



**SPECIAL PERMIT NO. SP-16-04
TIDE TABLES**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-16-04 TO NULLIFY OR REVOKE SPECIAL PERMIT NO. SP-06-09 AS IT IS NO LONGER APPLICABLE OR NEEDED FOR AN EXISTING RESTAURANT IN THE LM/HO (LIGHT MANUFACTURING / HISTORICAL OVERLAY) ZONING DISTRICT LOCATED ON THE SOUTH SIDE OF CORTEZ ROAD AND EAST OF THE ANNA MARIA SOUND AND SARASOTA BAY, COMMONLY KNOWN AS 12507 CORTEZ ROAD WEST (MANATEE COUNTY); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 15-17, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, Cortez Park Homeowners LLC requested a Special Permit to nullify or revoke an existing Special Permit No. SP-06-09 that is no longer applicable or needed for an existing restaurant in the LM/HO (Light Manufacturing and Historical Overlay) zoning district; and

WHEREAS, on April 19, 2017 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Special Permit to nullify or revoke an existing Special Permit No. SP-06-09.

NOW, THEREFORE, after consideration of the application for Special Permit 16-04 requested by the Cortez Park Homeowners, 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 site is in the IL/CHHA/CEA (Industrial Light/Coastal High Hazard Area/Coastal Evacuation Area) Future Land Use Categories.

- B. The request is to approve a Special Permit to nullify or revoke an existing Special Permit No. SP-06-09 that is no longer applicable or needed for an existing restaurant on the south side of Cortez Road, commonly known as 12507 Cortez Road West (Manatee County).
- C. The site is a 0.59± acre portion of a ±1.38 acre property, zoned LM/HO (Light Manufacturing and Historical Overlay District).
- D. The overall site lies within Zones VE and AE with a Base Flood Elevation of 11 feet in both zones per FIRM Panels 12081C0277E and 1208C0279E, effective 3/17/2014.
- E. There are no wetlands on the property, there are no proposed wetland impacts within the project area, and it appears that there is no tree removal or replacement proposed.

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 Cty 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 proposed use is consistent with the Comprehensive Plan Policy 2.2.1.18.2, which lists intensive commercial uses, neighborhood retail uses, and service uses in the range of potential uses in the IL (Industrial Light) Future Land Use Categories, and Policy 2.1.2.7 which requires review for all proposed development for compatibility and appropriate timing.
- D. The applicant has met present requirements of the Manatee County Comprehensive Plan and present requirements for the issuance of a Special Permit pursuant to the Manatee County Land Development Code, Sections 316 (Special Permit Criteria), 531.48 (Standards for Specific Uses – Restaurants).
- E. Adequate measures have been taken to provide ingress and egress to the site.
- F. Adequate measures have been taken to ensure that the proposed use is

consistent with the community character of the surrounding development and community.

- G. There are no known archaeological, historical, or cultural resources on-site.
- H. Adequate provisions have been made for buffers, landscaping, parking areas, and other improvements associated with the proposed use.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to the Cortez Park Homeowners, LLC and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a Special Permit to nullify or revoke an existing Special Permit No. SP-06-09 that is no longer applicable or needed for an existing restaurant on the south side of Cortez Road West, commonly known as 12507 Cortez Road West (Manatee County) 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 Building and Development Services.

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 Building and Development Services Department. Upon the effective date of this Special Permit, the previously approved Special Permit No. 06-09 shall be superseded and of no further force or effect.

ORDERED ON BEHALF OF MANATEE COUNTY this 23 day of May, 2017.



MANATEE COUNTY, FLORIDA

BY: Kelly, as
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: Graciano
Deputy Clerk

EXHIBIT "A"
Legal Description

BEG AT PT ON W LN OF 1ST ST & S LN OF CORTEZ-BRAENTON RD. SD PT BEING NE COR LOT 5 SUB OF LOT 3 U.S. S 97 FT 4 IN FOR POB, S 35 FT. W 60 FT. N 35 FT E 60 FT TO POB P-90, TOGETHER WITH THE FOLLOWING PARCEL DESC AS FOLLOWS: BEGIN AT A POINT ON THE W LN OF FIRST STREET AND S LN OF CORTEZ-BRADENTON RD, SD PT BEING THE NE COR OF LOT 5; TH S 94 FT 4 INCHES FOR A POB THN S 3 FT; TH W 60 FT TH N 3 FT; TH E 60 FT TO THE POB, BEING PART OF LOT 5 OF SUBDIVISION OF US LOT 3, SEC 3, TWN 35 S, RNG 16 E AS SHOWN IN PB 1 PG 71. TOGETHER WITH PARCEL B: BEG AT PT ON W LN OF 1ST ST & S LN OF CORTEZ-BRADENTON RD, SD PT BEING NE COR LOT 5 SUB OF LOT 3 U S, S 132 FT 4 IN FOR POB, S 35 FT, W 60 FT, N 35 FT, E 60 FT TO POB, BEING PART OF LOT 5 OF SUB OF US LOT 3, SEC 3, TWN 35S, RNG 16E, AS SHOWN ON PB 1, PG 71. TOGETHER WITH PARCEL C. BEG AT PT ON W LN OF 1ST ST & S LN OF CORTEZ-BRADENTON RD, SD PT BEING NE COR LOT 5 SUB OF LOT 3 U S S 167 FT 4 IN FOR POB, S 35 FT, W 60 FT, N 35 FT, E 60 FT TO POB, BEING PART OF LOT 5 OF SUB OF US LOT 3, SEC 3, TWN 35 S, RNG 16 E, AS SHOWN ON PB 1 PG 71. TOGETHER WITH PARCEL D: COM AT THE NE COR OF LOT 5, D O CLARK'S ATTORNEY'S SUB OF U S LOT 3, SEC 3 (PB 1 P71); 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 PT OF SD CURVE; TH S 89 DEG 09 MIN 05 SEC E ALG SD R/W 205.33 FT. LESS ALL UNITS (91) AS DESC IN CORTEZ PARK, A RESIDENTIAL CO-OP PER OR 2305/6667.