

Tab 3

MANATEE RIVER COMMUNITY BANK REZONE  
Z-07-08

**Staff Report**  
**Manatee River Community Bank**  
**Zoning Atlas Amendment (Z0708)**  
**417 7<sup>th</sup> Avenue West, Palmetto, Florida**

**OWNER/GENERAL LOCATION/PARCEL SIZE:**

Owner: Manatee River Community Bank  
Location: Southwest corner of 5<sup>th</sup> Street West and 7<sup>th</sup> Avenue West  
PID #: 2780900003

**EXISTING LAND USE/ZONING CATEGORY:**

Future Land Use: RES-14 (Residential – 14 units per acre)  
Zoning: RM-6 (Residential Multi-Family – 10 units per acre)

**REQUESTED LAND USE/ZONING CATEGORY:**

Future Land Use: RES-14 (No plan amendment is proposed)  
Zoning: CG (Commercial General)

**SURROUNDING PROPERTY ZONING DISTRICT(S)/USES:**

Future Land Use

North: COMC (Commercial Core)  
South: RES-14 (Residential – 14 units per acre)  
East: RES-14 (Residential – 14 units per acre)  
West: COMC (Commercial Core)

Zoning

North: CG (Commercial General)  
South: CC (Commercial Core)  
East: RM-6 (Residential Multi-Family – 10 units per acre)  
West: CC (Commercial Core)

**SUMMARY:**

Pursuant to Appendix B: the Zoning Code, Sec. 11.3(d), the property owner has requested an amendment to the zoning code and map.

Each rezoning must meet the requirements pursuant to Appendix B: the Zoning Code, Sec. 11.4(b):

- (1) The need and justification for the change:

**The applicant intends to construct a parking lot for use by the neighboring property owner to the north. The proposed lot would serve to provide overflow parking when needed.**

- (2) The effect of the change, if any, on the particular property and on surrounding properties:  
**The property is currently vacant and is surrounded on two sides with CC zoning and one side with CG zoning. The proposed use of the property for a parking lot is consistent with the surrounding area. The adjoining property to the north is occupied largely by parking as well.**
- (3) The amount of underdeveloped land in the general area and in the City having the same classification as that requested:  
**There is little undeveloped land in this area of the city. Some properties have recently been cleared of previous structures and yet to be redeveloped, however, the subject property is located in the downtown urban core.**
- (4) The relationship of the proposed amendment to the purposes of the City Comprehensive Plan with appropriate consideration as to whether the proposed change will further the purposes of this code and the comprehensive plan.  
**This proposal is utilizing the Flex Provision of the Comprehensive Plan as a basis for justification of the rezone. This provision allows the rezoning of property in cases where the strict application of the Future Land Use designation would otherwise not allow a zoning change. This request represents a logical transition between commercial properties to the west and residential properties to the east.**

Below is an assessment of other applicable policies of the Comprehensive plan:

#### 1.0 FUTURE LAND USE

##### Topography, Soil Conditions and the Availability of Facilities and Services

Policy 1.1.3: Availability of public facilities and services shall be concurrent with the impacts of new development and shall meet established level of service standards. In redevelopment areas, local government shall assist in correcting deficiencies. [9J-5.006(3)(c)3.]

**Adequate public facilities exist in the vicinity of the project.**

Policy 1.1.4: New development shall be permitted only where adequate drainage and storm water management, open space and traffic flow and parking are provided. In redevelopment areas, local government shall assist in correcting deficiencies. [9J-5.006(3)(c)4.]

**The rezoning will not increase the development intensity of the site or surrounding area. A construction plan will be submitted for review and approval prior to the establishment of the proposed parking lot.**

Community Redevelopment Area [9J-5.006(3)(b)2.]

Policy 1.2.4: The City shall discourage duplication of the functions of the Commercial Core by avoiding rezoning which permits commercial development or high-density residential development outside the Community Redevelopment Area.

