

**MANATEE COUNTY ORDINANCE
PDC-06-10(P) – HILTON GARDEN INN OUTPARCELS**

2007 MAR 14 PM 3: 20

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT,
APPROVING A PRELIMINARY SITE PLAN FOR 11,995 SQUARE FEET OF
RESTAURANT, RETAIL, OR OFFICE USES IN TWO BUILDINGS ON
APPROXIMATELY 5.2 ACRES LOCATED AT 8270 NORTH TAMiami TRAIL;
SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING
FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR
SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, THI VI Sarasota SHGI Land, LLC (the "Applicant") has filed an application for a Preliminary Site Plan for approximately 5.2 acres described in Exhibit "A", attached hereto, (the "Property") for 11,995 square feet of restaurant, retail, or office uses in two buildings; and

WHEREAS, the Applicant has also requested Special Approval for a project in the Entranceway; and

WHEREAS, Planning Department staff recommended approval of the Preliminary Site Plan and Special Approval applications, subject to the stipulations contained in the staff report; and

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on February 8, 2007 to consider the Preliminary Site Plan application, received the staff's recommendation, and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

WHEREAS, the Manatee County Planning Commission, as the County's Local Planning Agency, found the Preliminary Site Plan and Special Approval applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code, recommended approval of the application, subject to the stipulations contained in the staff report; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA:**

Section 1. FINDINGS OF FACT. The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners, after considering the testimony, evidence, documentation, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for a Preliminary Site Plan as it relates to the real property described in Exhibit "A" of this Ordinance.

CLERK OF THE CIRCUIT COURT
MANATEE CO, FLORIDA

2007 MAR - 8 AM 9:13
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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- B. The Board of County Commissioners held a duly noticed public hearing on March 1, 2007 regarding the proposed Preliminary Site Plan described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, (the Manatee County Land Development Code), and has further considered the information received at the public hearing.
- C. The proposed Preliminary Site Plan regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01, the 2020 Manatee County Comprehensive Plan.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 11,995 square feet of restaurant, retail, or office uses in two buildings subject to the stipulations below. The Board hereby GRANTS Special Approval for project in the Entranceway with the following stipulations:

STIPULATIONS

Transportation:

- 1. Cross access to USF to the south shall be constructed prior to issuance of a C.O. for either building. All proposed easements, including the cross access to the south, shall be reviewed as to form by the County Attorney's office and recorded prior to the first C.O. for either building.

Landscaping:

- 2. All existing landscape materials proposed to remain to fulfill Land Development Code requirements shall be inspected prior to Certificate of Occupancy to ensure they meet LDC requirements.
- 3. The lowest quality water possible shall be used for irrigation. In ground irrigation using Manatee County public potable water supply shall be prohibited.
- 4. The roadway buffer and irrigation shall be installed prior to the issuance of the first C.O. for either building.

Design:

- 5. All roof mounted H.V.A.C. equipment, loading zones, and dumpsters shall be screened from view from U.S. 41. Screening shall be provided by materials consistent with the exterior finish materials of the buildings, landscaping, or other opaque materials. This shall be demonstrated on the Final Site Plan.
- 6. No pole signs shall be allowed for either outparcel. All free standing signs shall be limited to ground signs meeting the Entranceway size and design limitations in LDC Section 737. Message Center signs are also prohibited on the site. A sign plan shall be approved by the Planning Department with the Final Site Plan.

Environmental:

7. An Exotic Plant Species Management Plan shall be submitted for review and approval prior to or concurrent with Final Site Plan or Construction Plan approval. The management plan shall provide for the continued, phased, removal of nuisance, exotic plant species that become reestablished within common areas of a residential development and open spaces within non-residential projects, for the life of the project. Removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the first Certificate of Occupancy issuance in accordance with Section 715.4 of the LDC.
8. Erosion and Sediment control (ESC) measures are required. S&EC drawings, details or notes have not been included in this submittal. Locations, details and notes for ESC should be submitted to the Planning Department for approval and be included in the Final Site Plan.
9. A Water Well Construction Permit must be obtained from the EMD prior to construction of any proposed well(s).
10. Any unused wells found during construction shall be abandoned in accordance with SWFWMD Rule Chapter 40D-3.531.
11. Prior to the Final Site Plan approval, the Engineer of Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow.

Other:

12. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
13. A Lighting Plan in conformance with Section 709 of the Code shall be submitted with the Final Site Plan for review and approval.
14. Restaurant uses shall be limited to a maximum total of 9,440 sq. ft.

Section 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 4. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 1st day of March, 2007.

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

BY: *Gary Stein*

Chairman

**ATTEST: R. B. SHORE
Clerk of the Circuit Court**

BY: *Arsen P. Comrie*

Deputy Clerk



EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

A TRACT OF LAND SITUATED AND BEING IN SECTIONS 35 AND 36, TOWNSHIP 35 SOUTH, RANGE 17 EAST OF MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

START AT THE SOUTHEAST CORNER OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 17 EAST, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF U.S. GOVERNMENT LOT 2 OF SECTION 35 FOR A POINT OF BEGINNING; THENCE SOUTH $89^{\circ}56'00''$ WEST ALONG THE SOUTH LINE OF SAID U.S. GOVERNMENT LOT 2, A DISTANCE OF 120.59 FEET; THENCE NORTH $00^{\circ}10'47''$ EAST, A DISTANCE OF 380.42 FEET; THENCE SOUTH $89^{\circ}33'00''$ EAST, A DISTANCE OF 272.98 FEET; THENCE SOUTH $26^{\circ}54'00''$ EAST, A DISTANCE OF 27.31 FEET; THENCE SOUTH $89^{\circ}31'00''$ EAST, A DISTANCE OF 242.38 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (TAMIAMI TRAIL); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH $26^{\circ}54'00''$ EAST, A DISTANCE OF 400 FEET; THENCE NORTH $89^{\circ}31'00''$ WEST LEAVING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 589.30 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 1777, PAGE 1424, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

TOGETHER WITH AN ACCESS EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 1517, PAGE 6009, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, AND AN EASEMENT FOR USE OF RETENTION POND AS RECORDED IN OFFICIAL RECORDS BOOK 1517, PAGE 6015, OF SAID RECORDS.

