

KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLORIDA
CEAGLETO Receipt#420517



Please record and return to: (Via Inter-Office Mail)
Karen Grasset
Growth Management Business Center
1660 Ringling Boulevard, 5th Floor
Sarasota, FL 34236

**NOTICE OF STIPULATIONS
AND LIMITATIONS ENCUMBERING
REAL PROPERTY PURSUANT TO
THE SARASOTA COUNTY ZONING CODE**

The following property located East of US 41 and 1000' south of Bay Street in Sarasota County, Florida, owned by Henry Rodriguez, and described in Ordinance No. 2003-082 attached hereto, has been rezoned to a CG (Commercial General) zone district pursuant to Rezone Petition No. 03-20 filed by Brenda Patten, Agent, and granted by Sarasota County on December 17, 2003, and is subject to the following stipulations and limitations, violations of which shall constitute a violation of the Sarasota County Zoning Code:

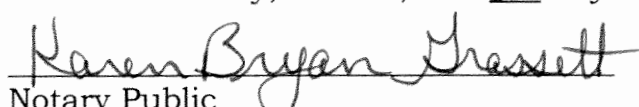
(Stipulations and limitations are those described in Section 3 of Ordinance No. 2003-082, attached hereto)


Executive Director
Growth Management Business Center

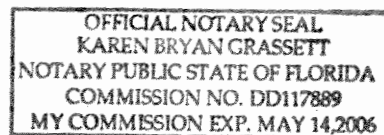
STATE OF FLORIDA
COUNTY OF SARASOTA

Before me, the undersigned Notary Public, personally appeared Jerry Gray, Executive Director of the Growth Management Business Center, to me known to be the individual who executed the foregoing Notice of Stipulations and Limitations Encumbering Real Property pursuant to the Sarasota County Zoning Code, and he acknowledged before me that he executed the same.

Witness my hand and official seal at Sarasota County, Florida, this 6th day of January, 2004 A.D.


Notary Public
State of Florida at Large

This instrument prepared by:
CS



2003 DEC 17 PM 3:49

ORDINANCE NO. 2003-082

KAREN E. RUSHING
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

AN ORDINANCE OF THE COUNTY OF SARASOTA, FLORIDA,
AMENDING THE OFFICIAL ZONING ATLAS, AS PART OF
SARASOTA COUNTY ORDINANCE NO. 2003-052, CODIFIED
IN APPENDIX A TO THE SARASOTA COUNTY CODE,
RELATING TO ZONING WITHIN THE UNINCORPORATED
AREA OF SARASOTA COUNTY; PROVIDING FINDINGS;
PROVIDING FOR AMENDMENT OF THE ZONING ATLAS;
PROVIDING RESTRICTIONS, STIPULATIONS AND
SAFEGUARDS; AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2003 DEC 22 PM 2:49

FILED

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. Findings. The Board of County Commissioners, hereinafter referred to as the "Board," hereby makes the following findings:

A. The Board has received and considered the report of the Sarasota County Planning Commission concerning Rezoning Petition No. 03-20, requesting rezoning of the property described herein.

B. The Board has held a public hearing on the proposed rezoning of the property described herein in accordance with the requirements of Sarasota County Ordinance No. 2003-052, codified in Appendix A of the Sarasota County Code (hereinafter "the Zoning Ordinance"), and has considered the information received at said public hearing.

C. The rezoning herein granted is consistent with the Sarasota County Comprehensive Plan and meets the requirements of the Zoning Ordinance.

D. Pursuant to the provisions of Article VII of Chapter 94 of the Sarasota County Code, an evaluation has been completed of the impacts that the proposed rezoning of the property described herein will have on the levels of service for parks, drainage, solid waste, roads, mass transit and water and sewer systems. With the exception of the provisions of Section 3 of this Ordinance, adequate levels of service are anticipated to be available.