**This project is located within the CRA area and promotes its goals.**

Flex Provision

Objective 1.12: In order to provide the logical extension of development potential for adjacent properties, the City shall implement a flex provision.

Policy 1.12.1: The land use category boundaries depicted on the land use map are precise lines. However, when using the flex provision, the land use category boundaries shall be deemed to extend one hundred fifty feet (150') beyond the precise line. In consideration of a rezoning, the following criteria must be met:

1. Only properties adjacent to the plan designation proposed for flexing may be considered.
2. The proposed rezoning is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan and any other applicable land development regulation.
3. The proposed rezoning does not disrupt established land use boundaries such as, but not limited to, railroads, streets, alleys, and rear property lines.
4. The increased density, intensity, use, or scale of development is compatible with adjacent land uses. [9J-5.006(3)(c)2.]
5. The proposed rezoning site is adequately served or programmed to be served by acceptable levels of community facilities and transportation network.

Policy 1.12.2: The flex provision does not change the underlying land use designation for the property subject to the rezoning; therefore, this provision can only be used one time. Properties adjacent to flexed property cannot use the flex provision as a basis for rezoning.

**The flex provision is being utilized to justify the rezoning of this property. An accessory parking lot can be constructed and used by the existing owner (Manatee River Community Bank) without changing the**

**zoning. A freestanding commercial parking lot, however, is not permitted in RM-6. A change in zoning to CG is required in order to allow a parking lot as a principal use of land.**

## 2.0 TRANSPORTATION ELEMENT

### Level of Service

Policy 2.1.1: The level of service standard for collector and arterial roadways in the City shall be LOS "D", peak hour.

**No traffic study is required for this rezone request. The proposed parking lot does not generate traffic, so no traffic study will be required.**

## 4.0 SANITARY SEWER

### Reclaimed Water Use

Policy 4.3.1: Require the use of reclaimed water to irrigate recreational, agricultural and future development.

**The site is currently served with reclaimed water. Landscaping associated with the proposed parking lot will utilize reclaimed water for irrigation.**

Policy 4.3.4: Require the construction of an on-site distribution system for the transmission of reclaimed water in all new and future development projects.

**Details will be provided with the parking lot construction plans.**

## 6.0 STORM WATER MANAGEMENT

### Surface Water

Objective 6.3: To ensure that the quality of surface water within the City is maintained and, where unacceptable, improved.

- Appropriate on-site retention or detention in accordance with adopted local and state regulations including filtration, infiltration, establishment of littoral zones in wetland areas and the use of grassy areas for filtration;
- Protection of wetlands and environmentally sensitive areas; and
- Management and protection of the quantity, timing and quality of water releases and discharges.

**A stormwater management plan will be required with the construction plans for the parking lot.**

## 7.0 POTABLE WATER

### Maximize Existing Facilities

Objective 7.2: The City shall require that existing and new development maximizes

the use of existing potable water facilities.

**No new facilities are proposed.**

Policy 7.2.1: The City shall require the use of low-volume plumbing fixtures for all new construction in accordance with the requirements of the most recently adopted Standard Plumbing Code.

**No new facilities are proposed.**

Policy 7.2.2: The City shall continue to encourage the use of xeriscape in all landscaping projects.

**Future landscaping should incorporate xeriscaping.**

Policy 7.2.3: Where lines are available, the City shall require new development and redevelopment to connect to the reclaimed water system.

**The site is currently served with reclaimed water. Landscaping associated with the proposed parking lot will utilize reclaimed water for irrigation.**

**STAFF RECOMMENDATION:**

The applicant contends that the purpose of this rezone is to allow for an off-site user to be allowed to park cars on the subject property. The CG zoning district permits an array of other land uses. An examination of the parcel size identifies the limitations of the property. It would be difficult to develop the site for intense commercial purposes. Any development application would require on-site stormwater retention, required parking, landscaping, solid waste disposal, etc. The applicant has only discussed using the land as an overflow parking lot for the adjoining property to the north and staff concurs that the request is reasonable. The property is surrounded by commercial zoning on three sides, including CG zoning to the north. As such, staff recommends **APPROVAL** of the proposed zoning change.

