

FILED FOR RECORD
R. B. SHORE

SPECIAL PERMIT NO. SP-06-09

2007 APR 17 **ANDREW W. WILLS, CORTEZ FISHING CENTER RESTAURANT**

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

**FINAL ORDER OF MANATEE COUNTY HEARING
OFFICER JOHN ROE ON BEHALF OF MANATEE
COUNTY GRANTING A SPECIAL PERMIT NO. SP-06-09
FOR A 2COP LICENSE FOR ON-PREMISES ALCOHOLIC
BEVERAGE SALES IN ASSOCIATION WITH AN
EXISTING RESTAURANT AT CORTEZ FISHING CENTER
IN THE LM (LIGHT MANUFACTURING) AND HA
(HISTORICAL & ARCHAEOLOGICAL OVERLAY) ZONING
DISTRICTS AT 12507 CORTEZ ROAD (± 5.555 ACRES);
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, Andrew W. Wills, Proprietor of the restaurant in Cortez Fishing Center requested a Special Permit for a 2 COP license (on premises alcoholic beverage sales) in the LM-HA (Light Manufacturing & Historical & Archaeological Overlay) zoning districts; and

WHEREAS, on March 28, 2007, the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for a 2COP.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-06-09 requested by Andrew W. Wills, Proprietor of the restaurant at Cortez Fishing Center, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The business is currently operating as a convenience store and plans to reopen as a restaurant upon licensure and completion of remodeling.
- B. There are no proposed expansions to either the building or the parking

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areas. The applicant has agreed to provide a railing around the patio area in the rear of the building and to delineate six parking spaces, including one handicapped space, as shown on the plot plan, Exhibit "B".

- C. This property is zoned LM-HA which allows on premises alcoholic beverage sales in association with a restaurant with approval of a Special Permit pursuant to Section 708.3.2.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Manatee County Land Development Code, the above referenced Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. The proposal is compatible with the area and can be found to be consistent with the Comprehensive Plan and the IL (Industrial Light) Future Land Use Category.
- D. All requirements for issuance of a Special Permit pursuant to LDC Section 505 are met.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Andrew W. Wills for the property located at 12507 Cortez Rd., and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a 2COP, subject to the following conditions:

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.
2. The site plan submitted with this application shall be part of this approval, but only approved at the preliminary level. Administrative approval of the Final Site Plan shall be required subsequent to the Hearing Officer's approval of the Special Permit.

3. Onsite beer and wine service are approved only as accessory to food service. This Special Permit for a 2-COP alcoholic beverage license is approved for the Cortez Fishing Center and shall automatically terminate if food service is terminated for two weeks or more or is not provided for 30 days in any given calendar year.
4. The maximum number of customer seats permitted in the interior and exterior sections of the restaurant shall be 50.
5. A 36" high railing shall be installed around the patio area as required by the Certificate of Appropriateness (COA-07-01-Administrative Review) approved on February 12, 2007.
6. Proposed handicapped parking must be in compliance with the Florida Accessibility Code.
7. Beer and wines sales shall be prohibited outdoors after 10 p.m. Sunday through Thursday and 11 p.m. Friday and Saturday.
8. There shall be no outdoor entertainment, paging, loud speaker system, or telephone ringer utilized on this site.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

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Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 17th day of April, 2007.

MANATEE COUNTY, FLORIDA

BY: J. B. Shore, as
Hearing Officer for Manatee County

ATTEST: R. B. Shore,
Clerk of the Circuit Court

BY: Maggie Hamilton, D.C.
Deputy Clerk

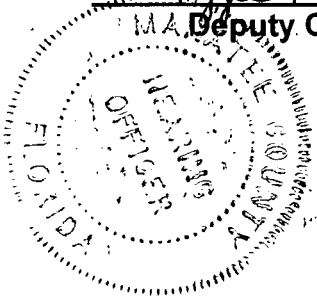


EXHIBIT "A"

LEGAL DESCRIPTION:

COM AT THE NE COR OF LOT 5, D O CLARK'S ATTORNEY'S SUB OF U S LOT 3, SEC 3 (PB 1 P 71); TH S 00 DEG 27 MIN 55 SEC W ALG THE ELY LN OF SD LOT 5, A DIST OF 31.21 FT TO AN IRON PIPE MARKING THE PT OF INTERSEC OF SD ELY LN OF LOT 5, & THE EXISTING SLY R/W LN OF SRD NO 684 FOR A POB; TH CONT S. 00 DEG 27 MIN 55 SEC W ALG SD ELY LN OF LOT 5, A DIST OF 63.13 FT TO AN IRON PIPE; TH N 89 DEG 32 MIN 05 SEC W, 60.0 FT TO AN IRON PIPE; TH S 00 DEG 27 MIN 55 SEC W PARALLEL TO SD ELY LN OF LOT 5, A DIST OF 108.0 FT; TH S 89 DEG 32 MIN 05 SEC E 60.0 FT TO THE PT OF INTERSEC OF SD LN, & SD ELY LN OF LOT 5; TH S 00 DEG 27 MIN 55 SEC W, ALG THE ELY LN OF SD LOT 5 & LOT 6, A DIST OF 350.66 FT TO AN IRON PIPE; TH N 89 DEG 01 MIN 05 SEC W, 394.22 FT TO A CROSS CUT IN AN EXISTING CONCRETE SEAWALL; TH N 20 DEG 56 MIN 48 SEC W ALG THE LN OF AN EXISTING IRREGULAR SEAWALL; 425.75 FT TO A PT OF CURVE IN SD SEAWALL; TH NW ALG SD SEAWALL, HAVING A CHORD BEARING & DISTANCE OF NORTH 53 DEG 33 MIN 39 SEC W, 43.88 FT TO AN EXISTING SRD R/W MONUMENT MARKING THE SOUTHERN R/W OF SR NO 684; TH NE ALG SD R/W & ALG THE ARC OF A CURVE CONCAVE TO THE SE HAVING A RADIUS OF 768.51 FT, A DIST OF 396.504 FT TO THE P T OF SD CURVE; TH S 89 DEG 09 MIN 05 SEC E ALG SD R/W 205.33 FT AS DESC IN OR 1245 P 493 PRMCF PI#76833.0000/3

EXHIBIT "B"

(Submitted with Application)