

## Manatee County Ordinance

### **PDC-20-22(P) – CASTO–ELLENTON / NORTH RIVER VILLAGE RESTAURANT – CASTO NORTH RIVER II, LLC – (PLN2011-0049)**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR A 2,325 SQUARE FOOT RESTAURANT WITH A DRIVE-THROUGH ALONG WITH ASSOCIATED PARKING AND INFRASTRUCTURE; THE APPROXIMATELY 1-ACRE SITE IS GENERALLY LOCATED EAST OF I-75 ALONG US 301 NORTH IN THE NORTH RIVER VILLAGE SHOPPING CENTER AND IS COMMONLY KNOWN AS 6020 US 301 NORTH, ELLENTON (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Casto North River II, LLC (the “Applicant”) filed an application for a Preliminary Site Plan for a 2,325 square foot restaurant with a drive-through along with associated parking and infrastructure on approximately 1 acre as described in Exhibit “A”, attached hereto, (the “Property”); and

**WHEREAS**, the Applicant also filed a request for Specific Approval for an alternative to Land Development Code Section 900.5.C.6 (Reduction to the required dumpster and dumpster enclosure setback from 20 feet to 10 feet); 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 June 10, 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 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 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 June 17, 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 LDC Section 900.5.C.6., the Board finds that the purpose of the LDC regulation is satisfied to an equivalent degree by the proposed design because the proposal appears to be consistent with the existing commercial development, and screening and landscaping will meet or exceed the provisions of the LDC Sections 701 and 900. The proposal will also enhance the visual aesthetics along US 301 North.

**Section 2. PRELIMINARY SITE PLAN.** The Preliminary Site Plan is hereby approved for a 2,325 square foot restaurant with a drive-through along with associated parking and infrastructure on approximately 1 acre upon the property subject to the following Stipulations:

## **STIPULATIONS**

### **A. DESIGN AND LAND USE**

1. All dumpsters, compactors, and other utility equipment shall be screened with a six foot high wall constructed with building materials consistent with the principal building(s). Compliance shall be verified with review of the building permit.
2. All other applicable local, state or federal permits shall be obtained prior to commencement of construction.

### **B. ENVIRONMENTAL**

1. All other applicable state or federal permits shall be obtained prior to commencement of development.
2. 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.

3. The applicant shall install, implement, and maintain appropriate erosion and sediment controls that minimize soil erosion and offsite sedimentation. Environmental staff shall inspect the Best Management Practices (BMPs) identified in the Stormwater Pollution Prevention Plan (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.

### **C. INFRASTRUCTURE**

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 Section 900.5.C.6 (Reduction to the required dumpster and dumpster enclosure setback from 20 feet to 10 feet); 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. 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 5. 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 6. 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 7. 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 17<sup>th</sup> day of June 2021.



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

BY:

A blue ink signature, appearing to read "Vanessa Baugh", is written over a horizontal line.

**Vanessa Baugh, Chairperson**

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

BY:

A blue ink signature, appearing to read "Angelina Colonnese", is written over a horizontal line.

**Deputy Clerk**

**Exhibit "A"**

**Legal Description**

**OUTLOT 1:**

Commence at a 3" iron pipe marking the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 9, Township 34 South, Range 18 East, thence S 89°24'32" W, along the North line of said Southeast 1/4 of the Southeast 1/4, a distance of 25.00 feet; thence S 00°35'43" W, along the East line of Block 5 of PHILLIPS AND ALLEN'S RE-SUBDIVISION OF W. H. VANDERIPES SUBDIVISION, as recorded in Plat Book 1, page 308-A, public records of Manatee County, Florida, a distance of 72.19 feet; thence S 80°00'27" W, along the North right of way line of State Road No 93 (I-75) (Section 13075-2404) and U. S. 301, a distance of 480.00 feet for a Point of Beginning; thence continue S 80°00'27" W, along the North right-of-way line of said U. S. 301, a distance of 165.88 feet; thence S 75°35'11" W along said North right of way line, a distance of 74.09 feet; thence N 00°13'35" E, a distance of 186.91 feet; thence N 82°40'17" E, a distance of 72.31 feet; thence N 76°16'41" E, a distance of 161.00 feet; thence S 38°13'19" E, a distance of 22.12 feet; thence S 02°30'27" W, a distance of 169.89 feet to the Point of Beginning, being and lying in the Southeast 1/4 of Section 9, Township 34 South, Range 18 East, Manatee County, Florida.

TOGETHER WITH NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF OUTLOT 1 AND OUTLOT 3 AS SET FORTH IN THE DECLARATION OF EASEMENTS AND COVENANTS RECORDED IN OFFICIAL RECORDS BOOK 1188, PAGE 3131, OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

June 17, 2021

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

Attention: Vicki Tessmer

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-20-22(P), which was filed in this office on June 17, 2021.

Sincerely,

Anya Grosenbaugh  
Program Administrator

AG/lb