

**RESOLUTION NO. 2008-109**  
**RESOLUTION OF THE BOARD OF COUNTY**  
**COMMISSIONERS OF SARASOTA COUNTY, FLORIDA**  
**REZONE PETITION NO. 08-08**

**WHEREAS**, Belisa Oleivera, agent for the owner of the hereinafter described real property has filed Rezone Petition No. 08-08 requesting that a rezone be granted to allow the hereinafter described property to be rezoned from District OPI (Office, Professional and Institutional) to District CG (Commercial, General):

The legal description of said property in Sarasota County, Florida, being east of U.S. 41 and 2,400 feet ± north of Beneva Road and being more particularly described as follows:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 SOUTH, RANGE 18 EAST; THENCE NORTH 89°43'15" WEST ALONG THE NORTHERLY LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 40 FEET TO THE WESTERLY RIGHT-OF-WAY OF BENEVA ROAD (80 FEET WIDE); THENCE SOUTH 00°10'49" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1337.72 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 28; THENCE NORTH 89°43'14" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1065.58 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF TAMiami TRAIL (US. 41); THENCE NORTH 44°32'07" WEST ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 1885.72 FEET TO THE AFOREMENTIONED NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 28 FOR THE POINT-OF-BEGINNING; THENCE RETURN SOUTH 44°32'07" EAST ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 867.10 FEET; THENCE NORTH 45°27'53" EAST, A DISTANCE OF 60.00 FEET; THENCE NORTH 44°32'07" WEST, A DISTANCE OF 239.37 FEET; THENCE NORTH 00°16'45" EAST, A DISTANCE OF 403.02 FEET TO SAID NORTHERLY LINE OF THE NORTHEAST QUARTER; THENCE NORTH 89°43'15" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 485.00 FEET TO THE POINT-OF-BEGINNING.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Sarasota County, Florida, in public meeting assembled:

Section 1. Based on evidence and testimony presented, and substantial evidence contained in the record of this application maintained in the Office of the Clerk of the Sarasota County Commission, the Special Exception is hereby **DENIED**. Section 3.12. of the Zoning Ordinance governs the Board's decision in the proposed rezone in the application, as follows:

*3.12. Zoning Map Amendment (Rezoning).*

*The Official Zoning Map may from time to time be amended, supplemented, or changed. The procedures shall be as follows:*

*3.12.1. Initiation of Proposals for Amendment.*

*a. A zoning map amendment may be proposed by:*

- 1. Board of County Commissioners; or*
- 2. Any other person; provided, however, that no person shall propose an amendment for the rezoning of property (except as agent or attorney for an owner) which he or she does not own. The name(s) of the owner shall appear on each petition.*

*b. All proposals for zoning map amendments shall be considered first by the Planning Commission.*

*c. All proposals for zoning map amendments shall be submitted in writing to the Planning and Development Services Business Center, accompanied by all pertinent information required by these zoning regulations.*

*d. The applicant must hold an advertised neighborhood workshop in accordance with the Sarasota County Planning Commission's Rules of Procedure and Processing Guidelines, as may be amended.*

*3.12.2. Notice Generally. Notice shall be provided as set forth in Section 3.1.10 for both the Planning Commission and Board of County Commissioners public hearings.*

*3.12.3. Nature and Requirements of Planning Commission Report.*

*a. The report and recommendations of the Planning Commission to the Board of County Commissioners regarding a specific site or sites shall show that the Planning Commission has studied and considered the proposed change in relation to the following, where applicable:*

- 1. Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and programs of the Comprehensive Plan;*
- 2. Whether the proposed change would be compatible with the existing land use pattern and designated future land uses;*
- 3. Whether the proposed change would have an impact on the availability of adequate public facilities consistent with the level of service standards adopted in the comprehensive plan, and as defined and implemented through the Sarasota County Concurrency Management System Regulations, Chapter 94, Article VII of Exhibit A of the Sarasota County Code, as amended;*
- 4. Whether the existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;*
- 5. Whether the proposed change will adversely influence living conditions in the neighborhood;*
- 6. Whether the proposed change will create a drainage problem;*
- 7. Whether there are substantial reasons why the property cannot be used in accord with existing zoning;*

8. *Whether it is impossible to find other adequate sites in the County for the proposed use in districts already permitting such use;*
9. *Whether gradual and ordered growth contemplated in the Comprehensive Plan can best be accomplished through the approval of a land use which is less intense than the intensity designated on the Future Land Use Map of the Comprehensive Plan;*
10. *Whether the proposed change would create adverse impacts in the adjacent area or the County in general;*
11. *Whether the subject parcel is of adequate shape and size to accommodate the proposed change;*
12. *Whether ingress and egress to the subject parcel and internal circulation would adversely affect traffic flow, safety or control; and*
13. *Whether the proposed change has been reviewed in accordance with the interlocal agreement with the School Board of Sarasota County and whether school capacity has been adequately addressed, including on-and off-site improvements.*

3.12.4. *Status of Planning Commission Report and Recommendations. The report and recommendations of the Planning Commission required by Section 3.12.3 above shall be advisory only and shall not be binding upon the Board of County Commissioners.*