LESS AND EXCEPT:

LEGAL DESCRIPTION: OUTPARCEL "A"

A TRACT OF LAND SITUATED AND BEING IN SECTION 36, TOWNSHIP 35 SOUTH, RANGE 17 EAST OF MANATEE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE N.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 17 EAST, SAID POINT BEING THE SOUTHEAST CORNER OF U.S. GOVERNMENT LOT 2 OF SECTION 35; THENCE S. $89^{\circ}31'00''$ E., A DISTANCE OF 159.38 FEET; THENCE N. $00^{\circ}00'00''$ W., A DISTANCE OF 61.75 FEET; THENCE S. $90^{\circ}00'00''$ E., A DISTANCE OF 43.61 FEET; THENCE N. $00^{\circ}00'00''$ W., A DISTANCE OF 82.70 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N. $00^{\circ}00'00''$ W., A DISTANCE OF 140.14 FEET; THENCE N. $90^{\circ}00'00''$ W., A DISTANCE OF 61.93 FEET; THENCE

N.00°00'00"W., A DISTANCE OF 19.65 FEET; THENCE S.90°00'00"E., A DISTANCE OF 61.90 FEET; THENCE N.00°00'00"W., A DISTANCE OF 50.57 FEET; THENCE S.89°31'00"E., A DISTANCE OF 205.37 FEET, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (TAMIAMI TRAIL); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE S.26°54'00"E., A DISTANCE OF 177.56 FEET; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE N.90°00'00"W., A DISTANCE OF 224.62 FEET; THENCE S.00°00'00"E., A DISTANCE OF 50.28 FEET; THENCE N.90°00'00"W., A DISTANCE OF 61.03 FEET TO THE POINT OF BEGINNING.

-AND-

LEGAL DESCRIPTION: OUTPARCEL "B"

A TRACT OF LAND SITUATED AND BEING IN SECTION 36, TOWNSHIP 35 SOUTH, RANGE 17 EAST OF MANATEE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE N.E. ¼ OF THE S.E. ¼ OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 17 EAST, SAID POINT BEING THE SOUTHEAST CORNER OF U.S. GOVERNMENT LOT 2 OF SECTION 35; THENCE S.89°31'00"E., A DISTANCE OF 159.38 FEET TO THE POINT OF BEGINNING; THENCE N.00°00'00"W., A DISTANCE OF 61.75 FEET; THENCE S.90°00'00"E., A DISTANCE OF 43.61 FEET; THENCE N.00°00'00"W., A DISTANCE OF 82.70 FEET; THENCE S.90°00'00"E., A DISTANCE OF 61.03 FEET; THENCE N.00°00'00"W., A DISTANCE OF 50.28 FEET; THENCE S.90°00'00"E., A DISTANCE OF 224.62 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (TAMIAMI TRAIL); THENCE S.26°54'00"E. ALONG SAID WESTERLY LINE OF U.S. 41, A DISTANCE OF 222.44 FEET; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE N.89°31'00"W., A DISTANCE OF 429.93 FEET TO THE POINT OF BEGINNING.

-ALSO DESCRIBED AS-

A TRACT OF LAND SITUATED AND BEING IN SECTIONS 35 AND 36, TOWNSHIP 35 SOUTH RANGE 17 EAST OF MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

START AT THE SOUTHEAST CORNER OF THE N.E. ¼ OF THE S.E. ¼ OF SECTION 35, TOWNSHIP 35 SOUTH, RANGE 17 EAST, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF U.S. GOVERNMENT LOT 2 OF SECTION 35 FOR A POINT OF BEGINNING;

THENCE S.89°56'00"W., A DISTANCE OF 120.59 FEET; THENCE N.00°10'47"E., A DISTANCE OF 380.42 FEET; THENCE S.89°33'00"E., A DISTANCE OF 272.98 FEET; THENCE S.26°54'00"E., A DISTANCE OF 27.31 FEET; THENCE S.89°31'00"E., A DISTANCE OF 37.02 FEET; THENCE SOUTH, A DISTANCE OF 50.57 FEET; THENCE WEST, A DISTANCE OF 61.90 FEET; THENCE SOUTH, A DISTANCE OF 19.65 FEET; THENCE EAST, A DISTANCE OF 61.93 FEET; THENCE SOUTH, A DISTANCE OF 222.84 FEET; THENCE WEST, A DISTANCE OF 43.61 FEET; THENCE SOUTH, A DISTANCE OF 61.75 FEET; THENCE N.89°30'55"W., A DISTANCE OF 159.38 FEET TO THE POINT OF BEGINNING.



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 5th day of March, 2007

R.B. SHORE
Clerk, Circuit Court

By: [Signature] D.C.



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R. B. SHORE

2007 MAR 14 PM 3:20

FLORIDA DEPARTMENT of STATE

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

March 8, 2007

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R. B. SHORE
2007 MAR 14 PM 3:20
CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attn: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 5, 2007 and certified copies of Manatee County Ordinance Nos. PDC-06-10{P} and PDR-02-28[P][R2], which were filed in this office on March 8, 2007.

As requested, one date stamped copy of each is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/kcs
Enclosures

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282