

FILED FOR RECORD
R. B. SHORE

2011 JUN 15 PM 12: 02

**MANATEE COUNTY ORDINANCE
PDMU-98-03(P)(R) 1187 UPPER JAMES OF FLORIDA, LLC/
THE BEARDED CLAM (DTS#20110102)**

CLERK OF DISTRICT COURT
MANATEE CO. FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE PDMU-98-03(Z)(P) PERTAINING TO APPROXIMATELY 6.2± ACRES WEST OF US 41 AND APPROXIMATELY 1,500± FEET SOUTH OF 69TH AVENUE WEST AND APPROXIMATELY 400± FEET NORTH OF PEARL AVENUE AT 7150 NORTH TAMIAMI TRAIL IN THE PDMU/WR/AI (PLANNED DEVELOPMENT MIXED USE/WHITFIELD RESIDENTIAL/AIRPORT IMPACT OVERLAY DISTRICTS) ZONING DISTRICT TO MODIFY STIPULATIONS PERTAINING TO THE OPERATION OF OUTDOOR DINING AND ACCESSORY OUTDOOR ENTERTAINMENT AND MODIFICATIONS TO PORTION OF THE PRELIMINARY SITE PLAN RELATED THERETO; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2011 JUN 13 AM 9:48

FILED

WHEREAS, 1187 Upper James of Florida, LLC (the "Applicant") filed an application amending Ordinance PDMU-98-03(Z)(P) pertaining to 6.2 ± acres described in Exhibit "A", attached hereto, (the "Property") to modifying Stipulations within said Ordinance pertaining to outdoor dining, accessory outdoor entertainment and parking, located west of US 41 and 1,500± feet north of Pearl Avenue at 7150 North Tamiami Trail in the PDMU/WR/AI (Planned Development Mixed Use/Whitfield Residential/Airport Impact Overlay Districts) zoning district; and

WHEREAS, the staff of the Building and Development Services Department recommended approval with modifications of the request of the applicant as described in the Staff Report; and

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 staff, 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 Manatee County staff concerning the application for an amended Zoning Ordinance 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 June 2, 2011 regarding the revised Zoning Ordinance 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 revised Zoning Ordinance pertaining to the real property described in Exhibit A is found to be consistent with the requirements of the Manatee County Comprehensive Plan.

Section 2. REVISED STIPULATIONS IN ZONING ORDINANCE. The stipulations contained in Section 2 of Zoning Ordinance PDMU-98-03(Z)(P) are hereby amended and restated in their entirety as follows:

STIPULATIONS

1. The owner/operators of the hotel and the restaurant operating therein shall immediately institute an employee parking tag program, as follows:
 - a. All employee vehicle shall display a tag or other identification that clearly identifies the vehicle as belonging to an employee of the hotel or restaurant.
 - b. The hotel and restaurant shall maintain a list of all tags issued and the corresponding names of the employees and vehicle license numbers.
 - c. No employees shall be permitted to park in the marina lot or along Shepard or Holly.
 - d. A sample of the parking identifiers shall be available at the hotel's front desk for public inspection.
 - e. Any resident observing an improperly parked employee vehicle may call the hotel and/or restaurant. The hotel and /or restaurant will immediately require the employee to move the vehicle.
 - f. These requirements shall be made known to all existing staff and new hires.
2. All lights on the property be retrofitted to comply with LDC Section 709.2.3 Light Trespass. **[COMPLETED]**
3. The Applicant shall construct the missing section of sidewalk along Shepard and Holly within 60 days of this approval. **[COMPLETED]**
4. The only outdoor entertainment that shall be allowed is non-amplified live outdoor music from noon to 7:00 p.m. Any music audible outdoors and generated at this property shall not exceed 50db at the property line. 24 hours a day 7 days a week. All other entertainment shall be indoors with the doors and windows closed. Notwithstanding the foregoing all activities at this facility shall comply with the Manatee County Noise Ordinance codified as Chapter 2-21, Article II, Noise, Manatee County Code of Ordinances, as they may be amended from time to time.
5. The applicants shall be required to provide valet parking when more than 250 persons are present or expected at the restaurant/meeting room/conference facilities. Valet parking will begin one hour before any event and be offered continuously until at least one hour after the

conclusion of the event. A minimum of 95 cars must be accommodated in any valet parking area(s).

6. Valet parking shall not be located where any parking spaces are immediately adjacent to hotel guest rooms. The parking spaces along the west property line near Shepard shall be utilized for valet parking as shall the spaces along the northernmost end of the hotel property. This site plan shall be revised to reflect these requirements.
7. The applicant shall demonstrate compliance with Section 603.14.5.3 and 603.14.5.4(1)(2)(3)(4)(5)(6), LDC, Operational Guidelines for Waterfront Uses. The applicant shall erect "idle/no-wake" manatee awareness and Manatee Education signs in locations approved by the Building and Development Services Department.
8. The louvered openings on the north side of the stage shall be enclosed with solid plywood.

Section 3. AMENDMENT OF ZONING ORDINANCE PDMU(Z)(P). Except as expressly modified or amended by this Ordinance, all other terms and conditions, Specific Approvals and amendments to the Zoning Atlas as set forth in Ordinance PDMU-98-03(Z)(P) adopted by the Board of County Commissioners on November 17, 1998, shall remain in full force and effect.

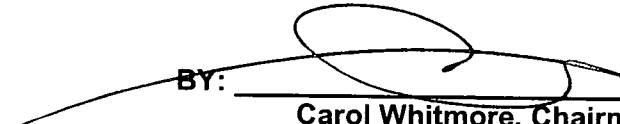
Section 4. SEVERABILITY. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality 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.

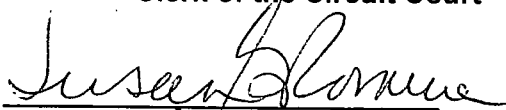
Section 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee
County, Florida on the 2ND day of June, 2011.

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

BY: 
Carol Whitmore, Chairman

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

BY: 
Deputy Clerk

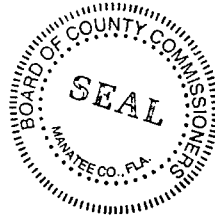


EXHIBIT "A"

LOTS 1 AND 2 NORTH ISLES AS PER PLAT THEREOF RECORDED IN PLAT BOOK 10 PAGES 2 AND 3 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO, A CERTAIN PARCEL OF REAL ESTATE EXTENDING FROM THE WEST LINE OF LOT 1 NORTH ISLES AS ESTABLISHED ON THE PLAT THEREOF TO THE OUTSIDE OF THE PRESENT SEAWALL EXISTING ON THE 4TH DAY OF DECEMBER 1959, AND BEING A STRIP FROM NINE TO THIRTEEN FEET IN WIDTH MORE OR LESS.

ALSO, LOTS 5, 6, 19, 20 AND 21 AND THAT PART OF THE NORTH ½ OF LOT 7, LYING NORTH OF AN EXTENSION OF THE MOST SOUTHERLY LINE OF SAID LOT 19 TO SHEPHERD STREET, BLOCK 26 WHITEFIELD ESTATES AS PER PLAT THEREOF RECORDED IN PLAT BOOK 4 PAGE 23 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.

ALSO, A LEASEHOLD ESTATE UNDER A LEASE WITH THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA FOR A TRACT OF SUBMERGED LAND DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 2, NORTH ISLES SUBDIVISION AS RECORDED IN PLAT BOOK 10 PAGE 2, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA AND RUNS 65° 54' 02" W, ALONG AN EXISTING CONCRETE SEAWALL, A DISTANCE OF 20.00 FEET; THENCE N 34° 46' 49" W, A DISTANCE OF 570.23 FEET; THENCE N 54° 50' 08" E, A DISTANCE OF 162.00 FEET TO AN EXISTING CONCRETE SEAWALL; THENCE ALONG SAID SEAWALL, IN A SOUTHEASTERLY DIRECTION, A DISTANCE OF 105 FEET, MORE OR LESS (S 56° 21' 49" E, A DISTANCE OF 104.15 FEET FOR AN OPEN AND CLOSING LINE); THENCE CONTINUING ALONG SAID SEAWALL THE FOLLOWING SIX COURSES: S 29° 03' 28" E A DISTANCE OF 170.00 FEET; THENCE S 26° 03' 28" E A DISTANCE OF 220.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT WITH A RADIUS OF 60.00 FEET; THENCE ALONG THE ARC OF SAID CURVE IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 83.78 FEET, THROUGH A CENTRAL ANGLE OF 80° 00' 00" TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S 53° 56' 32" W, A DISTANCE OF 47.70 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT WITH A RADIUS OF 20.00 FEET; THENCE ALONG THE ARC OF SAID CURVE IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 26.37 FEET THROUGH A CENTRAL ANGLE OF 75° 32' 46" TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S 21° 36' 15" E A DISTANCE OF 24.33 FEET TO THE POINT OF BEGINNING LYING AND BEING IN SECTION 26, TOWNSHIP 35 SOUTH RANGE 17 EAST MANATEE COUNTY, FLORIDA AS RECORDED IN OFFICIAL RECORD BOOK 1162 PAGES 1148 THROUGH 1167 PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA.



STATE OF FLORIDA, COUNTY OF MANATEE
This is to 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 27TH day of

WVE 2011
R.B. SHORE
Clerk of Circuit Court

By: Nancy Harris D.C.



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R. B. SHORE

2011 JUN 15 PM 12:02

FLORIDA DEPARTMENT OF STATE

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

RICK SCOTT
Governor

DIVISION OF LIBRARY AND INFORMATION SERVICES

KURT S. BROWNING
Secretary of State

June 13, 2011

Honorable R. B. "Chips" Shore
Clerk of the 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 June 8, 2011 and certified copy of Manatee County Ordinance No. PDMU-98-03(P)(R), which was filed in this office on June 13, 2011.

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

Sincerely,

Liz Cloud
Program Administrator

LC/vm

Enclosure

DIRECTOR'S OFFICE

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