Section 2. Amendment of the Zoning Ordinance. The Official Zoning Atlas, adopted under Section 2 of the Zoning Ordinance, is hereby amended by changing the zoning district classification for 20.75 acres \pm from CG (Commercial, General), OUE-2 (Open Use Estate, 1 unit/2 acre) and RSF-1 (Residential, Single Family, 2.5 units/acre) to CG (Commercial, General) for the following described property located in Sarasota County, Florida:

ALL THAT CERTAIN PIECE, PARCEL OR, TRACT OF
LAND SITUATE, LYING AND BEING ALL OF LOTS 85, 86, 87,
88, 89 AND 90 AND ALSO A PORTION OF LOTS 107, 108, 109,

110, 111, 112, 113 AND 114. PLAT OF SARABAY ACRES, AS RECORDED IN PLAT BOOK 4, PAGE 42, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA. SAID LAND LYING IN SECTION 10, TOWNSHIP 38 SOUTH, RANGE 18 EAST, OF THE TALLAHASSEE BASE MERIDIAN, SARASOTA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: COMMENCING FOR REFERENCE AT THE NORTHEAST CORNER OF SAID SECTION 10, TOWNSHIP 38 SOUTH, RANGE 18 EAST, THENCE, BEARING SOUTH 89°55'31" WEST ALONG THE NORTH LINE OF SAID SECTION 10, A DISTANCE OF 1344.48 FEET TO A POINT; THENCE, LEAVING SAID NORTH LINE, BEARING SOUTH 00°42'29" EAST, A DISTANCE OF 825.17 FEET TO THE NORTHEAST CORNER OF AFORESAID LOT 90 AND THE POINT AND PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE, BEARING NORTH 89°56'05" EAST ALONG THE NORTH LINE OF AFORESAID LOT 107, A DISTANCE OF 358.25 FEET; THENCE, BEARING SOUTH 00°55'08" EAST, A DISTANCE OF 699.57 FEET TO A POINT ON THE SOUTH LINE OF AFORESAID LOT 113; THENCE, BEARING SOUTH 89°55'14" WEST, ALONG THE SOUTH LINE OF SAID LOT 113, A DISTANCE OF 175.34 FEET TO A POINT, SAID POINT BEING THE BEGINNING OF CURVE OF A NON TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 360.00 FEET, A CENTRAL ANGLE OF 29°14'39" AND A CHORD LENGTH OF 181.76 FEET BEARING SOUTH 73°53'04" WEST; THENCE, WESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 183.75 FEET TO A POINT; THENCE, BEARING SOUTH 00°50'36" EAST, A DISTANCE OF 50.07 FEET TO A POINT ON THE SOUTH LINE OF AFORESAID LOT 114, THENCE, BEARING SOUTH 89°56'00" WEST, ALONG SAID SOUTH LINE OF LOT 114 AND ALONG THE SOUTH LINE OF AFORESAID LOT 85, A DISTANCE OF 630.94 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF US HIGHWAY NO. 41 (TAMIAMI TRAIL) A VARIED WIDTH RIGHT OF WAY, AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 17020-2118, DATED 7/18/60; THENCE, BEARING NORTH 24°38'41" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 442.35 FEET TO A POINT; THENCE, BEARING SOUTH 64°39'26" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 15.16 FEET TO A POINT; THENCE, BEARING NORTH 24°36'25" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 417.25 FEET TO A POINT, SAID POINT BEING THE BEGINNING OF CURVE OF A CURVE CONCAVE TO NORTHEAST, HAVING A RADIUS OF 2,384.17 FEET, A CENTRAL ANGLE OF 00°38'45" AND A CHORD DISTANCE OF 26.87 FEET BEARING NORTH 24°17'02" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 26.88 FEET TO THE INTERSECTION WITH THE

NORTH LINE OF AFORESAID LOT 90; THENCE BEARING NORTH 89°56'05" EAST, ALONG THE NORTH LINE OF SAID LOT 90, A DISTANCE OF 993.64 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PREMISES CONTAIN 904,069 SQUARE FEET OR 20.755 ACRES. MORE OR LESS. SUBJECT TO ALL EASEMENTS, CONDITIONS AND RESTRICTIONS AS CONTAINED WITHIN THE CHAIN OF TITLE.

Section 3. Restrictions, Stipulations and Safeguards. As used in the stipulations hereinafter set forth, the term "Owner" shall refer to the owner or owners of the property described in Section 2 and their successors and assigns. Upon recording in the public records of Sarasota County, these stipulations shall be covenants running with the land. The use of the property described in Section 2 of this Ordinance, in addition to the applicable restrictions imposed by the Zoning Ordinance, is hereby further limited by and subject to the following restrictions, stipulations and safeguards:

1. Development of the subject parcel shall comply with all applicable conditions contained in the Osprey Revitalization Plan (Ordinance No. 99-079).
2. The Owner shall be required to maintain the appearance and function of any private drainage facilities to be constructed on the site, including retention ponds and drainage ditches, at its own expense in accordance with applicable federal, state or local regulations. At the time of recording a plat or prior to final construction approval, the Owner shall be required to record in the public records a Notice to Purchaser, approved by Sarasota County, putting purchasers on notice that the maintenance of drainage facilities is a private responsibility.
3. The Master Surface Water Management Plan shall be consistent with the North Creek Basin Master Plan and/or the applicable Coastal Basin Study.
4. In addition to Land Development Regulation (LDR) pre / post criteria, the Applicant shall utilize and update the North Creek Basin Master Plan and/or the applicable Coastal Basin Model to demonstrate that the proposed development will not have an adverse impact on off-site flood stages.
5. Customer carts shall be stored within the building and screened from public view. Temporary storage of customer carts shall be allowed within cart corral areas as shown on the Development Concept Plan dated May 22, 2003.
6. There shall be no outdoor paging or speaker systems.
7. The outside storage of pallets and cardboard bales shall be shielded from public view by a minimum 6-foot high masonry buffer wall. No materials stored in the storage area shall be visible above the buffer wall.
8. In accordance with Policy 5.6.5 of the Environment Chapter of Apoxsee, during development of the subject property, all nuisance/invasive and exotic plant species shall be removed from the site. Replacement of nuisance/invasive and exotic vegetation with native or ornamental plant species shall be consistent with landscape buffer requirements. All removed vegetation

- shall be disposed of in a County-approved landfill or by another method approved by Resource Protection.
9. In accordance with Policy 5.4.3 of the Environment Chapter of Apoxsee, prior to or concurrent with submittal of site and development plans, a listed species survey shall be conducted at the subject property, using recognized sampling techniques to identify endangered, threatened, and species of special concern. The results of the surveys, including details of the methodologies used (i.e., location of transects, dates and times of surveys, etc.), shall be forwarded to Resource Protection along with any documentation from appropriate regulatory agencies regarding listed species issues associated with the site.
 10. In order to assure adequate protection of the on-site grand tree, prior to approval of site and development plans, root trenching shall be performed 27 feet to the north of the on-site grand oak tree, within the indicated root zone, to identify the size of existing roots. Results shall be submitted to Resource Protection staff, in order to assist staff in determining if an aeration bed is required between the proposed garden center and the grand tree. Site and development plans and construction plans shall accurately reflect the staff determination.
 11. The construction plans shall contain details of the proposed aeration bed in the vicinity of the on-site grand tree and details of the exclosure materials surrounding the grand tree.
 12. Prior to or concurrent with the development of the subject parcel, the developer shall construct an additional exclusive westbound to southbound left-turn lane at the intersection of U.S. 41 and McIntosh Road. The left turn lane shall be designed in accordance with Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.
 13. Prior to or concurrent with the development of the subject parcel, the developer shall construct at no cost to the County, a signal at the intersection of U.S. 41 and Bay Acres Avenue. The signalized intersection shall be designed in accordance with the Manual of Uniform Traffic Control Devices and Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements at the intersection shall be included in the construction plans for the subject parcel.
 14. The existing full median opening approximately 520 feet south of Bay Acres Avenue shall be closed upon the installation of the traffic signal. The modifications to the median shall be included in the construction plans for the subject development.
 15. Concurrent with the installation/construction of the signal at U.S. 41 and Bay Acres Avenue, the existing full median opening approximately 520 feet south of Bay Acres Avenue shall be closed by the developer. The modifications to the median shall be included in the construction plans for the subject development.
 16. Prior to or concurrent with the development of the subject parcel, the developer shall construct a southbound to westbound right-turn lane shall be constructed at the intersection of U.S. 41 and Bay Acres Avenue. The right-turn lane shall be designed in accordance with

Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.

