

## Manatee County Ordinance

### **PDC-13-30(P)(R2) – GERSHONI OUTPARCEL – 95 FLRPT LLC – PLN2208-0053**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING AN AMENDED PRELIMINARY SITE PLAN TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 8,100-SQUARE FOOT RESTAURANT ON APPROXIMATELY 1.58 ACRES ZONED PDC (PLANNED DEVELOPMENT COMMERCIAL), GENERALLY LOCATED AT THE NORTHEAST QUADRANT OF U.S. 301 AND I-75, APPROXIMATELY 650 FEET WEST OF 60<sup>TH</sup> AVENUE EAST, AND COMMONLY KNOWN AS 5710 20<sup>TH</sup> STREET EAST, ELLENTON (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; REPEALING ORDINANCES IN CONFLICT; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, 95 FLRPT, LLC (the "Applicant") filed an application for a revised Preliminary Site Plan to allow the construction of an approximately 8,100 square foot restaurant on approximately 1.58 acres as described in Exhibit "A", attached hereto, (the "Property"); and

**WHEREAS**, the applicant also filed a request for Specific Approval for alternatives to Land Development Code Sections: 1) 900.6.A.2: to modify the required 20 foot roadway buffer and utilize a variable width buffer along US-301 and I-75 and 2) 402.11.D.3 to modify the side yard setback from fifteen (15) feet to 10 feet along the western property line; and

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held a public hearing on October 12, 2023, to consider the revised Preliminary Site Plan and Specific Approval applications 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 revised Preliminary Site Plan and Specific Approval applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code and recommended approval subject to the stipulations in the staff report.

**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 revised Preliminary Site Plan and Specific Approval as it relates to the real property described in Exhibit "A" of this Ordinance.

B. The Board of County Commissioners, after due public notice, held a public hearing on November 2, 2023, regarding the proposed Ordinance described herein in accordance with the requirements of the Manatee County Land Development Code and has further considered the information received at said public hearing.

C. The proposed Ordinance regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Land Development Code.

D. Notwithstanding the failure of this plan to comply with the requirements of Section LDC Sec. 402.11.D.3, the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree, because it does not negatively affect surrounding properties and buffer plantings can still be achieved.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 900.6.A.2., the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the minimum required plantings will remain the same and the square footage is made up for with a variable width buffer.

**Section 2. REVISED PRELIMINARY SITE PLAN.** The revised General Development Plan is hereby approved to allow the construction of an approximately 8,100 square foot restaurant. upon the property subject to the following Stipulations:

**A. DESIGN AND LAND USE**

1. All roof mounted HVAC equipment shall be screened from view from adjacent roadways. Screening shall consist of similar colors and materials consistent with the construction of the exterior finish of the buildings. Details of screening shall be submitted with the Final Site Plan.
2. All dumpsters shall be screened from view from adjacent roadways. Screening shall consist of building materials matching the principal building on site.
3. All other applicable state permits shall be obtained before commencement of the development.
4. At time of Final Site Plan, the applicant shall submit building elevations to show that the side façade facing the I-75 is aesthetical equal or superior to the front façade that should have faced the said throughfare in accordance with Section 900.5.c.1, LDC, development standards for property in an Entranceway.

**B. ENVIRONMENTAL**

1. No formal threatened and endangered species survey will be required for this site due to surrounding development and site conditions. However, the applicant is responsible for ensuring that no gopher tortoises or burrows are located within the project area. Both burrows and tortoises are protected by law and require a permit for relocation. If any are encountered, all construction activity must cease until a permit is obtained.

2. All other applicable state or federal permits shall be obtained prior to commencement of construction.
3. If wells are encountered, a Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the County for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
  - Digital photographs of the well along with nearby reference structures (if existing);
  - GPS coordinates (latitude/longitude) of the well;
  - The methodology used to secure the well during construction (e.g. fence, tape); &
  - The final disposition of the well - used, capped, or plugged.
4. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.
5. The developer shall install fifty (50) five (5) inch caliper replacement trees at an off-site location approved by Manatee County or pay into the tree trust fund in accordance with Section 700.3.I, Land Development Code.

#### **C. STORMWATER**

1. At the time of Final Site Plan review the applicant will need to demonstrate that the proposed 12' (foot) Drainage Easement is adequate for maintenance and replacement of the 18" pipe which conveys offsite drainage from the property to the north.
2. At the time of Final Site Plan review the applicant will need to demonstrate that the site has positive outfall to the FDOT right of way.
3. At the time of Final Site Plan review the applicant shall provide an easement to encompass that portion of the existing stormwater pipe to remain on the subject parcel which conveys runoff from the northerly offsite property.

#### **D. UTILITIES**

1. Connection to the County potable water and wastewater systems is required pursuant to the Manatee County Comprehensive Plan. The cost of connection, including the design, permitting and construction of off-site extensions of lines, shall be the responsibility of the Applicant. Such off-site extension shall be designed and constructed in accordance with the appropriate County Master Plan. The connection shall be designed, engineered and permitted by the Applicant consistent with Manatee County Public Works Standards and approved by County Engineer through the construction plans review process for the project.