**PLANNING AND ZONING BOARD RECOMMENDATION:**

The Planning and Zoning Board shall recommend **APPROVAL, or DENIAL** of the proposed change of zoning.

**CITY COMMISSION**

The City Commission shall **APPROVE or DENY** the proposed change of zoning.

**CITY OF PALMETTO  
ORDINANCE NO. 08-**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A ZONING ATLAS AMEDMENT FOR MANATEE RIVER COMMUNITY BANK FROM RM-6 TO CG; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-07-08 Manatee River Community Bank, PID # 2780900003, approx. 0.42 acres).**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and,

**WHEREAS**, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, the City Commission of the City of Palmetto has certain regulatory authority granted to it by the Florida Constitution, the Florida Statutes and the City Charter to regulate the use of land within its corporate boundaries; and,

**WHEREAS**, the City of Palmetto has received a complete and timely application for approval of a Zoning Atlas Amendment for PID # 2780900003, approx. 0.42 acres (“Project”), more particularly described in **Exhibit A**; and,

**WHEREAS**, the Planning and Zoning Board of the City of Palmetto reviewed the proposed Zoning Atlas Amendment, held a properly noticed public hearing on January

14, 2008, received public comment and testimony, and provided its recommendation to the City Commission of the City of Palmetto; and,

**WHEREAS**, the City Commission of the City of Palmetto held a properly noticed public hearing on \_\_\_\_\_, 2008, and received public comment and testimony at said hearing; and,

**WHEREAS**, the City Commission of the City of Palmetto finds that approval of the proposed Zoning Atlas Amendment benefits the public health, safety, and welfare;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:**

**Section 1. Finding of Fact.**

A. The above-referenced "WHEREAS" clauses are adopted herein as findings of fact.

B. The Planning and Zoning Board, acting as the Local Planning Agency, has recommended approval of the proposed Zoning Atlas Amendment, a copy of which is attached hereto and incorporated herein as **Exhibit B**.

C. The proposed Zoning Atlas Amendment is consistent with the City of Palmetto's Comprehensive Plan.

D. The proposed Zoning Atlas Amendment is compatible with adjacent land uses and complies with all pertinent provisions of the City of Palmetto's Zoning Code.

**Section 2. Repeal of Ordinance.** This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.



**Section 3. Severability.** If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

**Section 4. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14 upon execution by the Mayor, or if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

**PASSED AND DULY ADOPTED,** by the City Commission, in open session, with a quorum present and voting, this day of 2008.

First Reading: December 18, 2006  
Publication: \_\_\_\_\_, 2008  
Second Reading and  
Public Hearing: January \_\_\_\_\_, 2008

CITY OF PALMETTO, FLORIDA,  
BY AND THROUGH THE CITY  
COMMISSION OF THE CITY OF  
PALMETTO  
By: \_\_\_\_\_  
LAWRENCE E. BUSTLE, JR.,  
MAYOR

ATTEST: James R. Freeman  
City Clerk

By: \_\_\_\_\_  
City Clerk/Deputy Clerk

MEMBER  
Florida Society Of  
Professional Surveyors  
& Mappers  
Manasota Chapter  
Of Surveyors



**CLEMENTS SURVEYING, INC.**

509 8th Avenue West  
SUITE 140  
PALMETTO, Florida 34221  
Phone: 729-6690  
Fax: 729-7580

