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MANATEE COUNTY ORDINANCE
PDC-87-01(P)(R4) – MAVARD TRADING, LTD / BURGER KING AND RETAIL STORE DTS
#2008030 MANATEE CO. FLORIDA

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR A 2,591 SQUARE FOOT RESTAURANT AND A 9,928 SQUARE FOOT RETAIL SITE ON APPROXIMATELY 2.08 ACRES ON THE SOUTH SIDE OF SR 70 AT 8502 SR 70 IN RANCH LAKE PLAZA SHOPPING CENTER, BRADENTON SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County Government (the "Applicant") filed an application for a Preliminary Site Plan for approximately 2.08 acres described in Exhibit "A", attached hereto, (the "Property") to approve a Preliminary Site Plan for a 2,591 square foot restaurant and a 9,928 square foot retail site; and

WHEREAS, Planning Department staff recommended approval of the Preliminary Site Plan 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 12, 2009 to consider the Preliminary Site Plan, 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 application consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in 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 Preliminary Site Plan as it relates to the real property described in Exhibit "A" of this Ordinance.

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PLANNING DEPARTMENT
T. L. HASSLER, CLERK
MANATEE COUNTY, FLORIDA

FILED

- B. The Board of County Commissioners held a duly noticed public hearing on April 2, 2009 regarding the proposed Preliminary Site Plan described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, (the Manatee County Land Development Code), and has further considered the information received at the public hearing.
- C. The proposed Preliminary Site Plan regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01, the 2020 Manatee County Comprehensive Plan.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for a 2,591 square foot restaurant and a 9,928 square foot retail site subject to the following Stipulations:

STIPULATIONS

1. The 40-foot-wide landscape buffer along the southern property line, excluding along Parcel 5 as identified on the Preliminary Site Plan, shall contain a continuous finished concrete block wall at the north side of the buffer, constructed to a height of at least 8 feet above the estimated finished floor elevation of the proposed buildings that will be constructed on the parcels that adjoin the wall and shall commence construction at the time of construction of the master drainage system for the project site. Supplemental landscaping, consisting of live oak trees and Viburnum shrubs or comparable), shall be provided which will create a visually opaque buffer between the top of the wall and a height of 12 feet within 2 years of issuance of the Certificate of Occupancy for the shopping center. Landscaping materials used throughout the project shall consist of native species which are drought and frost tolerant. **(Completed)** The trees shall be irrigated by a system controlled and maintained by the project's owner or successor and separately zoned from other irrigation in the Project. The project's owner or successors shall be responsible for the maintenance and replacement of diseased trees and shrubs.
2. The landscaping plan and the specific locations for the handicap parking spaces and loading zones shall be approved prior to each final site plan approval.
3. The required canopy trees (i.e., live oaks) to be located within the buffer along the southern property line shall be a minimum of 3" D.B.H., at least 10' tall at time of planting, planted on 30-foot intervals, and installed prior to issuance of the first Certificate of Occupancy for the site. **(Completed)**
4. No structure, except in Parcel 5, will be located within 100 feet of the south property line. **(Completed)**
5. In addition to any requirements relating to the entranceway for shielding of such equipment, rooftop mechanical equipment shall not be visible from the single family

residences to the south, as measured 5 feet above finished floor elevation of the adjacent dwelling units.

6. The following uses shall not be permitted on site:

- Motor Vehicle Sales, Rental and Leasing
- Major Motor Vehicle Repair
- Residential Treatment Facility
- Outdoor Advertising Signs
- High Intensity Recreation
- Group Care Homes
- Residential Care Facilities
- Recovery Homes
- Nursing Homes
- Bed and Breakfast
- Hospital Guest House
- Hotel
- Emergency Shelters
- Family Care Home
- Bus and Railroad Stations
- Lawn and Landscaping Service
- Emergency Shelter Homes

7. A valid market study shall be submitted for this site demonstrating need for the commercial development prior to the approval of the first Final Site Plan. Site Plan approval can only be granted for uses and floor areas supported within two years, given competing uses. **(Completed)**
8. A Wetland Impact Review shall be submitted to the Environmental Planning Division (EPD) for review concurrently with the Final Site Plan. A Mitigation Ratio for altered wetlands shall be determined by EPD at time of Final Site Plan approval. **(Completed)**
9. Prior to the burning of trees and/or branches, a burn permit must be obtained from Manatee County.
10. Parcel 5 shall be limited to an office use or daycare center. **(Completed)**
11. The proposed western driveway shall be located within the boundaries described in the legal description for the project. This entrance may be modified in the future if permitted by County rules and regulations. **(Completed)**
12. The applicant shall comply with all traffic conditions as noted in the Certificate of Level of Service Compliance.
13. Mitigation will be shown on site even if that results in a reduction of square footage, unless such mitigation is consistent with County codes and adequate assurances are

made to the County that such mitigation will be completed in conformance with those codes. **(Completed)**

14. All deliveries and truck loading and unloading shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.
15. The pedestrian travelway extending north from 91st Street East shall be prohibited and removed from future site plans. **(Completed)**
16. Land clearing for the shopping center and associated parking and infrastructure, except for the master stormwater system and the required wall, shall not commence until a building permit for the shopping center has been submitted to the County. **(Completed)**

Land clearing, tree removal and grading shall be limited to the specific parcel receiving approval and shall be conducted simultaneously with building construction.