**Section 3. SPECIFIC APPROVAL.** Specific Approval is hereby granted for alternatives to Land Development Code Sections: : 1) 900.6.A.2: to modify the required 20 foot roadway buffer and utilize a variable width buffer along US-301 and I-75 and 2) 402.11.D.3 to modify the side yard setback from fifteen (15) feet to 10 feet along the western property line. The Specific Approval shall continue in effect and shall expire concurrent with the Revised Preliminary site Plan for the project approved pursuant to Section 2 hereof

**Section 4. REPEALING ORDINANCES IN CONFLICT.** All ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

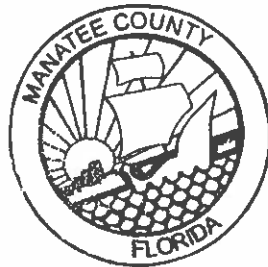
**Section 5. SEVERABILITY.** If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**Section 6. 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 7. STATE AND FEDERAL PERMITTING.** The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

**Section 8. 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 2<sup>nd</sup> day of November 2023.



**BOARD OF COUNTY  
COMMISSONERS OF MANATEE  
COUNTY, FLORIDA.**

BY:   
Kevin Van Ostenbridge, Chairman

**ATTEST: ANGELINA COLONNESO  
Clerk of the Circuit Court**

BY:   
Deputy Clerk

## Exhibit "A"

### Legal Description

THAT PART OF THE E 1/2 OF BLK 10 OF PHILLIPS & ALLEN'S RE-SUB LYING N OF U S HWY 301 ALSO THAT PART OF 40 FT VAC RD LYING N OF AND ADJ TO SD E 1/2 OF BLK 10; TOGETHER WITH THAT PART OF BLK 3 OF SD PHILLIPS & ALLEN'S RE-SUB DESC AS FOLLOWS: BEG AT THE SE COR OF SD BLK 3; GO N 313 FT TO THE NE COR OF SD BLK 3; TH GO S 89 DEG 32 MIN 30 SEC W ALG THE N LN OF SD BLK 3 A DIST OF 50 FT; TH GO S 10 DEG 50 MIN 07 SEC W 319.17 FT TO A PT ON THE S LN OF SD BLK 3, SD S LN ALSO BEING THE N LN OF THE ABOVE DESC 40 FT VAC RD; TH GO N 89 DEG 32 MIN 30 SEC E, 110 FT TO THE POB ALSO: THAT PART OF THE W 1/2 OF BLKS 10 & 11 PHILLIPS & ALLENS SUB LYING N OF U S HWY 301, LESS AND EXCEPT THE WESTERNMOST 110 FT OF THE NORTHERNMOST 340 FT OF SD BLK 11. THAT PART OF BLK 11 AND THE W 1/2 OF BLK 10 PHILLIPS & ALLENS SUB LYING N OF U S HWY 301 LESS AND EXCEPT THE WESTERNMOST 110 FT OF THE NORTHERNMOST 340 FT OF SD BLK 11 ALSO: COM AT THE NE COR OF THE W1/2 OF BLK 10 PHILLIPS AND ALLENS SUB, TH S 00 DEG 24 MIN 34 SEC W, 168.31 FT, TH N 55 DEG 20 MIN 09 SEC W 93.17 FT, TH N 40 DEG 01 MIN 55 SEC W 149.23 FT, TH N 89 DEG 39 MIN 06 SEC E, 173.83 FT TO THE POB LESS ANY PORTION TAKEN FOR I-75 R/W REC IN ORB 862/111 TOGETHER WITH ANY INTEREST IN VAC STREETS APPURTENANT THERETO SUBJ TO ESMTS IN ORB 911/1554 AND ORB 1331/384 TOGETHER WITH ESMT IN ORB 1382/3082 (1611/2489) DESC BY SURVEY AS: BEG AT THE SE COR OF BLK 3 OF PHILLIPS AND ALLEN RE-SUB AS REC IN PB 1 PG 308A; TH N ALG THE E LN OF SD BLK 3, 313 FT TO THE NE COR OF SD BLK 3; TH S 89 DEG 32 MIN 30 SEC W ALG THE N LN OF SD BLK 3, 50 FT; TH S 10 DEG 50 MIN 07 SEC W 319.17 FT TO A PT ON THE S LN OF SD BLK 3, SD S LN ALSO BEING THE N LN OF A 40 FT WIDE VAC RD; TH S 89 DEG 32 MIN 30 SEC W ALG SD LN 52 FT; TH S 40 FT TO THE S LN OF THE AFOREMENTIONED VAC RD, SD S LN ALSO BEING THE N LN OF BLK 10 OF SD PHILLIPS AND ALLENS RE-SUB; TH S 89 DEG 32 MIN 30 SEC W ALG SD LN 149.79 FT TO THE ELY R/W LN OF I-75 (A LIMITED ACCESS R/W); TH S 39 DEG 38 MIN 43 SEC E ALG SD R/W LN 90.11 FT; TH S 55 DEG 43 MIN 21 SEC E ALG SD R/W LN, 120.46 FT; TH S 88 DEG 30 MIN 02 SEC E ALG SD R/W LN 120.97 FT; TH N 75 DEG 28 MIN 58 SEC E ALG SD R/W LN 34.94 FT TO THE E LN OF SD BLK 10; TH N ALG SD E LN 174.13 FT TO THE POB CONT 1.505 AC M/L TOGETHER WITH THAT PART OF THE S 1/2 OF VAC ST AS VAC PER RESOLUTION REC IN ORB 44 PAGE 462 LYING N OF AND ADJACENT TO THE ABOVE DESC PARCEL PI#8200.0005/7



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

November 6, 2023

Honorable Angelina Colonnese  
Clerk of the Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, FL 34206

Dear Honorable Angelina Colonnese:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. PDC-13-30(P)(R2), which was filed in this office on November 2, 2023.

Sincerely,

Anya Owens  
Administrative Code and Register Director

ACO/wlh