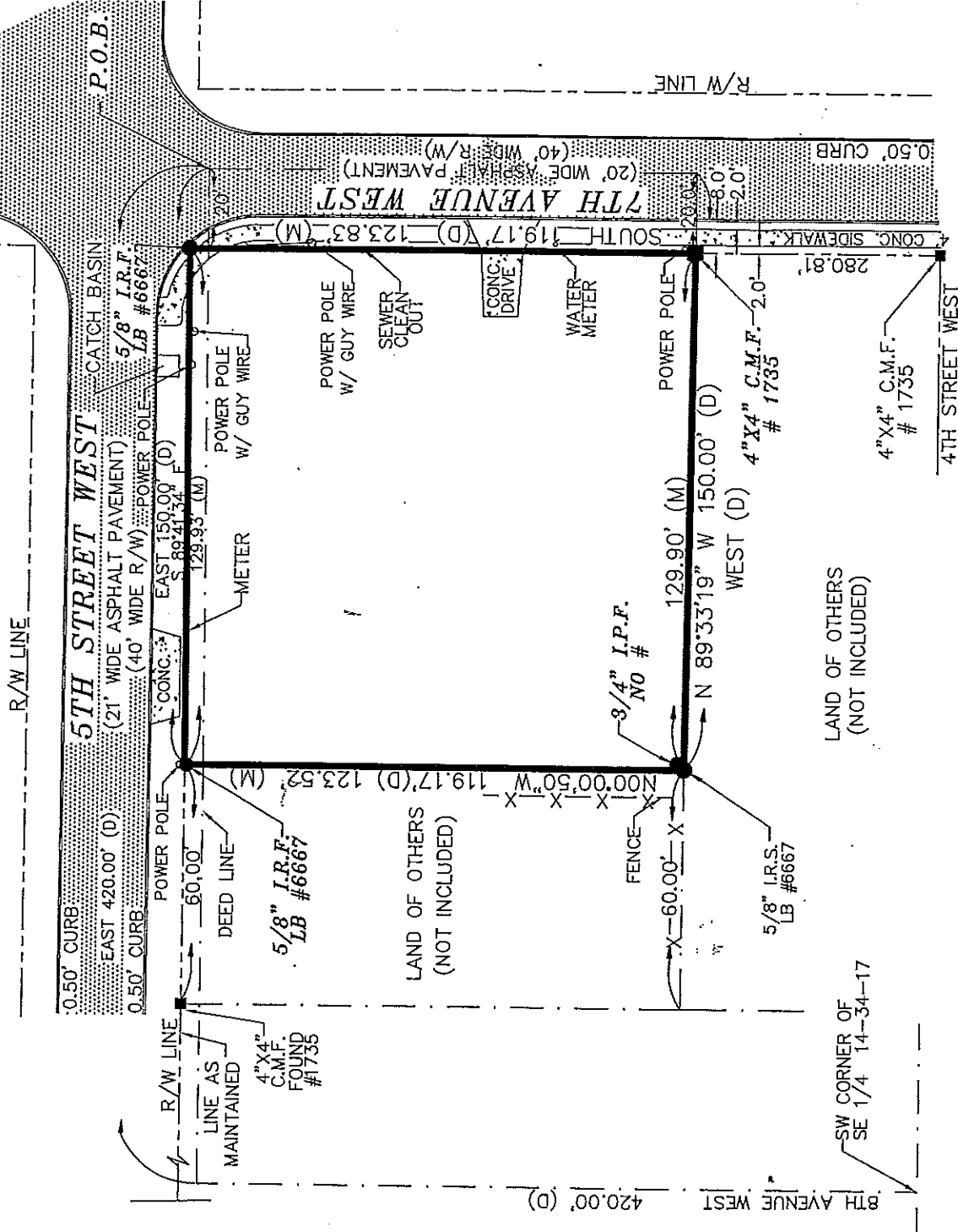
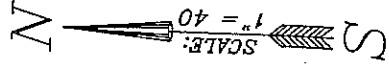
Boundaries  
Mortgage  
Elevation Cert.  
Construction Layout  
Subdivisions