3.12.5. *Restrictions, Stipulations, Conditions and Safeguards.*

- a. *The Planning Commission may recommend that a petition to rezone property be approved subject to stipulations. The Board of County Commissioners, after receiving the recommendation from the Planning Commission on the petition, may grant or deny the petition or modify the petition to a zoning district consistent with the Comprehensive Plan. The Board may make the granting conditional upon such restrictions, stipulations, conditions and safeguards as it may deem necessary to ensure consistency with the Comprehensive Plan.*
- b. *Restrictions, stipulations, conditions and safeguards attached to a rezoning of property may include but are not limited to those necessary to protect adjacent or nearby land owners from any deleterious effects from the full impact of any permitted uses, limitations more restrictive than those generally applying to the district including, but not limited to, density, height, buffers, connection to central water and sewer systems and stipulations requiring that certain aspects of development take place in accordance with a development concept plan. The Board of County Commissioners may also stipulate that the development take place within a given period of time after which time public hearings will be initiated and the district returned to the original designation or such other district as determined appropriate by the Board of County Commissioners that is consistent with the Comprehensive Plan.*
- c. *All stipulations shall be recorded in the deed records of Sarasota County.*
- d. *Where the purpose statement in Article 4 for a district applied by rezoning after October 27, 2003, requires it, development concept plans shall be binding.*

*e. Stipulations shall be shown on the cover sheet of any subsequent request for a subdivision, site and development plan, building permit or other approval under this Article 3.*

*f. Violations of restrictions, stipulations, conditions or safeguards contained in an amendment granted by the Board of County Commissioners shall constitute a violation of these zoning regulations and be enforced as set forth in Article 9.*

*3.12.6. Board of County Commissioners Action on Planning Commission Report.*

*a. Upon receipt of the Planning Commission report and recommendations, the Board of County Commissioners shall hold public hearings with notice to be given pursuant to the provisions of Section 3.1.10.*

*b. The reports and recommendations of the staff and the Planning Commission on the petition shall be presented prior to the close of the Public Hearing on the petition. The applicant shall have the right, prior to the close of the public hearing, to respond to any testimony or other evidence presented during the public hearing.*

*3.12.7. Limitations on the Filing of Rezoning of Property.*

*a. Whenever the Board of County Commissioners has taken final action on a petition for rezoning or the grant of a special exception for property, whether approved or denied, the Planning and Development Services Business Center shall not accept any further petition for any rezoning of any part of or all of the same property for a period of 12 months from the date of such action, or the date of final judicial review of such action, whichever is later.*

*b. The time limits of subsection a. above may be waived by three affirmative votes of the Board of County Commissioners when the Board finds, based on new information or changed conditions, that new action may be warranted to prevent injustice or to assure protection of the public health, safety and welfare. Any petition for a waiver of the time limits shall be submitted to the Planning and Development Services Business Center for consideration by the Board. A written notice of the waiver shall be sent to persons on the mailing list from the original Zoning Map Amendment petition, and to interested parties registered in accordance with Section 3.1.10.f. This notice shall be prepared by the Planning and Development Services Business Center and provided, along with mailing labels, to the applicant who shall bear the responsibility of mailing the notice. The subject site shall also be posted in accordance with Section 3.1.10.d. A request for waiver of the time limit is not a public hearing.*

Section 2. The Board makes the following specific findings why the application does not meet the criteria outlined in Section 3.12. of the Zoning Ordinance:

1. The Board finds that evidence and testimony in the record demonstrate that the shape and size of the proposed structure is not in character and proportion with the size and configuration of the subject parcel. The subject parcel must be adequate in shape and size to accommodate the proposed use as reflected in 3.12.3.a.11. of the Zoning Ordinance.
2. The Board finds that evidence and testimony in the record demonstrate that the subject parcel is not adequate to accommodate the amount of on-site proposed underground stormwater

retention. The subject parcel must also be adequate to accommodate the height and mass of any proposed structure(s) and must not create any drainage problems, as reflected in 3.12.3.a.11. and 3.12.3.a.6., of the Zoning Ordinance.

3. The Board finds that evidence and testimony in the record demonstrate that the proposed use is not compatible with the existing land use patterns surrounding the subject parcel, and further finds that the existing OPI (Office, Professional, and Institutional) zoning is appropriate for the subject parcel. The proposed use must be compatible with the existing land use pattern and designated future uses as reflected in 3.12.3.a.7. and 3.12.3.a.2., of the Zoning Ordinance.

Section 3. This Resolution shall take effect immediately upon its adoption. The Clerk shall transmit a certified copy of this Resolution to the Petitioner by mail.

PASSED AND DULY ADOPTED this 2<sup>nd</sup> day of JUNE, 2008.  
BOARD OF COUNTY COMMISSIONERS OF  
SARASOTA COUNTY, FLORIDA

By Shannon Paul  
Chair

ATTEST:

KAREN E. RUSHING, Clerk  
of Circuit Court and ex officio  
Clerk of the Board of County  
Commissioners of Sarasota  
County, Florida.

Claudia Poole  
Deputy Clerk