17. Prior to or concurrent with the development of the subject parcel, the developer shall construct a northbound left-turn lane shall be constructed at the intersection of U.S. 41 and Bay Acres Avenue. The left turn lane shall be designed in accordance with Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.
18. Prior to or concurrent with the development of the subject parcel, the developer shall construct a southbound to eastbound left-turn lane at the intersection of U.S. 41 and Bay Acres Avenue. The left-turn lane shall be designed in accordance with Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.
19. Prior to or concurrent with the development of the subject parcel, the developer shall construct a northbound to eastbound right-turn lane shall be constructed at the intersection of U.S. 41 and Bay Acres Avenue. The right-turn lane shall be constructed in accordance with Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.
20. Prior to or concurrent with the development of the subject parcel, the developer shall construct a northbound to eastbound right-turn lane shall be constructed approximately 440 feet north of Bay Acres Avenue at the north driveway to the subject parcel. The right-turn lane shall be constructed in accordance with Index 301 and 526 of the Florida Department of Transportation's Roadway and Traffic Design Standards. The improvements shall be included in the construction plans for the subject development.
21. Prior to development on the subject parcel that cumulatively generates more than 667 PM peak hour net new trips, the developer shall provide a traffic analysis for the development and identify mitigation as necessary to demonstrate adopted levels of service are maintained for all significantly impacted road segments and intersections. The traffic analysis shall be prepared in accordance with Resolution No. 98-169.
22. Prior to or concurrent with the closure of the existing full median opening approximately 520 feet south of Bay Acres Avenue and Construction Authorization, a public access easement for that portion of the east-west connector road along the subject parcel's southern boundary line, shall be dedicated to Sarasota County, consistent with the Osprey Revitalization Plan (No. 98-01-SP).
23. This zoning map amendment is governed by the provisions of sub-section 1.9.2.b.2.ii. of Ordinance No. 2003-052. The Owner has elected to be bound by the development concept plan submitted with the application. As a result of such election, the following stipulations shall apply:

- a. Development shall occur in substantial accordance with the Development Concept Plan date stamped May 22, 2003, and attached hereto as Exhibit "A" provided, however, that in the event of a conflict between the Development Concept Plan and the stipulations contained herein, the stipulations shall take precedence. This does not imply or confer any variance from applicable zoning or land development regulations.
- b. At the time of Site and Development Plan review and approval, the provisions and requirements of Zoning Ordinance No. 75-38, revised and updated through Amendment No. 196 (Ordinance No. 2001-054, adopted October 15, 2001) shall apply as to matters depicted on the Development Concept Plan and the provisions and requirements of Ordinance No. 2003-052 shall apply to the extent that they do not conflict with the Development Concept Plan.
- c. Any deviations from the Development Concept Plan that are not allowed by this rezoning ordinance (that is, what is not in substantial accordance with the Concept Plan), or amendments must comply with the zoning code in effect at the time of approval of that modification.

Section 4. Effective Date. This Ordinance shall take effect immediately upon receipt of official acknowledgment from the Office of the Secretary of State of Florida that this Ordinance has been filed with said office.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 17th day of December, A.D., 2003.