BOUNDARY SURVEY OF LOTS — BLOCK — SUBDIVISION — SEE DESCRIPTION BELOW  
SECTION 14 TOWNSHIP 34 SOUTH, RANGE 17 EAST, AS RECORDED IN PLAT BOOK — PAGES —  
IN THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA 417 7TH AVENUE WEST, PALMETTO, FLORIDA

LEGAL DESCRIPTION: (AS FURNISHED)

BEGIN 420 FEET NORTH AND 420 FEET EAST OF THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 17 EAST; RUN THENCE SOUTH 119 FEET 2 INCHES; THENCE WEST 150 FEET; THENCE NORTH 119 FEET 2 INCHES; THENCE EAST 150 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT THE EAST 20 FEET FOR ROAD RIGHT-OF-WAY.

BEING THE SAME PROPERTY AS DESCRIBED IN THAT CERTAIN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 584, PAGE 735, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.



NOTES:

BEARINGS ARE BASED ON THE WESTERLY R/W LINE OF 7TH AVENUE WEST BEING ASSUMED NORTH.

PROPERTY LIES WITHIN FLOOD ZONE " C ", AS PER F.I.R.M. PANEL NO. 120159 0003 C, DATED 11-16-83 , (SUBJECT TO VERIFICATION).

CERTIFIED TO:

MANATEE RIVER COMMUNITY BANK  
MCGUIRE, PRATT, MASIO, FARRANCE & RICE, P.A.  
COMMONWEALTH LAND TITLE INSURANCE COMPANY

Job NO. 99-417

FB 74 - pc 68

Date Of: 5-18-99

Foundation: \_\_\_\_\_

Final: \_\_\_\_\_

Update: 02-16-07 ccl

CERTIFICATION OF SURVEYOR

BY: *James L. Clements*  
JAMES L. CLEMENTS, P.S.M. # 4091

DATE OF CERTIFICATION 2-27-07

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED

SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

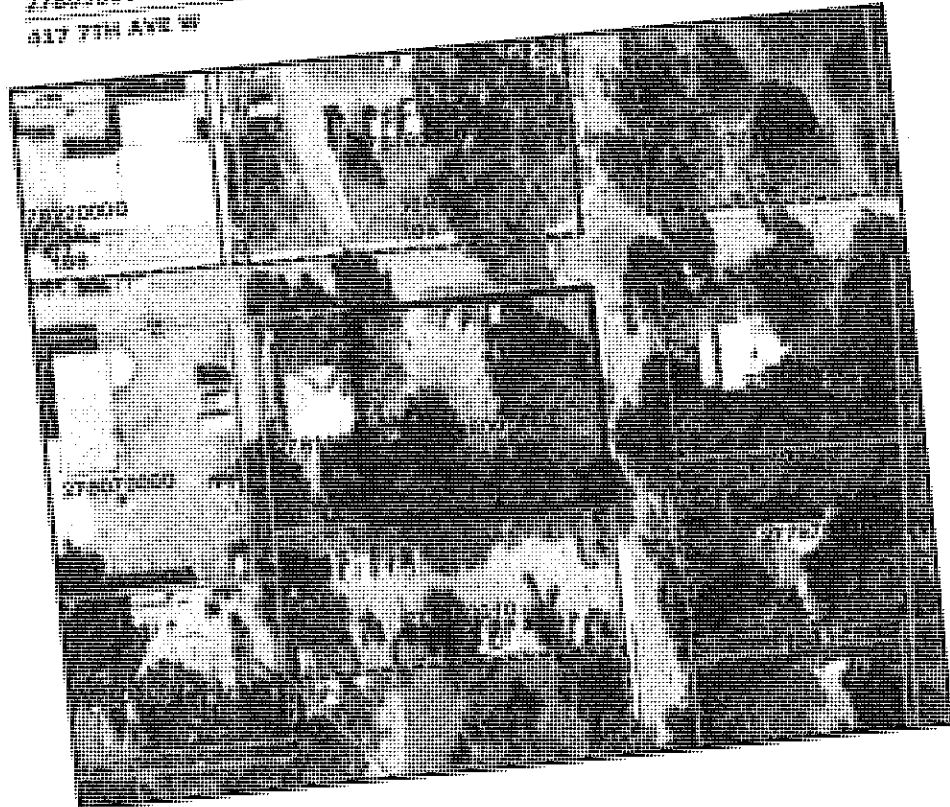
LEGEND  
P=Plot M=Measured D=Deed  
R/W=Right Of Way  
—=Iron Rod Found(IRF)  
●=Iron Rod Set(IRS)#6667  
○=Iron Pipe Found  
▲=Nail & Disc Found  
△=Nail & Disc Set #6667  
TBM=Temporary Bench Mark  
POB=Point Of Beginning  
POC=Point Of Commencement  
C.M.F.=Concrete Monument Found  
C.M.S.=Concrete Monument Set #6667  
PRM=Permanent Reference Monument  
P.C.=Point Of Curve  
0.00 = Elevation

**MANATEE COUNTY  
PROPERTY APPRAISER**

2780900003

517 7TH AVE W

MANATEE RIVER COMMUNITY B



Printed on Monday, December 17, 2007, at 10:01:57 AM

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## Anthony & Jean Seney

502 7<sup>th</sup> Ave. West  
Palmetto, FL 34221

December 30, 2007  
Rezoning Z-07-08 417 7<sup>th</sup> Ave. West

City Of Palmetto  
Zoning Board of Appeals  
516 8<sup>th</sup> Ave. West  
Palmetto, FL 34221

### Board Members:

This case points out reason for zoning ordinances to be in place. An overall plan for zoning is presented to the voters and with voter approval it is put into place. Rezoning only by parcel was not the intended reason in establishing the Zoning Board of Appeals process. We should be able to expect that in cases of hardship, the Zoning Board of Appeals may be allowed to alter some zoning designations, providing that the changes are compatible with adjacent property owner's rights. To assure this, the law requires that affected parties be notified. This is how we understand the process.

If the city planner, or the present owners feel that Palmetto zoning ordinances are antiquated and a new plan of development is required this issue needs to be address to the voters of the City.

It is our intention to enjoy the current zoning in place that protects our property from encroachment by business interests. We oppose spot rezoning by parcel for the purpose of only changing the map without any regard to how the present zoning creates a hardship for the owner.

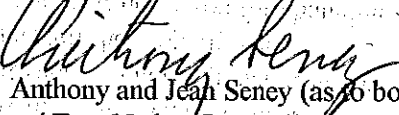
Residential housing has been torn down by the present owners on the subject parcel. This action has left the property vacant. The simple action of tear down housing to antique the intended use is not a valid reason for changing zoning. If you argue that the housing destroyed on this parcel was not restorable this is not a valid argument. If the owner's action has lowered the value of the property, this is also not a valid reason to change zoning. In fact perhaps this parcel could provide affordable housing, which is desperately needed..

Several months ago the auto repair shop located behind Oil Masters was using this parcel as part of their operation. I made a complaint to the building department over this use and it was stopped. The parcel was ragged and unsightly with this use.

The CC Zone will open this parcel for Midas Muffler shops, use car lots, drinking establishments and any other business currently operating on 8<sup>th</sup> Ave. West with no setback requirements. This action would severely impact my residential property value as well as my neighbors. Staying within the limits of zoning regulation is mandated and applies to all on an equal basis and should not be changed to serve the special interest of any single group or owner.

This is a residential area that has narrow streets and any change in zoning should offer a buffer between business and residential, which we have discussed with prior applications. We hope that the Board of Appeals will be aware of our concerns and continue to protect our property values by not allowing this change.

Sincerely,



Anthony and Jean Seney (as to both)

cc/ Tom Nader, Steve Piles, Manatee River Community Bank