

Manatee County Ordinance

PDC-20-07(P) ALDI (FLORIDA) LLC / ALDI STORE #54 BRADENTON **EXPANSION PLN2005-0063**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR AN EXPANSION OF 2,350 SQUARE FEET TO A PREVIOUSLY APPROVED PRELIMINARY SITE PLAN FOR A GROCERY STORE OF 17,018 SQUARE FEET FOR A TOTAL 19,368 SQUARE FOOT RETAIL FACILITY; ON APPROXIMATELY 3.96 ACRES LOCATED ON THE NORTHEAST CORNER OF 53RD AVENUE EAST (SR 70) AND 45TH STREET EAST AT 4525 53RD AVENUE EAST, BRADENTON (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; REPEALING ORDINANCES IN CONFLICT; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Aldi Florida, LLC (the “Applicant”) filed an application for a Preliminary Site Plan for an expansion of 2,350 square feet to a previously approved Preliminary Site Plan for a grocery store of 17,018 square feet for a total of 19,368 square foot retail facility on approximately 3.96 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: 701.3.A.4 (Minimum Required Landscaping – Vehicular Use Area) and 701.4.B.2 (Roadway Buffer Zones); and

WHEREAS, the Building and Development Services staff recommended approval of the Preliminary Site Plan and Specific 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 11, 2021 to consider the Preliminary Site Plan and Specific Approval applications, received the staff 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 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 Preliminary Site Plan and Specific Approval applications 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 March 4, 2021 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 Land Development Code Section 701.3.A.4, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree by the proposed design because the required amount of plantable landscape area will be the same or more than what is required by the Land Development Code.

E. Notwithstanding the failure of this plan to comply with the requirements of Land Development Code Section 701.4.B.2, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree by the proposed design because the required amount of plantable roadway buffer area will be the same or more than what is required by the Land Development Code.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for the expansion of 2,350 square feet to a previously approved Preliminary Site Plan for a grocery store of 17,018 square feet to a total of 19,368 square foot retail facility upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. All roof mounted HVAC equipment shall be screened from view from adjacent roadways and residential uses. 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. Dumpster screening shall consist of building materials and color matching the grocery store building on site.
3. There shall be no on-site outdoor storage of goods or equipment, including pallets, during non-business hours. This shall exclude permanent features such as ice machines, propane tanks, and vending machines.

4. Hours of operation shall be from 8:00 a.m. to 10:00 p.m. each day. Deliveries shall be during the hours from 7:00 a.m. to 10:00 p.m. Construction hours shall be from 7:00 a.m. to 8:00 p.m. Monday thru Saturday.
5. There shall be no loading or unloading of tractor trailer or semi-trucks involved in deliveries between the hours of 10:00 p.m. and 7:00 a.m. During this time, there shall be no use of forklifts or other loading or unloading devices; and running of trucks of trailer motors, or other refrigeration devices installed thereon.

B. INFRASTRUCTURE CONDITIONS:

1. Connection to the County wastewater system 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 County's Wastewater System 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.

C. STORMWATER CONDITIONS:

1. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan along Gap Creek/Pearce Drain within the project boundaries. In addition, a 20 feet wide Drainage-Maintenance Access Easement shall be provided from the southern top-of-bank. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

D. ENVIRONMENTAL CONDITIONS:

1. All other applicable state or federal permits shall be obtained prior to commencement of development.
2. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.
3. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
4. If wells are encountered, A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the EPS for review and approval prior to recommencing construction activities. 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.
5. 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.
6. The applicant shall install, implement, and maintain appropriate erosion and sediment controls that minimize soil erosion and offsite sedimentation. Environmental staff shall inspect the BMPs identified in the SWPPP to ensure that they are installed, maintained, and operating correctly and effectively until such time that the stormwater discharges associated with construction activity are eliminated and all disturbed soils at the site have been stabilized, and temporary erosion and sediment control measures have been removed.

Section 3. SPECIFIC APPROVALS. Specific Approval is hereby granted for alternatives to Land Development Code Sections: 701.3.A.4 (Minimum Required Landscaping – Vehicular Use Area) and 701.4.B.2 (Roadway Buffer Zones) of the Land Development Code. Specific Approval shall continue in effect and shall expire concurrent with the 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.

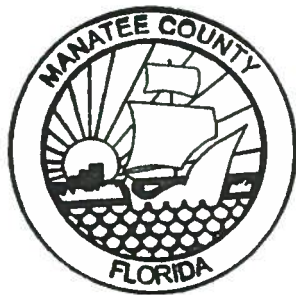
Section 5. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall 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 4th day of March 2021.