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

Sharon Starn
Chairman

ATTEST:

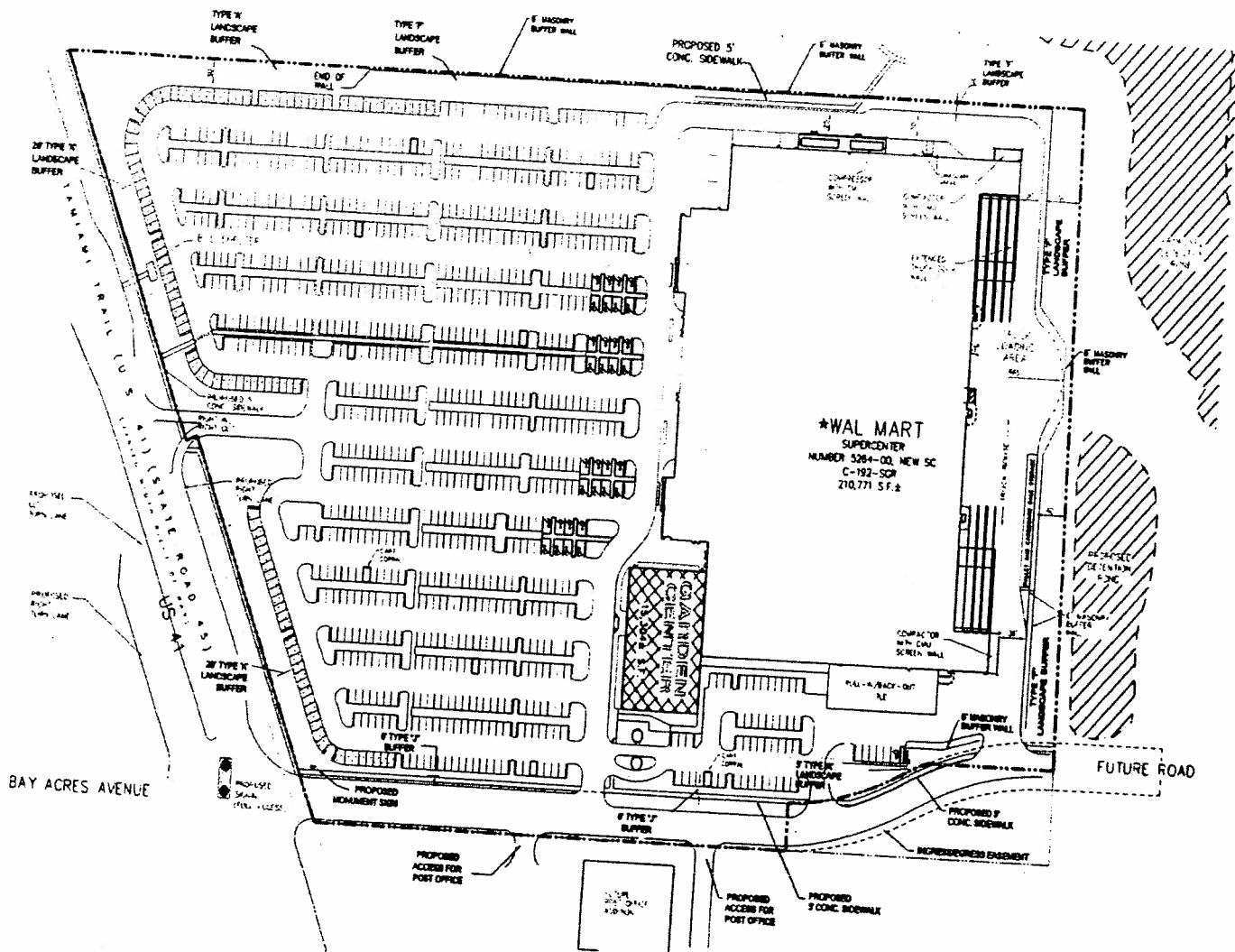
KAREN E. RUSHING, Clerk of
the Circuit Court and Ex-
Officio Clerk of the Board of
County Commissioners of
Sarasota County, Florida.

By: Paula J. Clinton
Deputy Clerk

MAP SERIES/CONCEPT PLAN

EXHIBIT "A"

INSTRUMENT # 2004003172
8 PGS



STATE OF FLORIDA)
COUNTY OF SARASOTA)
I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILES
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL

DATE THIS DATE 12/17/2003
PAULENE RUSHING, CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLORIDA
SARASOTA COUNTY, FLORIDA
Paula F. Rushing
DEPUTY CLERK

THIS DOCUMENT RECEIVED BY:
GROWTH MANAGEMENT ON
MAY 22, 2003