

**MANATEE COUNTY ORDINANCE
PDC-17-10(G) [RELATED TO PDC-05-58(Z)(P)]
PALMETTO PLAZA DTS20170393**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; APPROVING A NEW GENERAL DEVELOPMENT PLAN FOR A COMMERCIAL CENTER TO INCLUDE A CONVENIENCE STORE AND GAS PUMPS AS WELL AS ADDITIONAL COMMERCIAL USES, ON AN APPROXIMATELY 9.16 ACRE SITE WITHIN THE PDC (PLANNED DEVELOPMENT - COMMERCIAL) ZONING DISTRICT; GENERALLY LOCATED WEST OF US 41 AT THE INTERSECTION OF US 41 AND BAYSHORE ROAD, EXTENDING TO THE INTERSECTION OF US 41 AND ROCK PAYNE ROAD (89TH STREET EAST), AND THE INTERSECTION OF BAYSHORE ROAD AND ROCK PAYNE ROAD (89TH STREET EAST) AT 9025 US41 N (PALMETTO); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; APPROVING A SCHEDULE OF USES VOLUNTARILY PROFFERED BY THE APPLICANT AND ATTACHED AS EXHIBIT "B"; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Gabbert Investments Group, LLC (the "Applicant") filed an application for a General Development Plan for a commercial center to include a convenience store and gas pumps as well as additional commercial uses on an approximately 9.16 acre site within the PDC (Planned Development Commercial) zoning district as described in Exhibit "A", attached hereto, (the "Property") and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) adjacent to a Perennial Stream; and

WHEREAS, the applicant also filed a Schedule of Uses (permitted and prohibited) Exhibit "B" attached hereto; and

WHEREAS, the Building and Development Services Department staff recommended approval of the General Development Plan, Special Approval and Schedule of Uses (permitted and prohibited) Exhibit "B" 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 March 8, 2018 to consider the General Development Plan, Special Approval and Schedule of Uses (permitted and prohibited) Exhibit "B" 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 General Development Plan, Special Approval and Schedule of Uses (permitted and prohibited) Exhibit "B" applications consistent with the Manatee County Comprehensive Plan, and the Manatee County Land Development Code, recommended approval subject to the stipulations contained 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 General Development Plan, Special Approval and Schedule of Uses (permitted and prohibited) Exhibit "B" as it relates to the real property described in Exhibit "A" of this Ordinance.
- B. The Board of County Commissioners held a duly noticed public hearing on April 5, 2018 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 the 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.
- D. The Board finds that the purpose of the Special Approval regulation is satisfied by the analysis provided in the staff report and proposed design which indicates the proposed project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

Section 2. PRELIMINARY SITE PLAN. The General Development Plan is hereby approved for a commercial center to include a convenience store and gas pumps as well as additional commercial uses, subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE

- 1. The uses for this project are limited to those voluntarily proffered by the Applicant in the Schedule of Uses attached to Zoning Ordinance PDC-17-10(G) as Exhibit B.
- 2. The convenience store and gas pumps, when constructed, shall include the necessary components (i.e., stormwater, access, and buffers) to function independently and shall be shown as such on the Final Site Plan.
- 3. All required standards for Specific Use criteria for the convenience store found in LDC Section 531.49 and gas pumps found in LDC Section 531.51 shall be met at the time of Final Site Plan approval.
- 4. All roof mounted HVAC equipment shall be screened from view from adjacent right-of-way, and adjacent properties at ground level. 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.

5. The dumpster shall be screened from view from internal driveways, and adjacent properties. Screening shall consist of building materials matching the building on site, or opaque fence. Details of screening shall be submitted with Final Site Plan.
6. No pole signs shall be permitted on Bayshore Road. All other signs shall be in compliance with LDC Section 605. In addition, all free standing signs must provide concealment of main support structure (e.g. pole) between 20% and 100% of sign width materials consistent with those in the development.
7. Any required cross access easements shall be shown on all Preliminary Plats, Final Plats and/or Final Site Plans. Any required cross access easement shall be recorded prior to the issuance of a Certificate of Completeness (COC).
8. Proposed public or private schools and schools of special education shall not be located on outparcels adjacent to gas pumps.

