

NOVEMBER 5, 1998

The Board of County Commissioners, Manatee County, Florida, met in SPECIAL SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Thursday, November 5, 1998, at 5:07 p.m.

Present was Commissioners:

Patricia M. Glass, Chairman
Gwendolyn Y. Brown, First Vice-Chairman
Jonathan Bruce, Third Vice-Chairman
Stan Stephens
Lari Ann Harris
Amy Stein

Absent was Commissioner:

Joe McClash, Second Vice-Chairman

Also present were:

Jeff Steinsnyder, Assistant County Attorney
Susan G. Romine, Board Records Supervisor,
representing R. B. Shore, Clerk of Circuit Court

All witnesses and staff giving testimony were duly sworn.

ZONING

Public hearing (continued from 10/06/98) was held to consider

PDMU-98-02 (Z) (P) J. JOSEPH EDMUNDS, TRUSTEE/
COLONIAL AT MANATEE - PDMU AND P/PLAN

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY, ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM A-1 AND PDR TO PDMU, RETAINING THE EVERS RESERVOIR WATERSHED PROTECTION AND SPECIAL TREATMENT OVERLAY DISTRICTS; PROVIDING AN EFFECTIVE DATE; AND APPROVAL OF A PRELIMINARY SITE PLAN TO ALLOW 596 MULTIFAMILY DWELLING UNITS AND 168,000 SQUARE FEET OF PROFESSIONAL OFFICE ON 222.5 ACRES LOCATED ON THE EAST SIDE OF I-75 AT THE NORTHERN TERMINUS OF TOWN CENTER PARKWAY.

Planning Commission recommended APPROVAL with 18 stipulations;

Staff recommended approval with 31 Stipulations;

RECORD S46-1366
RECORD S46-1367

GRANT Special Approval for: (1) a project located in the Watershed Protection-Evers Overlay; (2) a project located in the Entranceway; (3) proposed net density greater than 1 du/acre in the RES-1 Future Land Use Category; (4) a project partially located in the MU Future Land Use Category; (5) a project adjacent to a perennial stream, and (6) the proposal for non-residential square footage exceeding 50,000 square feet; and DENY the request for Specific Approval for an alternative to Section 907.9.2.4 of the Land Development Code.

Misty Servia, Planning Department, referring to a site plan, pointed out the two proposed emergency access points to River Club Phase V and advised this raised the greatest concern at the last public hearing. She stated staff recommended the access points have remote controlled gates for emergency access only. She noted sidewalks are recommended in these areas for pedestrian access between the two developments. Addressing compatibility concerns, she stated a 100-foot buffer along the eastern property line (very heavily planted with vegetation in a naturalized fashion) achieving 100 per cent opacity within two years is stipulated.

Ms. Servia reported that a neighborhood meeting was conducted September 14, 1998, to present the project. She stated the issues have been summarized into generalized categories as follows: (1) compatibility; (2) transportation; (3) school issues; and (4) miscellaneous. She reviewed the staff recommended stipulations.

NOVEMBER 5, 1998

(Continued)

She submitted 175 letters and articles, noting all but one are in opposition to the project. She submitted a petition containing 335 signatures in opposition to the project. She also read a letter from Jerry Lee West, Director, Department of Planning and Development, City of Bradenton, stating their objection to the development.

Caleb Grimes, attorney representing the applicant, stated he has worked with the River Club Advisory Board and residents represented by Attorney Richard Ulrich to resolve issues. He proposed the residential portions of the project be private gated or guardhouse protected communities, with additional setbacks and buffers.

Mr. Grimes reviewed a site plan and the development surrounding the site. Referring to two aerial photographs, he pointed out the upland area located in the northeastern portion of the site and advised this shall be designated as a conservation easement. Utilizing the exhibit depicting the east fork area of the site, he requested the proposed connections for the east fork and southern connection be omitted. He noted the buffer area will be increased to 100 feet with the proposed buildings set back an additional 200 feet. He pointed out units proposed in the area south of Cooper Creek will be relocated, therefore, reducing the number of units from 596 to 572. He submitted pictures (16) showing the existing wooded buffer areas. He advised no buildings within 400 feet from the eastern boundary of the project will be higher than two stories or 35 feet.

He submitted three renderings and reviewed his proposed stipulations as handed out (1-34) noting any differentiation from the Planning Commission and staff recommendations. He read an additional stipulation (35) regarding permitted land uses and submitted a list to support the same noting an error in the list.

RECORD S46-1368

Jeffrey Steinsnyder, Assistant County Attorney, advised that uses should be limited to those on the current site plan. He noted if an amendment was requested, it would require a public hearing.

Mr. Grimes addressed the letter in opposition from Jerry West stating that the City was not aware and could not find in the Code the provisions that the applicant must treat to Outstanding Florida Waters (OFW) standards.

Betsy Benac, planner for the applicant, stated she spoke with Ruth Seewer, City of Bradenton planner, and reviewed the requirement for treatment to OFW standards to protect the Evers Reservoir.

Discussion: Stipulation 34 regarding gated or guardhouse communities; applicant requested the stipulation, etc.

Ms. Servia noted an Integrated Pest Management Plan will be required for approval with the Final Site Plan which will limit the use of herbicides and pesticides in the area. She advised the 50-foot buffers from the on-site heavily wooded wetlands will provide additional filtration for stormwater.

Discussion: No updated site plan; clarification of Stipulation 25; emergency access; problem with land use list; City of Bradenton not aware of the stipulations and regulations; capability of fire district vehicles; emergency travel time calculations; interneighborhood ties; school issue; density of adjacent projects; etc.

Henry Sheffield, Braden River Fire Chief, stated the Department does not have a vehicle capable of reaching a 48-foot-high building; however, mutual aid and automatic aid agreements are in place if a fire occurred requiring a ladder truck. He reviewed plans for new stations. Responding to the elimination of the interneighborhood ties in this project, Chief Sheffield stated Stipulation 4 will meet the second means of access requirement. He noted time did not allow for revised correspondence to be submitted.

Discussion: Response time with ladder truck to this area is ten minutes; truck is stationed at 15th Street East; interneighborhood tie; buffers and setbacks; multifamily and office buildings to be shifted; phone conversation with Mr. West revealed he was concerned about long-term maintenance; association will be responsible for storm water ponds; Southwest Florida Water Management District (SWFMWD) requires annual inspection and engineer of record must sign and approve annually; property values cannot be considered; etc.

Mrs. Stein submitted an original affidavit from **R. Craig Harrison** of Lyons, Beaudry & Harrison, P.A., and referred to his opinion of the School Board's "Fair Share Formula."

Mr. Steinsnyder noted that he supplied a memorandum which opined that the affidavit was legal argument and could be taken as any other written comment pursuant to the procedural rules. He advised much of the affidavit does not represent competent substantial evidence in this proceeding.

Richard Ulrich, attorney representing seven homeowners (who purportedly represent about 250 other homeowners at River Club), indicated the people he represents are in support of the stipulations as presented by Mr. Grimes. He noted, if the stipulations are not approved in the form in which they have been presented, the people he represents are not in favor of this development. He further advised that the Advisory Committee, acting as the homeowner's association until turnover of association control from the developer, also supports the stipulations as presented by Mr. Grimes.

Mr. Ulrich noted the petitions submitted into record were signed prior to working with the developer. He advised a private agreement between the developer and River Club will be entered into enabling River Club to enforce these same stipulations in the event there is an issue in the future. A copy of this agreement will be recorded in public record as a pseudo deed restriction.

Daniel Wilmot, River Club resident, agreed with Mr. Ulrich. He also voiced concern regarding the projects which were to be funded by the one-cent sales tax.

Howard Chamberlain referred to his two letters forwarded to the Board, regarding fire protection.

Dick Leiter, River Club resident, agreed with Mr. Ulrich. He noted his support of the staff recommendation to maintain the indigenous vegetation located along I-75 the entire length of the project for sound buffering.

Todd Johnston, developer of the adjacent property, spoke in support of the project and the stipulations as presented by Mr. Grimes.

Wilhelmena McFee stated the number of students to be added to the school district is not creditable. She noted the provision for impact fees must be considered and she also addressed the density.

Alena Ireland requested information on the northern buffer and the canoe launch area.

Larry D'Urso, liaison for the Advisory Committee for the homeowner's association for River Club, stated they support the project with the stipulations enforcing no interconnecting ties and increased buffer.

Paul Gartenberg spoke in opposition of the project addressing school overcrowding; the daily brownouts in River Club due to inadequacies at Peace River Electric; stormwater and flooding.

Gordon Middlecamp requested information regarding the deletion of Stipulation 26 and the proposed bridge construction.

Recess/Reconvene. All members present.

