

EXHIBIT "A"

ORDINANCE Z-89-46 (C) (R-1)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE Z-89-46 (C) FOR THE UNIVERSITY COMMONS DEVELOPMENT, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

All public notice requirements applicable to this Development Order Amendment have been adhered to and fulfilled; and

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 (Ordinance 92-31) 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 of Community Affairs ("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 were set forth in the Development Order Amendment (Ordinance 93-54).
- D. The Board of County Commissioners held a duly noticed public hearing on January 4, 1994 regarding the Development Order Amendment, and considered all testimony, reports, comments, evidence and recommendations from all interested parties, departments, agencies and members of the general public.
- E. The Ordinance approving the Rezone [Z-89-46(C)] must be revised to conform with the amended Development of Regional Impact approval document (Ordinance 93-54).
- F. The revisions proposed in this ordinance will cause the Development of Regional Impact approval document and the rezone ordinance to conform to one another.
- G. All statutory procedures, and all procedures required by agency rule or local government regulation or policy, have been duly adhered to.

SECTION 2. AMENDMENT:

Ordinance Z-89-46(C) is hereby amended, in part, as described

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CLERK CIRCUIT COURT  
MANATEE CO. FLORIDA  
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in SECTION 3. of this Ordinance.

SECTION 3. REVISIONS TO Z-89-46(C):

- A. Section 2. of Ordinance Z-89-46(C) 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.

- B. Footnote 2 of Table 1 in Section 2. of Ordinance Z-89-46(C) 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.

C. Subsection 2.A. (1) of Ordinance Z-89-46(C) is amended to read:

This Approval is limited to the Development\* and Development\* schedule listed in Table 1 in Section 2 of this Ordinance. 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 DRI Development Order and Rezone Ordinance shall be amended to grant specific approval to Phase II. Development of the hospital referenced in the DRI 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 the 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 the Development Order. For purposes of this Ordinance 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 2.B. (1) (a) of Ordinance Z-89-46(C) 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 2.B. (1) (a) 1. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 2. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 3. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 4. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 5. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 6. of Ordinance 2-89-46(C) 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 2.B.(1)(a) 7. of Ordinance Z-89-46(C) 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 2.B.(1)(a) 9. of Ordinance Z-89-46(C) 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 (Attachment #2).

M. Subsection 2.B.(7) of Ordinance Z-89-46(C) 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 2.J.(3) of Ordinance Z-89-46(C) 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 and rezone ordinance are 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 and rezone ordinance shall be amended to incorporate such mitigation.

O. Subsection 2.R.(1) of Ordinance Z-89-46(C) 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 and rezone ordinance are 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 and rezone ordinance shall be amended to incorporate such mitigation.

SECTION 3. REAFFIRMATION:

Ordinance Z-89-46(C) is hereby reaffirmed in its entirety except as amended by this Ordinance.

SECTION 4. LEGAL DESCRIPTION:

See Attachment #5 of Ordinance Z-89-46(C).

SECTION 5. EFFECTIVE DATE:

This Ordinance shall take effect immediately upon the receipt of the official acknowledgement from the Office of the Secretary of State, State of Florida, that same has been filed with that office.

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

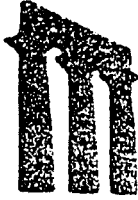
BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

*Stan Stephen*  
\_\_\_\_\_  
CHAIRMAN

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

*R.B. Shore*  
\_\_\_\_\_

STATE OF FLORIDA COUNTY OF MANATEE  
I hereby certify that the foregoing is a true  
copy of ORDINANCE NO. Z-89-46(C) 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.  
*R.B. Shore*  
Clerk of Circuit Court  
BY *Alvise Orsinali*



*Manatee County*  
**CLERK OF THE CIRCUIT COURT**

*R. B. "Chips" Shore*

P.O. Box 1000 • Manatee County Courthouse • Bradenton, Florida 34206 • (813) 749-1800 • FAX (813) 749-7194

January 7, 1994

Liz Cloud, Chief  
Bureau of Administrative Code  
Department of State  
The Capitol, Room 2002  
Tallahassee, Florida 32399-0250

Dear Ms. Cloud:

Enclosed are two certified copies of Ordinance Z-89-46 (C)(R-1), adopted by the Board of County Commissioners, Manatee County, Florida, in open session Tuesday, January 4, 1994.

ORDINANCE Z-89-46 (C)(R-1) AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE Z-89-46(C) FOR THE UNIVERSITY COMMONS DEVELOPMENT, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Please stamp both copies with the date filed by the Office of the Secretary of State, retain one copy for your file and return one copy to my office.

Sincerely,

R. B. Shore

RBS/dmo  
Enclosures (2)  
cc: Board Records

SECRETARY OF STATE

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**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)