

FILED FOR RECORD
R. B. SHORE

2008 JUL -1 PM 3:53

SPECIAL PERMIT NO. SP-08-02

NUCCIO, LLC / WINESTYLES STORE #271 DTS # 20080042

CLERK OF DISTRICT COURT
MANATEE CO. FLORIDA

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER JOHN ROE ON BEHALF OF MANATEE COUNTY GRANTING A SPECIAL PERMIT NO. SP-08-02 FOR A DRINKING ESTABLISHMENT (INDOOR SALES AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES - BEER AND WINE) IN SAN MARCO PLAZA. THE SITE IS IN THE PDMU (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT AT 8225 NATURES WAY, BRADENTON (± 0.37 ACRES); PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

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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, Nuccio, LLC requested a Special Permit for a drinking establishment (indoor sales and consumption of alcoholic beverages on premises – beer and wine) in San Marco Plaza. The site is in the PDMU (Planned Development Mixed Use) zoning district; and

WHEREAS, on June 4, 2008, 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 drinking establishment (indoor sales and consumption of alcoholic beverages on premises – beer and wine) in San Marco Plaza.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-08-02 requested by Nuccio, LLC 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 applicant is requesting approval for a drinking establishment (indoor sales and consumption of alcoholic beverages on premises) beer and wine liquor license in San Marco Plaza in the Lakewood Ranch Arts Centre.
- B. WineStyles Store #271 will be primarily a retail establishment selling wine by the bottle. The request is for approval of accessory sales of wine by the glass which is allowed in this PDMU (Planned Development Mixed Use)

zoning district at 8225 Natures Way, Bradenton.

- C. San Marco Plaza and all associated infrastructure, including parking, were approved with PDMU-92-01(R10)/FSP-04-127. The applicant is responsible for finish-out of the 1,500 sq. ft. Unit 22. The applicant is not requesting any expansion of the existing structure. The plaza is accessible from Nature's Way via Town Center Parkway.
- D. Indoor seating is limited to 12. No alcoholic beverages or food will be consumed or served outside. Establishment of this drinking establishment should not impede the normal development or improvement of surrounding properties.

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 ROR (Retail/Office/Residential) 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 Winestyles Store #271 for the property located at 8225 Natures Way, Bradenton and more particularly described in Exhibit "A" attached hereto and incorporated herein, to allow a drinking establishment (indoor sales and consumption of alcoholic beverages on premise – beer and wine) in San Marco Plaza 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. Approval is subject to all conditions of PDMU-92-01(R10)/FSP-04-127 San Marcó, Lakewood Ranch Arts Centre.
3. Sales of wine and beer by the glass is approved as an accessory to retail beer and wine sales. The maximum number of seats within the WineStyles Store #271 for service of beer and wine by the glass shall be limited to 12.

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.

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 1st day of September, 2008.

MANATEE COUNTY, FLORIDA

BY: [Signature], as
Hearing Officer for Manatee County

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

BY: [Signature] D.C.
Deputy Clerk

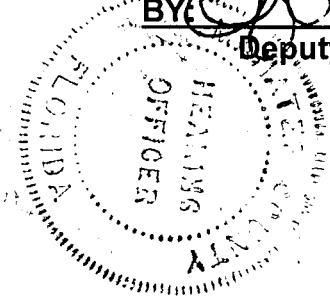


EXHIBIT "A"

LEGAL DESCRIPTION:

UNIT #22 SAN MARCO PLAZA CONDOMINIUM, PI # 5879.3050/9

EXHIBIT "B"

(Submitted with Application)