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

BY: _____

Vanessa Baugh, Chairperson

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

BY: _____

Deputy Clerk

Exhibit "A"

PARCEL 1:

SECTION 9 AND 16, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BY MEASURING FROM THE CENTER OF INTERSECTION OF ONECO-ARCADIA ROAD (STATE ROAD 70), AND THE NORTH AND SOUTH ROAD (45TH ST. E.), RUNNING FROM ONCECO-ARCADIA ROAD TO ELWOOD PARK, WHICH POINT IS 50 FEET WEST OF THE NORTH AND SOUTH ½ SECTION LINE OF SECTION 16, NORTH ALONG THE CENTERLINE OF SAID ELWOOD PARK ROAD, 45.0 FEET TO THE ABOVE MENTIONED POINT OF BEGINNING; THENCE S 89 DEGREES 50' 50" E, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ONECO-ARCADIA ROAD, 282.69 FEET TO AN IRON PIPE, THENCE LEAVING SAID RIGHT-OF-WAY LINE, N 4 DEGREES 44' 40" E, 298 FEET MORE OR LESS TO THE CENTER OF JEFF'S CREEK; THENCE SOUTHWESTERLY ALONG SAID CENTER LINE, 325 FEET MORE OR LESS TO THE CENTERLINE OF SAID ELWOOD PARK ROAD; THENCE SOUTH ALONG SAID CENTERLINE OF ELWOOD PARK ROAD 225.0 FEET TO THE AFOREMENTIONED POINT OF BEGINNING, LESS ROAD RIGHT-OF-WAY ON WEST.

AND LESS: PARCELS DEEDED TO MANATEE COUNTY IN OFFICIAL RECORDS BOOK 1025, PAGE 3652 AND IN OFFICIAL RECORDS BOOK 1468, PAGE 4579, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

PARCEL 2:

COMMENCE AT POINT FOUND BY MEASURING FROM THE CENTER OF INTERSECTION OF STATE ROAD 70 & 45TH ST E. WHICH POINT IS 50 FT W OF N & S 1/2 SECTION LINE OF SECTION 16; TOWNSHIP 35 SOUTH, RANGE 18 EAST, THENCE RUN NORTH ALONG CENTER LINE OF SAID ELWOOD PARK ROAD, 45 FT TO NLY RIGHT-OF-WAY OF STATE ROAD 70; THENCE S 89 DEGREES 58' 50" E ALONG SAID RIGHT-OF-WAY LINE, 282.69 FT TO ABOVE MENTIONED POB; THENCE CONTINUE ALONG SAID R/W LINE, S. 89 DEGREES 58' 50"E, A DISTANCE OF 160 FT; THENCE RUN N 2 DEGREES 57'10"E.497 FT MORE OR LESS TO CENTER LINE OF JEFF'S CREEK; THENCE RUN SWLY ALONG CENTER LINE OF JEFF'S CREEK TO A POINT WHICH BEARS N 4 DEGREES 44' 40" E, FROM THE POB; THENCE RUN S 04 DEG 44 MIN 40' W 298 FT. MORE OR LESS TO POB. (1205/291);

LESS ROAD RIGHT-OF-WAY IN OR 1461 P 7043, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NW CORNER OF THE NW 1/4 OF SAID NE 1/4 OF SECTION 16; THENCE ALONG THE W LINE OF SAID NE 1/4, S 00 DEGREES 18' 21" W, 351.97 FT TO THE CENTER LINE OF SURVEY FOR STATE ROAD 70; THENCE ALONG SAID CENTER LINE OF SURVEY, S 89 DEGREES 46' 01" E, 234.72 FT; THENCE N 04 DEGREES 47'29"E. 45.14 FT TO THE NORTH EXISTING RIGHT-OF-WAY LINE OF SAID STATE ROAD 70 (PER 13 16-101) FOR A POB; THENCE CONTINUE N 04 DEGREES 47' 29" E, 12.04 FT; THENCE S 89 DEGREES 48' 01" E, 6.94 FT; THENCE S 76 DEGREES 18' 16"E, 51.42 FT TO SAID N EXISTING RIGHT-OF-WAY LINE; THENCE ALONG SAID EXISTING RIGHT-OF-WAY LINE N 89 DEGREES 48' 01" W. 57.90 FT TO THE POB;

PARCEL 3:

BEGINNING AT POINT FOUND BY MEASURING FROM THE CENTER OF THE INTERSECTION OF ONECO-ARCADIA RD. (SR #70), AND THE N AND S ROAD (45TH ST E), RUNNING FROM ONECO-ARCADIA TO ELWOOD PARK, WHICH POINT IS 50 FT W OF THE N AND S 1/2 LINE OF SECTION LINE OF SEC 16; THENCE N ALONG THE CENTER LINE OF SAID ELWOOD PARK ROAD (45TH ST E), 45 FT TO THE NLY R/W LINE OF ONECO-ARCADIA ROAD (SR #70), THENCE S 89 DEGREES 58' 50" E, ALONG SAID R/W LINE, 442.69 FT TO AN IRON PIPE, THIS BEING THE ABOVE MENTIONED POB; THENCE CONTINUE ALONG SAID R/W LINE, S 89 DEGREES 58'50"E, 150 FT TO AN IRON PIPE ON THE WLY LINE OF GLEN COVE HEIGHTS SUBDIVISION, THENCE N 0 DEGREES 24' 50" W, ALONG SAID WLY LINE OF GLEN COVE HEIGHTS SUBDIVISION, 170 FT TO AN IRON PIPE; THENCE S 89 DEGREES 55' 40" W, 140 FT TO AN IRON PIPE, THENCE S 2 DEGREES 57' 10" W, 170 FT TO POB.

PARCEL 4:

COMMENCE AT A POINT FOUND BY MEASURING FROM THE CENTER OF INTERSECTION OF ONECO-ARCADIA ROAD (SR #70) AND THE N AND S ROAD (45TH ST E) RUNNING FROM ONECO-ARCADIA ROAD TO ELWOOD PARK, WHICH POINT IS 50 FT W OF THE N AND S ONE-HALF SECTION LINE OF SECTION 16; THENCE RUN N ALONG CENTER LINE OF SAID ELWOOD PARK ROAD (45TH ST. E), 45 FT TO THE NLY R/W LINE OF ONECO-ARCADIA ROAD (SR #70); THENCE S 89 DEGREES 58' 50" E ALONG SAID R/W LINE 442.69 FT TO AN IRON PIPE; THENCE RUN N 02 DEGREES 57' 10" E, 170 FT TO AN IRON PIPE FOR THE POB; THENCE CONTINUE N 02 DEGREES 57' 10" E, 200 FT, M/L TO THE CENTER LINE OF JEFF'S CREEK, THENCE NELY ALONG SAID CREEKS CENTER LINE TO A POINT ON THE WLY LINE OF GLEN COVE HEIGHTS SUBDIVISION; THENCE SLY ALONG THE WLY LINE OF GLEN COVE HEIGHTS SUBDIVISION, 267 FT, M/L TO A POINT WHICH IS 140 FT DISTANCE FROM, AND WHICH BEARS N 89 DEGREES 55' 40" E FROM THE POB; THENCE RUN S 89 DEGREES 55' 40" W, 140 FT TO THE POB.

ALSO LESS AND EXCEPT ROAD RIGHT OF WAY FOR PARCEL 100

A CERTAIN PARCEL OF LAND LYING WITHIN SECTION 16, TOWNSHIP 35 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH 1/4 CORNER OF ABOVEMENTIONED SECTION 16; THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION, S 00°17'38" W, A DISTANCE OF 90.05 FEET TO A POINT OF

INTERSECTION WITH THE MEAN HIGH WATER LINE (0.42' NAVD 88) OF GAP CREEK, SAID POINT OF INTERSECTION BEING THE POINT OF BEGINNING; THENCE ALONG SAID MEAN HIGH WATER LINE, N 84°07'37" W, A DISTANCE OF 4.81 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT-OF-WAY LINE OF 45TH STREET EAST AS

DESCRIBED IN OFFICIAL RECORDS BOOK 1025, PAGE 3652 OF THE PUBLIC RECORDS OF MANATEE

COUNTY, FLORIDA; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, S 00°51'58" E, A DISTANCE OF 178.05 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 70 AS SHOWN AND DESIGNATED ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP 13160-2515; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, S 46°17'57" E, A DISTANCE OF 38.74 FEET; THENCE S 89°48'05" E, A

DISTANCE OF 12.74 FEET; THENCE DEPARTING THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 70, N 45°00'00" W, A DISTANCE OF 37.11 FEET; THENCE N 00°51'58" W, A DISTANCE OF 64.27 FEET; THENCE N 45°08'55" E, A DISTANCE OF 13.47 FEET; THENCE N 00°00'06" W, A DISTANCE OF 102.97 FEET TO A POINT

OF INTERSECTION WITH THE MEAN HIGH WATER LINE OF AFORESAID GAP CREEK; THENCE ALONG SAID MEAN HIGH WATER LINE, S 89°46'20" W, A DISTANCE OF 7.33 FEET; THENCE N 84°07'37" W, A DISTANCE OF 13.74 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 4,053 SQUARE FEET OR 0.09 ACRES MORE OR LESS.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 8, 2021

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

Attention: Quantana Acevedo

Dear Ms. 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-20-07(P), which was filed in this office on March 5, 2021.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb