

Manatee County Ordinance

PDC-19-14(P) - CONVENIENCE STORE, GAS PUMPS AND CAR WASH AT SR 64 AND 145TH STREET EAST - JAMES K. AND LORIANN M. TOOMEY AND COAST DEVELOPMENT OF BRADENTON, INC. (owners) AND SERED 64 LR, LLC (contract purchaser) PLN1909-0021

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR AN APPROXIMATELY 4,634 SQUARE FOOT CONVENIENCE STORE, 8 GAS PUMPS (16 FUELING STATIONS) AND A 980 SQUARE FOOT FREE-STANDING CAR WASH AND ASSOCIATED INFRASTRUCTURE; THE PROPERTY IS APPROXIMATELY 3.4 ACRES AND IS GENERALLY LOCATED AT THE NORTHWEST CORNER OF SR 64 AND 145TH STREET EAST, AND IS COMMONLY KNOWN AS 14427 SR 64 EAST, BRADENTON (MANATEE COUNTY) SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, James K. and Loriann M. Toomey and Coast Development of Bradenton, Inc. (Owners) and SERED 64 LR, LLC (Contract Purchaser) (the "Applicants") filed an application for a Preliminary Site Plan for approximately 3.4 acres as described in Exhibit "A", attached hereto, (the "Property"); and

WHEREAS, the Building and Development Services staff recommended approval of the Preliminary Site Plan application 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 11, 2020 to consider the Preliminary Site Plan application, 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 Preliminary Site Plan and Special approval application 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 a Preliminary Site Plan 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 June 23, 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.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for an approximately 4,634 square foot convenience store, 8 gas pumps (16 fueling stations) and a 980 square foot free-standing car wash and associated infrastructure upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE

1. The total square footage of the site shall be limited to 5,614 square feet (4,634 square foot convenience store, and 980 square foot car wash). The maximum height of the structures is limited to 25-feet as shown on the Preliminary Site Plan.
2. All roof mounted mechanical equipment (e.g., HVAC) shall be screened with a solid parapet wall or other visual and noise deflecting materials. The materials shall be consistent with the construction of the principal building(s).
3. All dumpsters, compactors, and other utility equipment shall be screened with a six-foot high wall constructed with building materials consistent with the principal building(s). Compliance shall be verified with review of the building permit.
4. Any significant historical or archeological resources discovered during development activities shall be immediately reported to the Florida Department of State, Division of Historical Resources, and treatment of such resources shall be determined in cooperation with the Division of Historical Resources, and the County. The final determination of significance shall be made in conjunction with the Florida Department of State, Division of Historical Resources, and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Florida Department of State, Division of Historical Resources) must be completed before resource disturbing activities are allowed to continue. If human remains are encountered, the provisions contained in Chapter 872, Florida Statutes (Offenses Concerning Dead Bodies and Graves) shall be followed.
5. The use of outdoor speakers is not allowed within the project facilities.

6. The applicant shall submit an easement agreement providing for nonexclusive ingress and egress for vehicular and pedestrian access from the project site to State Road 64 as generally depicted on the preliminary site plan. The easement agreement shall be duly executed and recorded in the public records at the time of final site plan approval.

B. ENVIRONMENTAL

1. All other applicable state or federal permits shall be obtained prior to commencement of construction.
2. There are no impacts to jurisdictional wetlands approved by the adoption of this Ordinance.
3. Manatee County may suspend any development orders, issue stop work orders and otherwise take enforcement actions pursuant to Chapter 1, LDC, where the difference between an estimate of wetland areas and functions shown on preliminary plans and the approved ERP are determined to be significant enough to warrant substantial project revisions, per LDC Section 706.2. A substantial modification shall require approval from the BOCC.
4. Conservation Easement for the areas defined as post-development jurisdictional wetlands, wetland buffers, and upland preservation areas that will serve as wetland mitigation areas shall be dedicated to Manatee County prior to, or concurrent with Final Plat approval.
5. The developer shall provide an updated study, consistent with Policy 3.3.2.1 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. The Management Plan, and correspondence and permits, approved by the State (Florida Fish and Wildlife Conservation Commission) shall be submitted prior to the commencement of development for any listed species found on site. Evaluation of the proposed development site shall contain dates of field review, name and qualifications of individual(s) conducting the field review – including authorized Gopher Tortoise Agents, a statement of the methodology used to conduct the habitat assessment and biological survey, a map indicating where listed species (or nests or burrows) were observed on the site, a list of all species observed on site, and a habitat management plan describing measures proposed by the applicant to ensure non-disturbance, relocation or other acceptable mitigative measures.
6. 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 353.3 of the LDC.
7. 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.

