

RESOLUTION R-21-007

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING AN APPEAL OF ADMINISTRATIVE DETERMINATION AD-20-19; GRANTING THE APPEAL AND MODIFYING ADMINISTRATIVE DETERMINATION AD-20-19 SUBJECT TO THE CONDITIONS SPECIFIED HEREIN; SAID ADMINISTRATIVE DETERMINATION PERTAINING TO APPROXIMATELY 39.69 ACRES OF PROPERTY LOCATED AT 2845 69TH STREET EAST AND 6900 U.S. 41 NORTH, PALMETTO, FLORIDA; SETTING FORTH FINDINGS INCLUDING SETTING FORTH CONCLUSIONS OF LAW; PROVIDING FOR A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Tampa Acquisitions, Inc. (the "Owner") of the real property described herein, and JBS Commercial, LLC, both through Edward Vogler, II, Esq. as their agent (collectively referred to as "Applicant") has filed an appeal to the Board of County Commissioners of Manatee County, Florida (Board) for the administrative determination of the Director of Public Safety (Administrative Determination No. 20-19 or AD-20-19) to deny Applicant's request to have certain real property removed from the boundaries of the Coastal Evacuation Area - Level A (CEA-Level A) as described in the Comprehensive Plan; and

WHEREAS, on July 15, 2020, JBS Commercial, LLC by Avid Group, as Agent, Michael R. Costello, filed a request for a letter of interpretation to the Director of the Building and Development Services Department asking that the real property located at 2845 69th Street East and 6900 U.S. 41 North, Palmetto, Florida be removed from the boundaries of the Coastal Evacuation Area (CEA-Level A); and

WHEREAS, the Director of the Building and Development Services Department referred this request for a letter of interpretation to the Director of Public Safety for a response; and

WHEREAS, on August 4, 2020, the Director of Public Safety, Division of Emergency Management issued an Administrative Determination (AD-20-19) denying the request to remove certain real property from the boundaries of the Coastal Evacuation Map (CEA-Level A); and

WHEREAS, Applicant timely filed an appeal of the Administrative Determination (AD-20-19) ("Notice of Appeal") to the Board appealing the denial of the removal of certain real property comprised of approximately 39.69 acres located at 2845 69th Street East and 6900 U.S. 41 North, Palmetto, Florida from the boundaries of the Coastal Evacuation Map (CEA-Level A); and

WHEREAS, Section 370, Land Development Code, provides that when an administrative determination of the Department Director has been timely appealed, the

Board shall conduct a public hearing which shall be advertised and conducted in accordance with Section 312, Land Development Code; and

WHEREAS, the Board, after holding a duly noticed public hearing on February 4, 2021, granted Applicant's appeal of Administrative Determination (AD-20-19) and modified the decision of the Department Director regarding the subject real property within the Coastal Evacuation Area - Level A (CEA-Level A) subject to the conditions specified herein; and

WHEREAS, Section 125.022(2), Florida Statutes, provides that a county's action on the approval or denial of a development permit must be reduced to writing and given to the applicant as written notice of denial, citing the reasons therefor and although this Resolution is not a development permit, it relates to pending development applications.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

Section 1. Findings of Fact. The recitals set forth above are true and correct and are hereby adopted as findings by the Board. The Board after considering the testimony, evidence, documentation, the recommendation of the Department of Public Safety staff, as well as all other matters presented to the Board at the public hearing date hereinafter referenced, hereby makes the following findings of fact:

- A. This Resolution pertains to the Property described in Exhibit A, a copy of which is attached hereto and made a part hereof by reference.
- B. The term "Comprehensive Plan" shall mean the version of the Manatee County Comprehensive Plan in effect as of August 4, 2020.
- C. The term "Land Development Code" or "LDC" shall mean the version of the Manatee County Land Development Code in effect as of August 4, 2020.
- D. The term "Comprehensive Emergency Management Plan" shall mean the "2020 Interim Update, Comprehensive Emergency Management Plan (2018 ed)", as adopted by the Board by Resolution R-20-078 on June 23, 2020.
- E. The term " Statewide Emergency Shelter Plan" shall mean the Statewide Emergency Shelter Plan dated January 31, 2020.
- F. The "Property" comprised of approximately 39.69 acres is located at 2845 69th Street East, Palmetto and 6900 U.S. 41, Florida and is identified as DP#'s 675840052(2845 69th St. E.) and 676800006 (6900 U.S. 41 North).
- G. The Property is in the Coastal Evacuation Area - Level A (CEA-Level A) of the Comprehensive Plan.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation, the staff report presented and a

review of the applicable provisions of the Comprehensive Plan and the LDC, the Board hereby makes the following Conclusions of Law:

- A. The Applicant has met their burden of proof to demonstrate that granting the appeal and adopting an interpretation having the effect of removing the Property from the Coastal Evacuation Area – Level A (CEA-Level A) is consistent with the Comprehensive Plan and complies with the standards for approval in the applicable provisions of the LDC.
- B. The Applicant has demonstrated that the placement of the Property within the Coastal Evacuation Area - Level A (CEA-Level A) in the Comprehensive Plan was due to a mapping error as alleged in the Notice of Appeal.
- C. The Applicant has demonstrated that the Property has unique characteristics and thus should be exempt from the goals, objectives and policies of the Comprehensive Plan applicable to all other properties within the Coastal Evacuation Area – Level A (CEA-Level A) as alleged in the Notice of Appeal.
- D. The Board specifically grants the Appeal of Administration Determination No. 20-19 based upon the specific factual and legal conclusions set forth in this Resolution and the public hearing record. Consequently, the Board hereby modifies the decision of the Department Director regarding Applicant's request for an interpretation having the effect of excluding the Property from the goals, objectives, policies and mapping of the boundaries of the Coastal Evacuation Area - Level A (CEA- Level A) of the Comprehensive Plan.

Section 3. Description of the Property. This Resolution applies to that certain real property owned by Applicant and referred to by the Manatee County Property Appraiser's Office as DP#'s 675840052 (2845 69th Street East) and 676800006 (6900 U.S. 41 North) comprised of approximately 39.69 acres located at 2845 69th Street East and 6900 U.S. 41 North, Palmetto, Florida and described in Exhibit A.

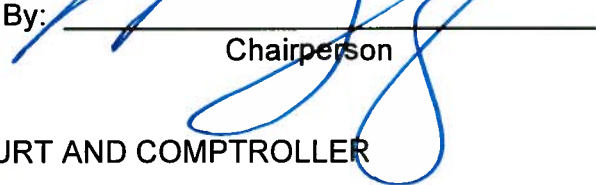
Section 4. Severability. It is hereby declared to be the intention of the Board that the phrases, clauses, sentences, paragraphs, and sections in this Resolution be deemed severable, and if any phrase, clause, sentence, paragraph or section hereof is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution.

Section 5. Effective Date. The effective date of this Resolution shall be the date of adoption of this Resolution.

DULY ADOPTED with a quorum present and voting this 4th day of February
 , 2021.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: 
_____ Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: 
_____ Deputy Clerk

EXHIBIT A

MANATEE COUNTY PARCEL ID # 676800006 & 675840052

THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY FLORIDA, LYING EAST OF U.S. HIGHWAY 41 (STATE ROAD 45).

AND

A PARCEL OF LAND IN SECTION 30, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A CONCRETE MONUMENT AT THE CENTER OF SECTION 30, AS A POINT OF REFERENCE, RUN THENCE S 00 DEG 14 MIN 01 SEC W ALONG W LINE OF NW 1/4 OF SE 1/4 16 FEET TO A POINT ON SOUTHERLY R/W LINE OF ERIE RD FOR A **POB**; THENCE ALONG SAID SOUTHERLY & WESTERLY R/W LINE OF SAID ERIE RD S 89 DEG 49 MIN 15 SEC E 1195.55 FEET; THENCE S 83 DEG 17 MIN 21 SEC E 50 FEET; THENCE S 66 DEG 35 MIN 22 SEC E 50.02 FEET; THENCE S 05 DEG 11 MIN 28 SEC E 50 FEET; THENCE S 00 DEG 12 MIN 26 SEC W 1266.19 FEET TO A POINT ON S LINE OF NW 1/4 OF SE 1/4; THENCE N 89 DEG 23 MIN W ALONG SAID S LINE 1296.56 FEET TO SW CORNER OF NW 1/4 OF SE 1/4; THENCE N 00 DEG 14 MIN 01 SEC E ALONG W LINE OF SAID NW 1/4 OF SE 1/4 1331.49 FEET TO THE **POB** AS DESCRIBED IN OR BOOK 1078 PAGE 1506;

LESS THAT PART FOR ROAD R/W INCLUDED IN THE FOLLOWING DESCRIBED PARCEL:

FROM CENTER OF SECTION 30 RUN N 89 DEG 31 MIN 46 SEC W, ALONG N LINE OF NE 1/4 OF SW 1/4 OF SAID SECTION 30, A DISTANCE OF 0.19 FEET TO POINT ON ARC OF CURVE TO LEFT WHOSE RADIUS POINT BEARS N 89 DEG 05 MIN 54 SEC W, AT A DISTANCE OF 5861.58 FEET, SAID POINT BEING ON THE R/W OF U.S. HWY 41 & **POB**; THENCE ALONG SAID R/W LINE THE FOLLOWING TWO COURSES: NLY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 00 DEG 14 MIN 28 SEC, A DISTANCE OF 24.67 FEET TO P.T. OF SAID CURVE; THENCE N 00 DEG 39 MIN 38 SEC E, A DISTANCE OF 37.09 FEET; THENCE S 89 DEG 57 MIN 39 SEC E, A DISTANCE OF 748.52 FEET TO THE P.C. OF CURVE TO RIGHT HAVING A RADIUS OF 625 FEET; THENCE SELY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 90 DEG 14 MIN 03 SEC, A DISTANCE OF 984.30 FEET TO P.T. OF SAID CURVE; THENCE S 00 DEG 16 MIN 25 SEC W, A DISTANCE OF 196.83 FEET TO P.C. OF CURVE TO THE LEFT HAVING A RADIUS OF 515 FEET; THENCE SLY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 29 DEG 07 MIN 09 SEC, A DISTANCE OF 261.74 FEET TO P.C.C. OF A CURVE TO LEFT HAVING A RADIUS OF 540.60 FEET; THENCE SELY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 60 DEG 31 MIN 00 SEC, A DISTANCE OF 570.99 FEET TO P.T. OF SAID CURVE; THENCE S 89 DEG 21 MIN 44 SEC E, A DISTANCE OF 748.04 FEET TO W LINE OF SW 1/4 OF

SECTION 29; THENCE S 88 DEG 12 MIN 25 SEC E, A DISTANCE OF 1355.62 FEET TO W R/W LINE OF ELLENTONGILLETTE RD (S.R. 683); THENCE S 01 DEG 45 MIN 08 SEC W, ALONG SAID W R/W LINE, A DISTANCE 42.01 FEET TO S LINE OF NE 1/4 OF SAID SW 1/4; THENCE N 89 DEG 32 MIN 54 SEC W, ALONG SAID S LINE OF NE 1/4 OF SW 1/4 & S LINE OF NW 1/4 OF SAID SW 1/4, A DISTANCE OF 1354.98 FEET TO SW CORNER OF NW 1/4 OF SW 1/4 SECTION 29; THENCE N 89 DEG 22 MIN 35 SEC W, A DISTANCE OF 901.39 FEET TO PT ON ARC OF CURVE TO RIGHT WHOSE RADIUS PT BEARS N 11 DEG 08 MIN 16 SEC E, AT A DISTANCE OF 599.40 FEET; THENCE NWLY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 50 DEG 00 MIN 59 SEC, A DISTANCE OF 523.25 FEET TO E R/W LINE OF ERIE RD & THE P.C.C. OF CURVE TO RIGHT HAVING A RADIUS OF 625 FEET; THENCE NLY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 29 DEG 07 MIN 09 SEC, A DISTANCE OF 317.64 FEET TO THE P.T. OF SAID CURVE; THENCE N 00 DEG 16 MIN 25 SEC E, A DISTANCE OF 196.83 FEET TO P.C. OF CURVE TO LEFT HAVING A RADIUS OF 515 FEET; THENCE NWLY ALONG ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 90 DEG 14 MIN 03 SEC, A DISTANCE OF 811.07 FEET TO THE P.T. OF SAID CURVE; THENCE N 89 DEG 57 MIN 39 SEC W, A DISTANCE OF 750.17 FEET TO PT ON THE ARC OF CURVE TO THE LEFT WHOSE RADIUS PT BEARS N 88 DEG 37 MIN 36 SEC W, AT A DISTANCE OF 5861.58 FEET, SAID PT BEING ON AFOREMENTIONED E R/W LINE OF U.S. HWY 41; THENCE NLY ALONG ARC OF SAID CURVE & SAID E R/W LINE THRU A CENTRAL ANGLE OF 00 DEG 28 MIN 18 SEC, A DISTANCE OF 48.26 FEET TO THE **POB** AS DESCRIBED IN OR BOOK 1196 PAGE 2033, TOGETHER WITH THAT PORTION OF ERIE RD, VACATED IN OR BOOK 1294 PAGE 1470, LYING WITHIN SAID PROPERTY;

ALSO LESS THAT PART INCLUDED IN GULFCOAST CORPORATE PARK, PHASE 1, A COMMERCIAL SUBDIVISION AS DESCRIBED IN PB 32 PAGES 152-156 DESCRIBED AS FOLLOWS:

BEGIN AT THE SW CORNER OF THE SW 1/4 OF THE NW 1/4 OF SAID SECTION 29; THENCE S 89 DEG 40 MIN 01 SEC E ALONG THE S LINE OF SAID SW 1/4 OF THE NW 1/4 A DISTANCE OF 30.00 FEET; THENCE N 01 DEG 02 MIN 26 SEC E ALONG A LINE 30.00 FEET E OF AND PARALLEL WITH THE W LINE OF SAID SW 1/4 OF THE NW 1/4, A DISTANCE OF 601.90 FEET; THENCE S 61 DEG 16 MIN 39 SEC W A DISTANCE OF 365.73 FEET TO A PT ON A CURVE TO THE LEFT, THE RADIUS PT OF WHICH LIES S 61 DEG 16 MIN 39 SEC W, A RADIAL DISTANCE OF 150.00 FEET; THENCE ALONG THE ARC OF SAID CURVE IN A NWLY DIRECTION PASSING THROUGH A CENTRAL ANGLE OF 61 DEG 14 MIN 18 SEC A DISTANCE OF 160.32 FEET; THENCE N 89 DEG 57 MIN 39 SEC W, A DISTANCE OF 722.51 FEET; THENCE S 00 DEG 02 MIN 21 SEC W, A DISTANCE OF 50.00 FEET.