NOVEMBER 5, 1998

(Continued)

Ms. Servia stated the gross density of River Club Phase V is 1.59 units per acre. She noted the School Board does not account for approved development (not yet built) in the area and the School Board is considering only existing school facilities. She advised a new elementary school is expected to open in August, 2000, and will help alleviate the overcrowding situation.

Carol Clarke, Planning Director, reviewed Mr. Grimes' proposed stipulations noting staff recommendations as follows:

- 1-4. Concur.
5. Staff recommended sidewalks on both sides of street.
6. Concur, with the addition of a sentence at the end: **The square footage of the three most northern office buildings shall be moved to the southern pod.**
7. Concur, with the addition of the deleted sentence and the correction: **The retention ponds shall not be located within 100 feet of the eastern property boundary.**
8. Retain as a stipulation.
9. Concur.
10. For Board decision. Ms. Clarke noted since buildings are relocating to the south, a smaller area will be subject to the removal of vegetation.
- 11-17. Concur.
18. Delete.
- 19-21. Concur.
22. Concur with **deleting** "and provide protection from weather."
23. Concur with change to last sentence: **This shall be recorded prior to issuance of the first Certificate of Occupancy.**
24. Concur.
25. Delete: **as to aesthetics and design quality.**
26. Delete.
27. Concur.
28. Delete, as it has been added into Stipulation 7.
29. For Board decision, staff recommended allowing for an emergency access point.
30. Concur, depending on the decision regarding Stipulation 29.
- 31-33. Concur.
34. Requested by applicant on record.
35. In lieu of the list of land uses, staff recommended replacing as follows: **The uses on site shall be limited to office and multi-family and associated accessory uses.**
36. New stipulation at the request of Environmental Management Department: **Wetland mitigation shall be shown on the final site plan and shall meet the requirements of the Manatee County Comprehensive Plan.**
37. New stipulation: **The owners of subsequent Association shall be responsible for long-term maintenance of the stormwater management system in accordance with County and SWFWMD requirements.**

Mr. Grimes addressed the stipulations and noted the applicant is in agreement with all but 5, 10, 25, 29 and 30. He emphasized the required redesign work, as well as the negotiations, on behalf of the neighbors to create stipulations that work for both sides. He asked for reconsideration of the following stipulations:

5. Requested sidewalk along west side only.
10. Requested consideration of the Planning Commission recommendation that all indigenous vegetation be preserved only for the portion adjacent to the residential development.
25. Requested inclusion of "as to aesthetics and design quality" and noted that "substantial conformance" allows very little flexibility.

Discussion: "Substantial conformance" is too vague; everyone deserves to see design changes; pictures shown were to assure the aesthetic and design quality.

Mr. Grimes emphasized that based upon negotiations, Stipulation 29 **must be deleted**, and 30 will stay in place with no interneighborhood connections.

Following discussion, consensus was reached regarding stipulations as follows:

- 5. Concur with Mr. Grimes.
- 10. Concur with Mr. Grimes.
- 25. Concur with Mr. Grimes as clarified by Mr. Steinsnyder. NOTE: Mr. Steinsnyder indicated "substantial conformance" is a higher standard than general. It was noted that if the developer proposes a change, the Planning Department, as well as the Board and Mr. Ulrich, may review the plans, specifications and aesthetics prior to construction.
- 29. Delete.
- 30. Concur with Mr. Grimes.

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mr. Stephens moved to adopt Manatee County Zoning Ordinance **PDMU-98-02(Z)(P)**; and approve the Preliminary Site Plan with Stipulations 1-5 (as in Mr. Grimes handout); 6 and 7 (as read by Ms. Clark); 8 (added back in); 9-10 (as in the handout); 11-17 and 19-24 (as in handout); 25 (as read by the County Attorney); 27, 30-37; and grant Special Approval for (1) a project located in the Watershed Protection-Evers Overlay, (2) for a project located in the Entranceway, (3) for proposed net density greater than 1 du/acre in the RES-1 Future Land Use Category, (4) for a project partially located in the MU Future Land Use Category, (5) for a project adjacent to a perennial stream, and (6) for the proposal for nonresidential square footage exceeding 50,000 square feet. The motion was seconded by Mr. Bruce.

Discussion: Commend applicant and residents of River Club for working through issues; school issue remains a concern; School Board declared seven acres as surplus property near the site; stipulation for a contribution that will be paid by the developer prior to issuance of any residential building permits, if a school deficiency exists.

Following discussion, the motion carried 6 to 0.

RECORD S46-1369

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:



 Clerk



 Chairman 11/9/99

Adj: 8:45 p.m.

/s/