If construction occurs on outparcels, other than outparcel 5, prior to the construction of the shopping center, there must be access from State Route 70 in accordance with the approved Site Plan. **(Completed)**

17. The developer shall make a fair share contribution towards installation of a traffic signal when warranted at the intersection of Braden Run Road and State Route 70. **(Completed)**
18. The daycare center building proposed on Parcel 5 shall be located a minimum of 40 feet from the southern property line. **(Completed)**
19. The daycare center recreation area shall maintain a minimum 50-foot setback from the southern property line. **(Completed)**
20. All dumpsters shall be located a minimum of 100 feet from the southerly property line, except on Parcel 5. **(Completed)**
21. Forty-eight hours prior to construction, the developer shall notify the Braden Woods Association Presidents.
22. Vegetative buffer elevations for the wall shall be submitted at the time of first Final Site Plan approval. Construction shall be in accordance with elevations. Parcel 5 shall retain a natural landscape buffer within the 20-foot drainage easement currently located on the southern boundary of the property and will have additional landscaping as shown on the Landscape Plan attached as Exhibit "A" within the 40-foot buffer that is north of the southern boundary line. **(Completed)**
23. Building elevations for the shopping center shall be submitted for approval with the first application for Final Site Plan approval. **(Completed)** All buildings on-site, including the

outbuildings, shall be of a unified thematic design consistent with the character of the area. A copy of the elevation shall be submitted to the Braden Woods Association Presidents (1-4, 5, & 6) at the time of submission to staff, for review and comment prior to Final Site Plan approval by the Planning Department.

24. There shall be no outdoor bells, intercoms or outdoor music at any service station or convenience store with gas pumps. **(Completed)**
25. There shall only be one service station or convenience store with gas pumps. It shall be located on either Parcel 1 or 2. There shall be no more than four gas islands with a maximum of eight dispensers. Gross floor area for Parcel 2 shall not exceed 6,770 square feet for canopy and 3,700 square feet for building area. **(Completed)**
26. Gross Building area for Parcel 1 shall be a maximum of 3,700 sq. ft. However, up to 6,000 square feet may be transferred from the shopping center site (not from an outparcel site) to Parcel 1, which parcel may be expanded along the SR 70 frontage to accommodate such transfer, which transfer may be approved administratively unless the Planning Director believes that there are off-site impacts not previously addressed by prior Board approvals.
27. Any grocery store within the project shall be relocated from the southerly boundary of the project to near the center of the easterly boundary of the project, resulting in the rear of the grocery store building facing the office park to the east, rather than the residential neighborhood to the south. **(Completed)**
28. All development on the site shall comply with all conditions of the May 5, 1998 Settlement Agreement, as amended pursuant to the attached Settlement Stipulation (Exhibit "B"), which shall be binding on all lands in the Project, and the owners, their successors, or assigns. Prior to Final Site Plan approval for the shopping center or the second out parcel, a revised Preliminary Site Plan, in accordance with the revised site plan, Exhibit A of the Settlement Agreement dated May 5, 1998, shall be submitted. Changes not consistent with the revised site plan, Exhibit A of the Settlement Agreement, shall be reviewed in accordance with Section 603.6 of the Land Development Code.
29. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the Planning Department.

30. 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. A Water Well Permit may not be issued if alternate irrigation sources of water are available.

31. Exhaust and other filtering systems in Food Service Establishments or uses shall adhere to the Best Available Control Technology to eliminate or reduce the emission of smoke, grease, and odor from cooking facilities.

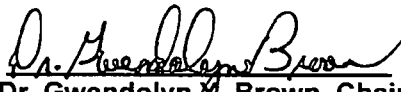
Section 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 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. 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 2nd day of April, 2009.

BY: BOARD OF COUNTY
COMMISSIONERS
MANATEE COUNTY, FLORIDA

BY: 
Dr. Gwendolyn Y. Brown, Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

BY: 
Deputy Clerk



EXHIBIT "A"

Lot 1 Ranch Lake Plaza Pl#17309.4055/9



CLERK OF CIRCUIT COURT, COUNTY OF MANATEE
I hereby certify that the foregoing is a true and
correct copy of the documents on file in my office.

Witness my hand and official seal this 3rd day of

April .2009

R.B. SHORE
Clerk of Circuit Court

By: Maggie Hamilton D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

April 7, 2009

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Ms. Nancy Harris, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 3, 2009 and certified copies of Manatee County Ordinance Nos. PDR-04-11(P)(R) and PDC-87-01(P)(R4), which were filed in this office on April 6, 2009.

As requested, one date stamped copy is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

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