

Tab 2

MANATEE RIVER COMMUNITY BANK REZONE
Z-07-08



February 8, 2008

Ms. Barbara M Jennings, Chairwoman
City of Palmetto Planning and Zoning Board
516 8th Avenue, W.
Palmetto, Florida 34221

Dear Chairwoman Jennings and Board Members,

Please accept our apologies for not being in attendance tonight and offering this letter in our absence. Also, please do not mistake our lack of attendance as an indication that this matter is not very important to us and that we don't appreciate your time and attention very much.

Unfortunately, when this hearing was rescheduled for tonight Allen Langford, President of Manatee River Community Bank, and me had already scheduled meetings in Washington, D.C. with the Florida Bankers Association. Hopefully and our attendance and participation in D.C. will bring some good back to our local communities as we lobby our National Leaders on issues that are very near and dear to all of us.

I will attempt to make this as brief as possible. As you recall from the public hearing last month, the Bank (seller) and Mr. Jim Wade (buyer) have entered into a contract for the sale and purchase of the property located at 417 7th Street, W. Palmetto. You will also recall that in order to complete the sale, the buyer has asked the seller to re-zone the parcel to CG so that he could use the property for overflow parking for his project in the old Palmetto Federal building.

There has been opposition to this re-zone request from Mr. Anthony Seney and his neighbor as they do not want such things as a car wash, nightclub, etc. to be able to be built on this property. Mr. Seney stated at the public hearing last month, and I believe the minutes will reflect, that he would have no problem with a parking lot being built there and could understand the need for that from the buyers perspective.

In an effort to be good neighbors, Mr. Langford and Mr. Wade drafted documents that would give Mr. Seney and his neighbors an assurance, that for 10 years and surviving sale of the property to a third or subsequent owner, that the parcel would only be used for a parking lot that met City standards.

Mr. Seney, as stated in an attached letter, indicated that was not good enough for him and did not want the re-zone to take place.

We all want good, clean growth to occur in Palmetto and without adequate parking that just won't take place. We have done all we can to give assurances to Mr. Seney and our

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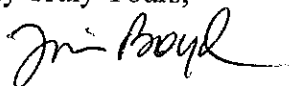
neighbors that we will be sensitive to the complexion of the neighborhood and unfortunately that is not enough.

We humbly request that you allow the re-zone to move ahead with your approval and we can all take pride in working to bring positive, value added growth to Palmetto.

I have a long and fond history with the City of Palmetto and can tell you I will work as hard as I can to enhance the beauty and dynamics of our City as I hope you can tell by what we have done already.

Thank you all for your indulgence in having this letter read, I wish I could have been here personally, but do appreciate your consideration in this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Jim Boyd", with a long horizontal flourish extending to the right.

James E. Boyd
The Boyd Group

Anthony & Jean Seney

502 7th Ave. West
Palmetto, Fl 34221

January 31, 2008

Mr. James E. Boyd
717 Manatee Ave.
Bradenton, Fl 34205

In response to the re-zoning of parcel 2780900003 and the correspondence received in the name of James Wade and Mr. W. Allen Langford, please be advised that this offer of compromise falls well short of our desire to prevent further incursion of business activity within our residential area. Our rights of quiet enjoyment is not open for a compromise and this offer only serves to postpone the impact.

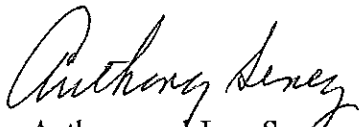
By agreement with my neighbors, it is our intention to allow the Zoning Board to exercise it's best judgment in this matter. We will continue to oppose all future applications that will allow the incursion of business activity at what ever level is required.

Please do not confuse my conciliatory tone as a sign of weakness in resolve. The negative impact to your clients is minute in comparison.

I have repeatedly encouraged you to seek additional parking on the North side of Mr. Wade's building. This area may be more suitable for additional parking and you may not receive a negative response from abutters.

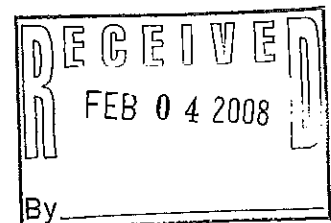
When describing this parcel several times I have heard the following: this parcel does not lend itself to commercial development because of this or that. Why is it not clear to all concerned that the difficulty in utilizing this parcel for commercial activities is directly due to the fact that it is a residential parcel and so zoned.

Sincerely,



Anthony and Jean Seney
as to both.

Cc/ Zoning Board of Appeals



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

OWNER/GENERAL LOCATION/PARCEL SIZE:

Owner: Manatee River Community Bank
Location: Southwest corner of 5th Street West and 7th 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

LB#6667

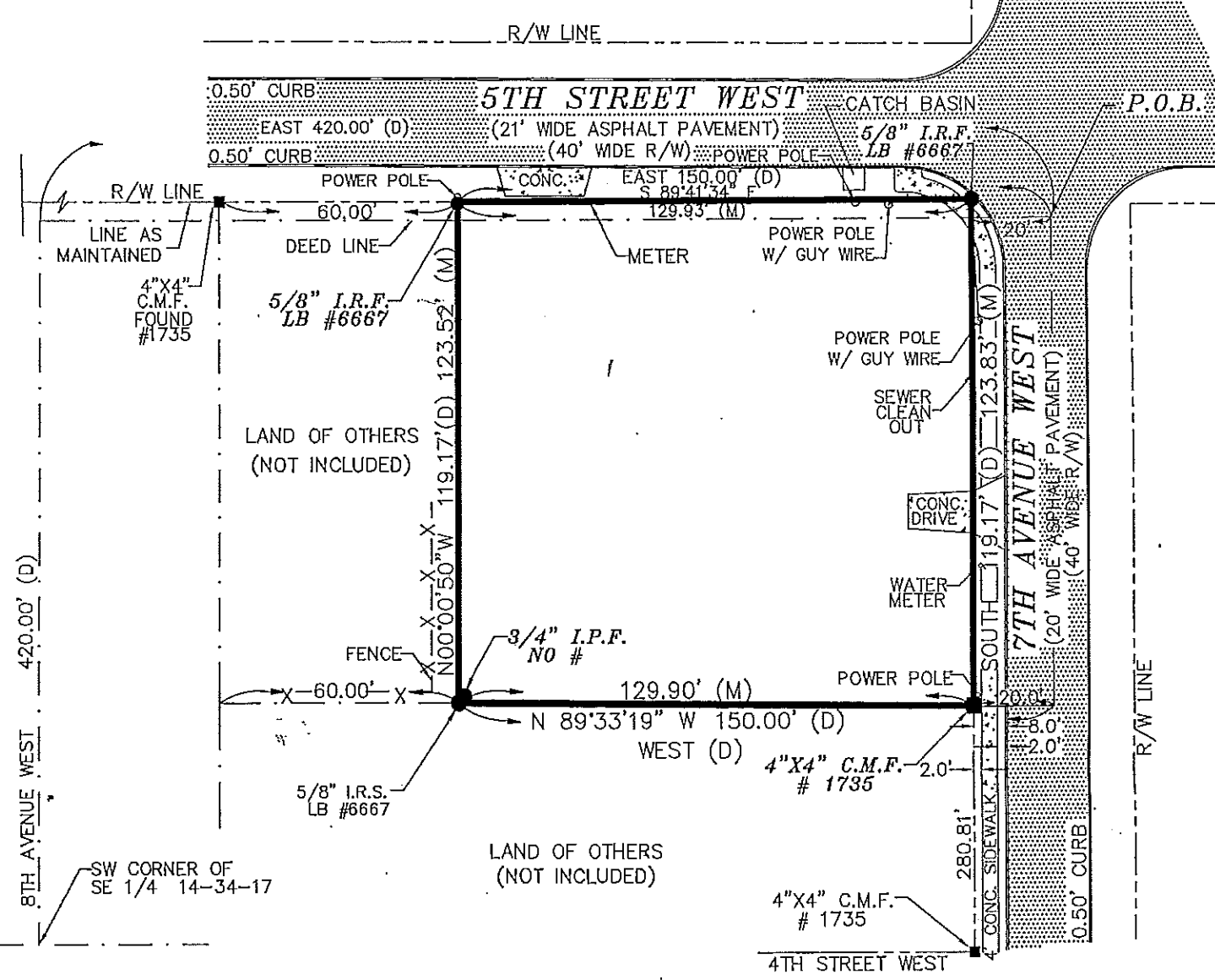
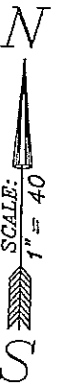
Boundaries
Mortgage
Elevation Cert.
Construction Layout
Subdivisions

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:

**MANATEE COUNTY
PROPERTY APPRAISER**

2780900003

417 7TH AVE W

MANATEE RIVER COMMUNITY B



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