Please contact Manatee County Environmental Protection Division at 941-742-5980 for questions regarding wells.

8. 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

1. Pursuant to Section 801 and 802 of the Land Development Code and Code of Federal Regulations (CFR), Title 44, Section 60.3, the subsequent Final Site Plan and Construction Plan submittal(s) and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to proposed impacts to the 100-year floodplain as delineated by the FEMA 2014 FIRM or preliminary Mill Creek Watershed Management Plan (available from Public Works Department) and post-development discharge of runoff.
2. This project shall be required to reduce the calculated pre-development flow rate by fifty percent (50%) for all storm water outfall flow directly or indirectly into Mill Creek Watershed. Modeling shall be used to determine pre- and post- development flows.
3. All fill within the 100-year Floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal high-water table. Drainage modeling shall utilize preliminary Mill Creek Watershed Study (available from Public Works Department) to demonstrate, in post-development condition, that no adverse impacts are created to adjacent property based upon a “no-rise” flood stage condition.

D. INFRASTRUCTURE

1. Connection to the County potable water and wastewater systems 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 appropriate County 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. 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 4. 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 5. 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 6. 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 23rd day of June 2020.

**BOARD OF COUNTY
COMMISSONERS OF MANATEE
COUNTY, FLORIDA.**

BY: _____
Betsy Benac, Chairman

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

BY: _____
Deputy Clerk

Exhibit "A"

Legal Description

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 34 SOUTH RANGE 19 EAST, MANATEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT A FOUR INCH SQUARE CONCRETE MONUMENT WITH A DISK STAMPED "PRM LB 6982" AT THE SOUTHEASTERLY CORNER OF TRACT A, AS SHOWN ON THE PLAT OF MILL CREEK, PHASE VII-C, RECORDED IN PLAT BOOK 55 AT PAGE 58, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, SAID CORNER BEING ON THE WESTERLY RIGHT OF WAY LINE OF 145TH STREET EAST AS SHOWN ON THE PLAT OF MILL CREEK, PHASE VII-B, RECORDED IN PLAT BOOK 45 AT PAGE 159, SAID PUBLIC RECORDS, SAID CORNER ALSO BEING ON THE ARC OF A CURVE TO THE RIGHT WITH THE CENTERPOINT BEARING N.66°30'33"W. A RADIAL DISTANCE OF 100.00 FEET, (THE FOLLOWING FOUR CALLS ARE ALONG SAID WESTERLY RIGHT OF WAY LINE); THENCE SOUTHWESTERLY ALONG THE ARC THROUGH A CENTRAL ANGLE OF 38°45'50" A DISTANCE OF 67.66 FEET TO A 5/8 INCH IRON ROD AND CAP STAMPED "PCP LB 6982" BEING ON THE ARC OF A CURVE TO THE LEFT WITH THE CENTER POINT BEARING S.28°12'11"E. A RADIAL DISTANCE OF 150.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC THROUGH A CENTRAL ANGLE OF 61°55'03" A DISTANCE OF 162.10 FEET TO A 5/8 INCH IRON ROD AND CAP STAMPED "PCP LB 6982"; THENCE S.00°07'13"E. A DISTANCE OF 218.74 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT WITH THE CENTER POINT BEARING S.88°29'41"W. A RADIAL DISTANCE OF 35.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC THROUGH A CENTRAL ANGLE OF 92°06'19" A DISTANCE OF 56.26 FEET TO A FOUR INCH SQUARE CONCRETE MONUMENT WITH A DISK STAMPED "PRM LB 6982", SAID MONUMENT BEING ON THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 64 AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP ROADWAY ID / SECTION 13050-000; THENCE N.89°18'46"W. ALONG SAID NORTHERLY RIGHT OF WAY LINE A DISTANCE OF 349.34 FEET; THENCE N.00°05'12"E. A DISTANCE OF 170.83 FEET; THENCE S.89°19'17"E. A DISTANCE OF 104.33 FEET; THENCE N.00°01'32"E. A DISTANCE OF 266.32 FEET TO THE SOUTHERN LINE OF AFORESAID TRACT A, MILL CREEK, PHASE VII-C; THENCE S.89°23'24"E. ALONG SAID SOUTHERLY LINE A DISTANCE OF 403.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 148,216 SQUARE FEET BEING 3.4026 ACRES, MORE OR LESS.