AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, TO APPROVE AN AMENDED PRELIMINARY SITE PLAN TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 5,649 SQUARE FOOT MULTI-TENANT BUILDING AND ACCESSORY OUTDOOR PATIO FOR RESTAURANT, RETAIL AND OFFICE USES IN THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; GENERALLY LOCATED AT THE NORTHEAST QUADRANT OF U.S. 301 AND I-75, APPROXIMATELY 650 FEET WEST OF 60TH AVENUE EAST, AND IS COMMONLY KNOWN AS 5712 20TH STREET EAST, ELLENTON (MANATEE COUNTY); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; REPEALING ORDINANCES IN CONFLICT; PROVIDING A LEGAL DESCRIPTION, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, 95 FLRPT LLC, BG The Village, LLC and WR-I Associates, LTD. (the “Applicants”) filed an application for an amended Preliminary Site Plan for approximately 1.5 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 900.6.A.2 (variable width roadway buffer in Entranceway): and

WHEREAS, the Building and Development Services staff recommended approval of the amended Preliminary Site Plan and Specific Approval 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 June 9, 2020 to consider the amended Preliminary Site 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 Preliminary Site 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 Preliminary Site Plan and Specific Approval 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 July 22, 2020 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 900.6.A.2, the Board finds that the purpose of the Land Development Code regulation is satisfied to an equivalent degree by the proposed design because the minimum required plantings will remain the same and the square footage is made up for with a variable width buffer.

Section 2. AMENDED PRELIMINARY SITE PLAN. The amended Preliminary Site Plan is hereby approved for the construction of an approximately 5,649 square foot multi-tenant building and accessory outdoor patio for restaurant, retail and office uses in the PDC (Planned Development Commercial) zoning district, upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE

1. All roof mounted HVAC equipment shall be screened from view from adjacent roadways. 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 the Final Site Plan.

2. All dumpsters shall be screened from view from adjacent roadways. Screening shall consist of building materials matching the principal building on site.

3. All other applicable state permits shall be obtained before commencement of the development.

B. ENVIRONMENTAL

1. No formal threatened and endangered species survey will be required for this site due to surrounding development and site conditions. However, the applicant is responsible for ensuring that no gopher tortoises or burrows are located within the project area. Both burrows and tortoises are protected by law and require a permit for relocation. If any are encountered, all construction activity must cease until a permit is obtained.
2. All other applicable state or federal permits shall be obtained prior to commencement of construction.

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. The developer shall install fifty (50) five (5) inch caliper replacement trees at an off-site location approved by the County or pay into the tree trust fund in accordance with Section 700.3.1, Land Development Code.

Section 3. SPECIFIC APPROVAL. Specific Approval is hereby granted for alternatives to Land Development Code Section 900.6.A.2. The Specific Approval shall continue in effect and shall expire concurrent with the Amended Preliminary site Plan for the project approved pursuant to Section 2 hereof.

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 repealed 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 22nd day of July 2020.

BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA.

BY: ____________________________
Betsy Benac, Chairman

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court

BY: ____________________________
Deputy Clerk
Exhibit “A”

Legal Description

THAT PART OF THE E 1/2 OF BLK 10 OF PHILLIPS & ALLEN’S RE-SUB LYING N OF U S HWY 301 ALSO THAT PART OF 40 FT VAC RD LYING N OF AND ADJ TO SD E 1/2 OF BLK 10; TOGETHER WITH THAT PART OF BLK 3 OF SD PHILLIPS & ALLEN’S RE-SUB DESC AS FOLLOWS: BEG AT THE SE COR OF SD BLK 3; GO N 313 FT TO THE NE COR OF SD BLK 3; TH GO S 89 DEG 32 MIN 30 SEC W ALG THE N LN OF SD BLK 3 A DIST OF 50 FT; TH GO S 10 DEG 50 MIN 07 SEC W 319.17 FT TO A PT ON THE S LN OF SD BLK 3, SD S LN ALSO BEING THE N LN OF THE ABOVE DESC 40 FT VAC RD; TH GO N 89 DEG 32 MIN 30 SEC E, 110 FT TO THE POB ALSO: THAT PART OF THE W 1/2 OF BLKS 10 & 11 PHILLIPS & ALLENS SUB LYING N OF U S HWY 301, LESS AND EXCEPT THE WESTERNMOST 110 FT OF THE NORTHERNMOST 340 FT OF SD BLK 11. THAT PART OF BLK 11 AND THE W 1/2 OF BLK 10 PHILLIPS & ALLENS SUB LYING N OF U S HWY 301 LESS AND EXCEPT THE WESTERNMOST 110 FT OF THE NORTHERNMOST 340 FT OF SD BLK 11 ALSO: COM AT THE NE COR OF THE W1/2 OF BLK 10 PHILLIPS AND ALLENS RE-SUB SUB; TH S 00 DEG 24 MIN 34 SEC W, 168.31 FT, TH N 55 DEG 20 MIN 09 SEC W 93.17 FT, TH N 40 DEG 01 MIN 55 SEC W 149.23 FT, TH N 89 DEG 39 MIN 06 SEC E, 173.83 FT TO THE POB LESS ANY PORTION TAKEN FOR I-75 R/W REC IN ORB 862/111 TOGETHER WITH ANY INTEREST IN VAC STREETS APPURTEANANT THERETO SUBJ TO ESMTS IN ORB 911/1554 AND ORB 1331/384 TOGETHER WITH ESMT IN ORB 1382/3082 (1611/2489) DESC BY SURVEY AS: BEG AT THE SE COR OF BLK 3 OF PHILLIPS AND ALLEN RE-SUB AS REC IN PB 1 PG 308A; TH N ALG THE E LN OF SD BLK 3, 313 FT TO THE NE COR OF SD BLK 3; TH S 89 DEG 32 MIN 30 SEC W ALG THE N LN OF SD BLK 3, 50 FT; TH S 10 DEG 50 MIN 07 SEC W 319.17 FT TO A PT ON THE S LN OF SD BLK 3, SD S LN ALSO BEING THE N LN OF A 40 FT WIDE VAC RD; TH S 89 DEG 32 MIN 30 SEC W ALG SD LN 52 FT; TH S 40 FT TO THE S LN OF THE AFOREMENTIONED VAC RD, SD S LN ALSO BEING THE N LN OF BLK 10 OF SD PHILLIPS AND ALLENS RE-SUB; TH S 89 DEG 32 MIN 30 SEC W ALG SD LN 149.79 FT TO THE ELN R/W LN OF I-75 (A LIMITED ACCESS R/W); TH S 39 DEG 38 MIN 43 SEC E ALG SD R/W LN 90.11 FT; TH S 55 DEG 43 MIN 21 SEC E ALG SD R/W LN, 120.46 FT; TH S 88 DEG 30 MIN 02 SEC E ALG SD R/W LN 120.97 FT; TH N 75 DEG 28 MIN 58 SEC E ALG SD R/W LN 34.94 FT TO THE E LN OF SD BLK 10; TH N ALG SD E LN 174.13 FT TO THE POB CONT 1.505 AC M/L (INSERT “TOGETHER WITH THAT PART OF THE S 1/2 OF VAC ST AS VAC PER RESOLUTION REC IN ORB 44 PAGE 462 LYING N OF AND ADJACENT TO THE ABOVE DESC PARCEL”) PI#8200.0005/7