

## Manatee County Ordinance

### **PDMU-17-29(G)(R) – TP ELLENTON LLC/SPECIALTY RESTAURANT** **WHISKEY JOE'S PLN2011-0038**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING AND RESTATING ORDINANCE PDMU-17-29(Z)(G); APPROVING AN AMENDMENT TO A GENERAL DEVELOPMENT PLAN TO INCLUDE 0.78 ACRES FOR ADDITIONAL PARKING FACILITIES TO SERVE AN EXISTING RESTAURANT USE; FOR A TOTAL 2.68 ACRE PROJECT; AND TO ADD A PAVILION ON THE EXISTING PARCEL; LOCATED AT 5315 19<sup>TH</sup> STREET EAST, ELLENTON (MANATEE COUNTY); SUBJECT TO AMENDED 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**, TP Ellenton, LLC (the “Applicant”) filed an application for an amendment to a General Development Plan to include 0.78 acres for additional parking facilities to serve an existing restaurant use and to add a pavilion on the existing parcel on a total of approximately 2.68 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 Section 701.3.A.4 (Minimum Required Landscaping – Vehicular Use Area): and

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held a public hearing on May 13, 2021 to consider the amended General Development 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 amended General Development 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 an amended General Development 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 June 3, 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 space for the landscape area will be the same or more than what is required by the Land Development Code.

**Section 2. AMENDED GENERAL DEVELOPMENT PLAN.** The amended General Development Plan is hereby approved to include 0.78 acres for additional parking facilities to serve an existing restaurant use and to add a pavilion on the existing parcel on a total of approximately 2.68 acres upon the property subject to the following Stipulations:

## **STIPULATIONS**

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

1. All other applicable state or federal permits shall be obtained before commencement of the development.
2. All roof mounted HVAC equipment shall be screened from view from US 301 and adjacent properties at ground level, in accordance with Entranceway requirements of Section 900. 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 Final Site Plan.
3. Signs for the project shall be in compliance with Chapter 6 of the LDC with locations to be shown on and approved with the Final Site Plan.

### **B. UTILITY ENGINEERING STIPULATIONS**

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 the County Engineer through the construction plans review process for the project.

2. Any utilities located within the coastal high hazard area the potable water and reclaimed water shall be master metered. All potable water and reclaimed water facilities downstream of the master meter and all sanitary sewer facilities within the development shall be privately owned and maintained. Furthermore, the applicant shall adhere to any special construction requirements for utilities within the coastal high hazard area that are in place at the time of Final Site Plan submittal. Such special construction requirements may include but are not limited to installation of leak proof manhole covers or controlling the elevation that any at or above grade potable water, reclaimed water or sanitary sewer facility or appurtenance is installed.
3. The proposed alignment of the existing 10-inch water main and 16 inch force main running parallel to US 301 are subject to change based on design by the FDOT in the immediate future. The engineer of record will be responsible for coordination of the design with the FDOT plans.

### **C. ENVIRONMENTAL STIPULATIONS**

1. In no event, shall the proposed variable width wetland buffer be narrower than DEP or SWFWMD standards for the approved Environmental Resource Permit.
2. The developer shall provide an updated biological survey, consistent with Policy 3.3.2.1 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. The Management Plan approved by the State shall be submitted prior to the commencement of development for any listed species found on site.
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. Railings and "No Mooring"/ "Manatee Awareness" signs shall be installed as required with Florida Department of Environmental Protection permitting. Details shall be included in the Final Site Plan.

6. As a waterfront use that is oriented and enhanced by the water, PDW standards must be met per Section 402.14 and Section 511.17 of the LDC and indicated at time of Final Site Plan.
7. Wetland buffer encroachments and updated wetland buffer restoration plans will be addressed and provided for current and modified wetland buffer enhancement areas during Final Site Plan to ensure consistency with the County's variable width buffer requirement per LDC Section 706.4.C and buffer restoration requirements per LDC Section 706.4.D.
8. All other applicable state or federal permits shall be obtained prior to commencement of development.
9. There are no impacts to jurisdictional wetlands being approved by the adoption of this Ordinance.

#### **D. FIRE DEPARTMENT STIPULATIONS**

1. All-weather stabilized emergency accesses shall be provided and maintained.
2. Fire Hydrant(s) must be located within 400 ft. of the building. If not, the developers will be required to install water mains and hydrants to meet the required fire flow demand prior to vertical construction of proposed buildings.
3. The project must comply with the latest adopted Florida Fire Protection Code designated for the building use.
4. Access roads/driveways must be a minimum of 20 ft. wide.

**Section 3. SPECIFIC APPROVAL.** Specific Approval is hereby granted for alternatives to Land Development Code Section 701.3.A.4 (Minimum Required Landscaping – Vehicular Use Area).

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

**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 3<sup>rd</sup> day of June 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"**

### **Legal Description**

A PARCEL OF LAND BEING A PORTION OF LOT 27 OF TAMIAMI SHORES AS RECORDED IN PLAT BOOK 7, PAGE 33 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA AND SAID PARCEL IS A PORTION OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 34 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 16; THENCE N89°36'36"W, A DISTANCE OF 630.71 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. 301 (19TH STREET-OLD U.S. 301) PER FLORIDA DEPARTMENT OF TRANSPORTATION SECTION NO. 13075-2404 AND TO AN INTERSECTION WITH THE EASTERLY LINE OF PARCEL 107 AS RECORDED IN OFFICIAL RECORD BOOK 2722, PAGE 1144 OF SAID PUBLIC RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 107 S21°59'53"E, A DISTANCE OF 46.77 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 107 AND TO A POINT ON THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S09°42'16"W, A DISTANCE OF 27.85 FEET AND TO THE POINT OF BEGINNING; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 85°07'08", A DISTANCE OF 41.37 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S84°58'55"E, A DISTANCE OF 56.00 FEET; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 131°36'42", A DISTANCE OF 128.64 FEET; THENCE N53°28'09"E, A DISTANCE OF 80.13 FEET TO THE WESTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF STATE ROAD 93 AS RECORDED IN OFFICIAL RECORD BOOK 2723, PAGE 5860 OF SAID PUBLIC RECORDS AND TO A POINT ON THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S44°23'52"W, A DISTANCE OF 313.75 FEET; THENCE THE FOLLOWING FIVE (5) COURSES ALONG THE PERIMETER OF SAID LIMITED ACCESS RIGHT-OF-WAY LINE: (1) ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 12°27'59", A DISTANCE OF 68.27 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S54°41'04"W, A DISTANCE OF 1113.46 FEET; (2) ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°13'24", A DISTANCE OF 120.94 FEET; (3) S71°00'35"W, A DISTANCE OF 27.65 FEET; (4) S62°26'16"W, A DISTANCE OF 34.80 FEET; (5) S19°11'06"E, A DISTANCE OF 8.06 FEET TO THE NORTHERLY MEAN HIGH WATER LINE OF MANATEE RIVER; THENCE THE FOLLOWING SIXTEEN (16) COURSES ALONG SAID MEAN HIGH WATER LINE: (1) S61°09'41"W, A DISTANCE OF 22.12 FEET; (2) S60°20'26"W, A DISTANCE OF 84.67 FEET; (3) S47°09'51"W, A DISTANCE OF 28.13 FEET; (4) S63°24'38"W, A DISTANCE OF 6.93 FEET; (5) S55°23'10"W, A DISTANCE OF 21.57 FEET; (6) S35°45'45"W, A DISTANCE OF 29.39 FEET; (7) S56°46'14"W, A DISTANCE OF 18.52 FEET; (8) S69°30'35"W, A DISTANCE OF 24.22 FEET; (9) N89°27'55"W, A DISTANCE OF 31.53 FEET; (10) N52°08'31"W, A DISTANCE OF 33.28 FEET; (11) N71°01'28"W, A DISTANCE OF 64.23 FEET; (12) N81°03'24"W, A DISTANCE OF 76.53 FEET; (13) N43°52'11"W, A DISTANCE OF 8.81 FEET; (14) S86°27'28"W, A DISTANCE OF 19.40 FEET; (15) N86°41'38"W, A DISTANCE OF 6.95 FEET; (16) N86°12'45"W, A DISTANCE OF 13.00 FEET TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF A PARCEL AS DESCRIBED IN DEED BOOK 370, PAGE 255 OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTHERLY EXTENSION OF SAID EASTERLY LINE AND THE EASTERLY LINE THEREOF N02°42'12"W, A DISTANCE OF 226.29 FEET TO AN INTERSECTION WITH THE RIGHT-OF-WAY TAKE PER PARCEL 110.1 (FP NO.

2010325) (SECTION 13075-000) BY FLORIDA DEPARTMENT OF TRANSPORTATION; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY THE FOLLOWING FIVE (5) COURSES; (1) N66°46'49"E, A DISTANCE OF 0.11 FEET; (2) N54°17'51"E, A DISTANCE OF 52.14 FEET; (3) N67°42'45"E, A DISTANCE OF 45.47 FEET; (4) N77°39'54"E, A DISTANCE OF 46.47 FEET; (5) N71°16'19"E, A DISTANCE OF 22.42 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 107 AND TO A POINT ON THE ARC OF CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S04°10'06"E, A DISTANCE OF 386.00 FEET; THENCE THE FOLLOWING TWO (2) COURSES ALONG THE SOUTHERLY PERIMETER OF SAID PARCEL 107: (1) ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGEL OF 5°39'37", A DISTANCE OF 38.13 FEET TO THE POINT ON THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS S02°04'19"W, A DISTANCE OF 175.00 FEET; (2) ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 7°53'10", A DISTANCE OF 24.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.68 ACRES, MORE OR LESS.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

June 7, 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. PDMU-17-29(G)(R), which was filed in this office on June 4, 2021.

Sincerely,

Anya Grosenbaugh  
Program Administrator

AG/lb