRI. If the Developer* obtains the said amendment to the FLUM, the hospital exchange mechanism referenced in Section 3.A.2.c of Table 1 shall be implemented pursuant to this Development Order. For purposes of this Development Order, the term "hospital" is defined as a facility which: "offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive

medical treatment of similar extent, as defined in Section 395.002(6), Florida Statutes.

- D. Subsection 5.B.(1)(a) of the Development Order is amended to read:

Option 1

Phase I of the Development* shall require Funding Commitments* from Responsible Entities* for the roadway and intersection improvements listed in Tables 2 and 3. Without Funding Commitments* for these improvements, construction permits for Vertical Development* shall not be issued for Phase I. The Funding Commitments* shall ensure that the roadway and intersection improvements needed are in place concurrent with the impacts of development. Signalization shall occur when Warranted*.

- E: Subsection 5.B.(1)(a) 1. of the Development Order is amended to read:

Roadway Segment Improvements #1 and #2 are not Warranted* at this time pursuant to TBRPC and Manatee County Level of Service policies, and may not be Warranted* until traffic volumes thereon require such improvements in order to maintain a current acceptable level of service ("LOS"). These improvements will not be required as mitigation for this Development* if the FDOT SHS Level of Service designation is revised from LOS C to some lower LOS. Roadway Segment Improvements #1 and #2 shall be monitored annually during a representative p.m. peak hour weekday condition. The results of these monitorings shall be provided in each Annual Report until such time as

- (1) the improvements are Warranted*, or
- (2) the minimum acceptable Level of Service is revised from LOS C to LOS D or lower.

Should Roadway Segment Improvements #1 and #2 become Warranted*, no further building permits shall be issued until the said improvements are Committed for Construction* and Funded* by Responsible Entities* Concurrent* with the impacts of the Development*.

- F. Subsection 5.B.(1)(a) 2. of the Development Order is amended to read:

Intersection Improvement #1 shall be Funded* by the Developer* prior to any Vertical Development*. Applicable credit shall be granted to the Developer* in accordance with the Manatee County Land Development Code. Manatee County shall be responsible for the permitting and construction/installation of signalization. Construction/installation of signalization shall occur when said signalization is Warranted*. The Funding* of this intersection improvement shall be listed as a condition in any Certificate of Level of Service Compliance ("CLOS") issued for the

Development*.

- G. Subsection 5.B.(1)(a) 3. of the Development Order is amended to read:

The County shall Fund* the construction of and construct the improvement identified for intersection #2. Intersection improvement #2 has been Funded* by Manatee and Sarasota Counties and is currently under construction.

- H. Subsection 5.B.(1)(a) 4. of the Development Order is amended to read:

The County shall Fund* the construction of and construct a southbound right turn lane at the intersection of University Parkway/Tuttle Avenue. This intersection improvement shall be constructed Concurrent* with the impacts of the Development* and shall be listed as a condition in any CLOS for the Development*.

- I. Subsection 5.B.(1)(a) 5. of the Development Order is amended to read:

Intersection Improvements #3 and #4 will be Funded* by the Developer*. Applicable credit shall be granted to the Developer* in accordance with the Manatee County Land Development Code. The Developer*, through monitoring, shall be responsible for determining when the second northbound to westbound left turn lane is Warranted* in a manner identical to that described for Roadway Segment Improvements #1 and #2, since this intersection improvement is a companion improvement to Roadway Segment Improvements #1 and #2. The County shall be responsible for determining when signalization is Warranted* and the timely permitting and construction of signalization. Should intersection improvements #3 and #4 become Warranted*, no further building permits shall be issued until the said improvements are Committed for Construction* and Funded* by the Developer*, Concurrent* with the impacts of the Development*.

- J. Subsection 5.B.(1)(a) 6. of the Development Order is amended to read:

Intersection Improvement #5 shall be Funded* by the Developer*, and the geometric improvements (additional lanes) required by Improvement #5 constructed by the Developer*, prior to issuance of any Certificates of Occupancy for the land uses which will utilize this access drive (i.e., Hotel, Independent Living Facility, Personal Care/Skilled Nursing Facility, and the Medical/Business Center). The Developer shall be responsible for the permitting and construction/installation of the signalization required by Improvement #5. Construction/installation of signalization shall occur when said signalization is Warranted*. The Funding* and construction of this intersection improvement shall be listed as a condition in any CLOS issued for the land

uses identified in this subparagraph.

- K. Subsection 5.B.(1)(a) 7. of the Development Order is amended to read:

Intersection Improvements #6, #7 and #8 will be Funded* by the Developer*, and the geometric improvements (additional lanes) required by Improvements #7 and #8 constructed by the Developer*, prior to issuance of any Certificates of Occupancy for the land uses which will utilize these access drives (i.e., the Commercial and Golf Course portions of the Development*). The Developer shall be responsible for the permitting and construction/installation of the signalization required by Improvements #6 and #7. Construction/installation of signalization shall occur when said signalization is Warranted*. The Funding* and construction of these intersection improvements shall be listed as a condition in any CLOS issued for the land uses identified in this subparagraph.

- L. Subsection 5.B.(1)(a) 9. of the Development Order is amended to read:

By satisfying provisions B.(1)(a) 1. through 7. of this Development Order, the Developer* has also satisfied the concurrency requirements of Rule 9J-5.0055(2), F.A.C. and the concurrency requirements of Manatee and Sarasota Counties for Phase I. The concurrency requirements of Sarasota County are attached to this Development Order as Exhibit "C".

- M. Subsection 5.B.(7) of the Development Order is amended to read:

The Phase II transportation impacts shall be subject to review pursuant to Section 380.06(6), Florida Statutes. Commencement of Phase II of the Development* is subject to a determination by Manatee County that transportation capacity needed to serve Phase II is or will be adequate to meet the transportation impact of Phase II when such impact occurs. Such determination shall be made in accordance with the Manatee County and/or Sarasota County concurrency requirements in effect at the time of the Developer's* application for Certificate of Level of Service. In the event that transportation capacity is only available for a portion of Phase II, development of such portion may proceed, with development of the balance of Phase II being subject to future determinations as to transportation capacity availability through a notice of proposed change pursuant to Section 380.06(19), Florida Statutes. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any transportation mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.

- N. Subsection 5.J.(3) of the Development Order is amended to read:

The Developer* has completed a Chapter 380, Florida Statutes, affordable housing analysis which demonstrated that any need for affordable housing generated by the Development* is offset by the availability of affordable housing within the affordable housing study area of the Development*. The Affordable Housing Study was reviewed and approved by the DCA, but with the understanding that the Developer* will, prior to commencing development of Phase II, reassess the supply of affordable housing in accordance with the DCA's methodology and any applicable Manatee County methodology in effect at that time. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any affordable housing mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.

- O. Subsection 5.R.(1) of the Development Order is amended to read:

Commencement of Phase II of the Development* is subject to the determination by the County, using then prevailing FDER guidelines, that any significantly adverse air quality impacts caused by Phase II, or any sub-phase thereof, will be mitigated prior to Vertical Development* of Phase II, or the development of any sub-phase thereof. In addition, the Phase II air quality impacts shall be subject to review pursuant to Section 380.06(6), Florida Statutes. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any air quality mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.

SECTION 5. REAFFIRMATION:

The Development Order is hereby reaffirmed in its entirety except as amended by this Development Order Amendment.

SECTION 6. RENDITION:

The Clerk of the Circuit Court is hereby directed to send certified copies of this Development Order Amendment to the Secretary of State within ten (10) days of the Board of County Commissioners approval date of this Development Order Amendment. Upon the receipt of an official acknowledgement from the Secretary of State's office, but no later than thirty (30) days, the Planning, Permitting and Inspections department shall send certified copies of this Development Order Amendment to the Developer, the Department, and the TBRPC.

SECTION 7. NOTICE OF RECORDING:

The Developer shall record a Notice of Adoption of this Development Order Amendment in accordance with Subsection 380.06(15)(f), Florida Statutes, and shall furnish a copy of the

recorded Notice to the County's Planning, Permitting and Inspections Department.

SECTION 8. SEVERABILITY:

If any provision or portion of the Development Order Amendment is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of the Development Order Amendment shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE:

This Development Order Amendment shall become effective upon the issuance of an Order by the Florida Land and Water Adjudicatory Commission dismissing the Appeal so that the effective date of the Development Order Amendment will coincide with the lifting of the Stay on the effectiveness of the Development Order which, pursuant to Subsection 380.07(2), Florida Statutes, resulted from the filing of the Appeal.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Manatee County, Florida this 4th day of January, 1994.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA
Stan Stephen
CHAIRMAN

ATTEST: R.B. SHORE, ~~████~~
Clerk of Circuit Court

[Signature]

[Faint circular stamp]

STATE OF FLORIDA COUNTY OF MANATEE
I hereby certify that the foregoing is a true
copy of ORDINANCE NO. 93-54, adopted by the
Board of County Commissioners of said County on
the 4th day of January, 1994; this 10th day
of January, 1994, in Bradenton, Florida.
By *R.B. Shore*
Clerk of Circuit Court
By *Denise DeWalt* P.C.

Copies to Barbara Bee
for Internal Audit
1/20/94 Municipal Code
AMD