B. ENVIRONMENTAL

1. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas that will serve as mitigation areas shall be dedicated to the County prior to or concurrent with Final Plat approval.
2. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 355 (519) of the LDC.
3. Prior to Preliminary Site Plan/Final Site Plan approval, the entire site shall be evaluated for potential hazardous material locations (i.e., historical cattle dipping vats, underground/above ground storage tanks, or buried drums) by a qualified environmental consultant. Should evidence of contamination be discovered, further investigation will be required to determine the level of contamination and appropriate remediation/mitigative measures. Sec.542.7.J (formerly Sec. 723.3.7.10)
4. 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.
5. 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.

C. STORMWATER CONDITIONS

1. This project shall be required to reduce the calculated pre-development flow rate by a full fifty percent (50%) for all stormwater outfall flow directly or indirectly into Buffalo Canal/Frog Creek watershed. Modeling shall be used to determine pre- and post-development flows.
2. Any impacts (fill) within the 100-year floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year floodplain impacts shall be mitigated in sole use compensation areas, not dual-use stormwater facilities (i.e., stormwater attenuation and floodplain compensation).

D. UTILITIES

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

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for a project: 1) adjacent to a Perennial Stream.

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 other 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 this 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 5th day of April, 2018.

**BY: BOARD OF COUNTY
COMMISSIONERS
MANATEE COUNTY, FLORIDA**

**BY: _____
Priscilla Trace, Chairman**

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

**BY: _____
Deputy Clerk**

EXHIBIT "A"
LEGAL DESCRIPTION

THAT PART OF THE FOLLOWING DESCRIBED PARCEL LYING WEST OF U.S. HIGHWAY 41, AND SOUTHERLY AND EASTERLY OF BAYSHORE ROAD.

BEGIN AT THE SE CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, THENCE NORTH TO NE CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 9, THENCE WEST TO EASTERNMOST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 41 (BAYSHORE ROAD); THENCE SOUTHWESTERLY ALONG THE EASTERNMOST RIGHT-OF-WAY LINE OF SAID HIGHWAY TO A POINT WHERE THE SAME INTERSECTS THE SOUTH LINE OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 19, THENCE EAST (2270 FEET) TO THE POINT OF BEGINNING, BEING AND LYING IN MANATEE COUNTY, FLORIDA.

LESS AND EXCEPT THE RIGHT OF WAY FOR U.S. HIGHWAY 41 (S.R. 45) (TAMIAMI TRAIL) AND RIGHT OF WAY FOR BAYSHORE ROAD. BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 41, AS SHOWN ON FLORIDA D.O.T. MAPS, PROJECT NO. F-011-2, JOB NO. 13030-3501, (A 200 FOOT WIDE RIGHT-OF-WAY), AND THE NORTH MAINTAINED RIGHT-OF-WAY LINE OF ROCK PAYNE ROAD (A COUNTY MAINTAINED RIGHT-OF-WAY), THENCE N 89 DEG. 14' 17" W, ALONG SAID NORTH MAINTAINED RIGHT-OF-WAY LINE, 741.44 FEET; THENCE N 36 DEG. 29' 23" E ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAYSHORE ROAD, (A 66 FOOT WIDE RIGHT-OF-WAY), 1,018.48 FEET; THENCE ALONG THE EASTERLY AND SOUTHERLY RIGHT-OF-WAY LINE OF BAYSHORE ROAD, AS SHOWN ON THE AFOREMENTIONED FLORIDA D.O.T. MAPS, THE FOLLOWING FIVE COURSES: 1) S 53 DEG. 30' 37" E, 17.00 FEET; 2) N 36 DEG. 29' 23", E 76.79 FEET; 3) CURVE TO THE RIGHT, RADIUS 100.00 FEET, CENTRAL ANGLE 56 DEG. 39' 18", ARC LENGTH 98.88 FEET, CHORD N 64 DEG. 49' 02" E, 94.90 FEET; 4) S 86 DEG. 51' 19" E, 29.94 FEET; AND 5) S 35 DEG. 28' 06" E, 38.85 FEET; THENCE SOUTH ALONG THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 41, ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 11,391.16 FEET, A CENTRAL ANGLE OF 00 DEG. 28' 07", AN ARC LENGTH OF 93.17 FEET, AND CHORD OF S 03 DEG. 47' 00" W, 93.17 FEET; THENCE S 04 DEG. 01' 03" W, CONTINUING ALONG WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 41, A DISTANCE OF 796.40 FEET TO THE POINT OF BEGINNING. BEING LOCATED IN THE SOUTHEAST 1/4 F THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA.