

APRIL 27, 1999

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, April 27, 1999, at 9:05 a.m.

Present were Commissioners:

Stan Stephens, Chairman
Gwendolyn Y. Brown, First Vice-Chairman
Joe McClash, Second Vice-Chairman
Jonathan Bruce, Third Vice-Chairman
Patricia M. Glass
Lari Ann Harris (participated via telephone)
Amy Stein

Also present were:

Mark Barnebey, Chief Assistant County Attorney
Susan G. Romine, Board Records Supervisor,
representing R. B. Shore, Clerk of Circuit Court

Invocation by Reverend Ron Gaudio, First Baptist Church of Gillette.

CONSENT AGENDA

Mr. Bruce moved to approve the Consent Agenda, incorporating the language as stated in the recommended motions in the staff reports and agenda memoranda, with deletion of Gulf Coast Factory Shops Escrow Agreement Amendment (separate action). Motion was seconded by Ms. Brown and carried 7 to 0. Items APPROVED:

ZONING

Public hearing (Notice in the Bradenton Herald 4/16/99) was held to consider

PDC-98-13(Z)(P) - CRAIG AND ATHENA FRIELER (APPROVED)

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** TO **PDC**, PROVIDING AN EFFECTIVE DATE; AND APPROVAL OF A PRELIMINARY SITE PLAN TO ALLOW AN 11,000-SQUARE-FOOT COMMERCIAL RETAIL CENTER; ON 1.19 ACRES LOCATED ON THE NORTH SIDE OF S.R. 70, NORTH OF 39TH STREET EAST AT 4201 AND 4203 53RD AVENUE EAST AND 5221 42ND COURT EAST.

Planning Commission recommended APPROVAL with 11 stipulations;
Staff recommended approval with 11 stipulations and revised Stipulation 5.

RECORD S46-1998
S46-1999 S46-2000

Public hearing (Notice in Bradenton Herald 4/16/99) was held to consider

Z-99-01 - ESTATE OF CLAFLIN GARST (APPROVED)

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA...; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM **A-1** TO **RSF-4.5**; PROVIDING AN EFFECTIVE DATE; ON 22.97 ACRES LOCATED AT THE SOUTHEAST CORNER OF 38TH AVENUE EAST AND 30TH STREET EAST.

Planning Commission recommended ADOPTION.

RECORD S46-2001

COUNTY ADMINISTRATOR

STREET VACATION - 21ST AVENUE EAST (ORANGE RIDGE SUBDIVISION)

Public hearing (Notice in the Bradenton Herald 3/26/99 and 4/2/99) was held to consider

1. R-99-10-V RESOLUTION TO VACATE A PORTION OF 21ST AVENUE EAST (A NONCONSTRUCTED PLATTED RIGHT-OF-WAY IN ORANGE RIDGE SUBDIVISION) LOCATED BETWEEN 4TH AND 5TH STREET WEST, BY APPLICATION OF CARL AND MERCEDES V. LOEFFLER. RECORD S46-2002
2. Easement - Right-of-way Easement and Affidavit of Ownership and Encumbrances from Carl and Mercedes V. Loeffler for existing utilities and future road purposes.

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(Continued)

STREET VACATION - TERRA CEIA BAY ESTATES

Public hearing (Notice in the Bradenton Herald 4/1/99 and 4/5/99) was held to consider

1. **R-99-63-V** RESOLUTION VACATING THE SIDE LOT DRAINAGE AND UTILITY EASEMENTS FOR LOTS 1 THROUGH 5 ON THE PLAT OF TERRA CEIA BAY ESTATES, BY APPLICATION OF TCBE, INC., GEORGE TOCCALINO, LARRY HAMM, AND PHILISS E. HAMM. RECORD S46-2003
2. Drainage and Utility Easements from TCBE, Inc.; George Toccalino; and Larry Hamm and Phyliss E. Hamm (2); Joinders from Colonial Bank (2) and from NationsBank, N.A. (2); Affidavits of Ownership and Encumbrances.

IMPACT FEE CREDIT

1. Credit Authorization CA-99-02(T) for WDO Ventures (S.R. 70 and 9th Street East). RECORD S46-2004
2. Final Authorization of Transportation Credit for WDO Ventures CA-99-02(T) for eligible right-of-way dedication on S.R. 70 and 9th Street East, \$43,526. RECORD S46-2005

HEARING OFFICER

Approve amendment to Section 7A of the Hearing Officer Agreement with James A. Paulmann increasing hourly rate of pay to \$75, retroactive to October 27, 1998. RECORD S46-2006

DISCOVER COUNTY GOVERNMENT IN THE MALL

Approve, ratify, and confirm contract with DeSoto Square Mall for National County Government Day, April 21, 1999. RECORD S46-2007

ORDINANCE 99-39 - TOWING FEES

Set public hearing on May 18, 1999, to consider Ordinance 99-39 to set maximum rates for nonconsensual towing.

FEE WAIVERS

Waive \$25 service fees assessed by Public Works Department for returned checks: Lisa Demarco, Dorothy and Jack Groendal, Fred E. Henry, and Teresita Kuchel.

BELT FILTER PRESSES

1. **Rescind** adoption of Resolution R-99-03 encompassing the Environmental Protection Project CS120540229 (adopted 1/5/99).
2. **Rescind** award of Bid 97-3809DC Belt Filter Presses, subject to approval by the Florida Department of Environmental Protection under the State Revolving Fund Loan program (approved 1/5/99; bid awarded to Beach Construction Co., Inc.).
3. **Belt Filter Presses** - Award Bid 97-3809DC to the lowest responsive, responsible bidder meeting specifications, Beach Construction Company, Inc., \$1,977,998, and subsequent execution of contract and simultaneous dating of performance/payment bond and acceptance of insurance certificate.

CLERK OF CIRCUIT COURT**CONSENT AGENDA****BONDS****Accept:****P. T. Partnership**

1. Agreement with P. T. Partnership warranting required improvements (\$3,976.40).
2. Defect Security: \$3,980.40 (Cashier's Check 040376, Thomas B. Brown Jr., Partner).

Regency Oaks

1. Agreement with 9,8,7, Inc. guaranteeing required improvements, (\$508,674).
2. Performance Bond: \$508,674 (Surety Bond 33-40238, Bankers Insurance Company).

Arbor Lakes "B" (aka Mote Ranch, Phase II-B)

1. Agreement with Lennar Mote Ranch, Ltd., guaranteeing completion of required sidewalks and bikeways (\$4,180).
2. Performance Bond: \$4,180 (Letter of Credit 514295, NationsBank, N.A.).

River Club South, Subphase I

1. Agreement with Manatee Joint Venture in conjunction with cash/cashiers check/certificate of deposit guaranteeing completion of required sidewalks and bikeways (\$2,730).
2. Cash Bond: \$2,730 (Amendment to cash/cashiers check/certificate of deposit **reducing** bond amount from \$22,846.20).

Blue Heron Subdivision

Amendment to United Bank Performance Bond, Letter of Credit 211-97 for Twenty Lilies Street Inc. (\$5,616) extending expiration date to September 1, 2000.

Banyan Bay Corporation

Defect Security: \$20,000 (Surety Bond, 30471399, Fidelity and Deposit Company of Maryland).

Carlyle at the Villages of Palm-Aire, Unit 1

1. Agreement with Taylor Woodrow Communities warranting required improvements (\$116,664.01).
2. Defect Security: \$116,664.01 (Surety Bond, 20-85-75, American Home Assurance Company).

Release:

Arbor Lakes "B" (aka Mote Ranch, Phase II-B)

1. Agreement with Lennar Mote Ranch, Ltd., guaranteeing completion of required sidewalks and bikeways (\$40,768).
2. Defect Security: \$40,768 (Letter of Credit M514295, Barnett Bank).

River Club South, Subphase I

Agreement with Manatee Joint Venture in conjunction with cash/cashiers check/certificate of deposit guaranteeing completion of required sidewalks and bikeways, \$20,116.20.

Carlyle at the Villages of Palm-Aire, Unit 1

1. Agreement with Taylor Woodrow Communities, guaranteeing required improvements (\$2,149,319.03).
2. Performance Bond: \$2,149,319.03 (Surety Bond 189384, American Home Assurance Company).

BILLS FOR PAYMENT

Florida Department of Environment Protection Bureau of Beaches

Interest earned (due to State) on escrow beach account, \$69,447.39.

REFUNDS

Conley Buick, Inc - Plan Amendment (withdrawn) \$4,546.15

WARRANT LIST

Approve: April 20, 1999 to April 26, 1999

Authorize: April 27, 1999 to May 3, 1999

AUTHORIZE CHAIRMAN TO SIGN

Satisfaction of Judgment

Michael J. Brothers, Case 97-4010T
 Jose Angel Cisneros, Case 98-2513JD,B
 Heidi Matherly, Case 95-2549F

Partial Releases of Special Improvement Assessment Liens

Projects 3001/2504; 3004/2507; 3005/5235(2); 3007/2508;
 3009/5147(9); 3010/5148; 3100/2509; 3102/2502(8); 3106/5144; 5069;
 5144/5144; 5147/5147(6); 5150/5150(3).

(End Consent Agenda)

CITIZENS' COMMENTS

William Wheeler questioned the exclusion of 63rd Avenue (between 15th Street East and U.S. 41) from the Capital Improvements Program (CIP). He stated a sidewalk is a necessity for pedestrian safety.

Discussion: Funded road projects no longer appear on the CIP list; current ongoing project; a permit objection is holding up the project.

Arlene Flisik, Manatee County Audubon Society, stated a Stripe-headed Tanager was spotted on Leffis Key over the weekend. This is a rare occasion as this bird is usually found in the West Indies. She stated the sighting was posted on the Internet and created an influx of visitors.

ZONING

Public hearing (Notice in the Bradenton Herald 4/16/99) was opened to consider

PDC-87-01(P) (R3) HEARTLAND SARASOTA/BRADENTON LIMITED PARTNERSHIP

(Continued to 5/18/99 at 9:00 a.m.)

Request: Amend Stipulation 1 of Preliminary Site Plan to delete the requirement to install a wall along the project's southern property line with development of the project's outparcels on 28.34 acres located on the south side of S.R. 70, 1/2 mile east of I-75.

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(Continued)

Mrs. Glass moved to continue PDC-87-01(P)(R3) to May 18, 1999, at 9:00 a.m., or as soon thereafter as may be heard. Mr. Bruce seconded the motion, which carried unanimously.

Public hearing (Notice in the Bradenton Herald 4/16/99) was held to consider

PDR-97-08(G)(R) - WHITFIELD GARDENS

Request: Amendment to an approved General Development Plan to allow two-story homes at a maximum height of 26 feet, instead of one-story at a maximum height of 16 feet, on 9.8 acres located on the west side of 9th Street East, 140 feet north of Wee Burn Street.

Staff recommended amended Stipulation 3.

RECORD S46-2008

Aristotle Shinas, Planning Department, referred to the site plan and discussed the surrounding area and zoning, as well as the history of the original plan approval (10/28/97).

Discussion: Drainage issues; clarification of Stipulation 3; surrounding neighborhood allows 35 feet in height.

Jerome Gostkowski, Planning Department, referred to the boundary and topographic survey map, discussing the conditions when the area was an orange grove. He noted construction plans called for removal of all high spots allowing improved drainage on the property to the west.

Darenda Marvin, representing the applicant, stated the request to increase building height is due to market interest for two-story dwellings. She submitted photographs (17) depicting two-story homes within a two block radius of the site.

Dorothy Nathan, resident of Whitfield Estates, stated the neighbors are concerned regarding the building height and side-yard setbacks.

Edith Zara referred to her letter (in the staff report). She addressed the rise in elevation of the property; the swale is two feet into her property; privacy fence was moved; no notification and water problems.

Mr. Gostkowski stated the survey of the predevelopment conditions indicated a swale along the western boundary of this property for the orange grove. As a rule, the fences on Brookside Addition are two feet into their own property. He stated there is no requirement to provide neighbors notice of construction plan approval or commencement of construction. He noted the Brookside Addition has a drainage and utility easement along all property lines except right-of-way lines.

Discussion: Site elevation; roads are required to be above seasonal high water table; lots have been raised 18 inches above crown of road; lots are two feet above existing ground or surrounding area; developer built swale; fence may be on easement.

Mr. Shinas stated the applicant has increased the lot widths next to Brookside Addition to 80 feet. He noted there is a 30-foot separation from adjacent neighbors. Referring to the site plan, he pointed out the directional flow of storm water is to the road, the swale, and the existing inlets.

Ms. Marvin stated the lots are required to be a minimum of 10,000 square feet, decreasing the number of lots to 23. She noted the construction of two-story homes will provide a more narrow structure and larger side yards. She entered a copy of letter from the Planning Department (1/14/99) in response to Mrs. Zara's concerns.

Carol Clarke, Planning Department Director, read the revised Stipulation 3 as follows:

3. Future development of this site shall be limited to a maximum of 29 lots. Bulk, area, and dimensional standards for the property shall be as shown on the General Development Plan, except that homes may have a maximum height of 26 feet and homes may be two stories.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code as conditioned herein, Ms. Brown moved to approve General Development Plan **PDR-97-08(G)(R)**, amending PDR-97-08(Z)(G), with Stipulation 1, 2, and the amended Stipulation 3 read by staff. Motion was seconded by Mrs. Harris and carried 7 to 0. RECORD S46-2009

CYPRESS BANKS DRI 17

Public hearing (Notice in the Bradenton Herald 4/16/99) was held to consider

Z-86-30(G)(R7) SCHROEDER MANATEE RANCH, INC. (CYPRESS BANKS DRI 17)

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING MANATEE COUNTY ORDINANCE Z-86-30(G)(R4), AS AMENDED, TO AMEND MAP H TO ADJUST THE PROJECT BOUNDARIES WITH UNIVERSITY LAKES, TO REFLECT THE NEW LEGAL DESCRIPTION, AND TO ADD A NEW STATE ROAD 70 ACCESS POINT; AMEND SECTION 4 (LEGAL DESCRIPTION); AMEND CONDITION H.(19) (DIMENSIONAL STANDARDS TABLE); THE ADDITION OF A NEW CONDITION H.(26); AMEND CONDITION H.(20); ADOPT THE FINDINGS FOR SPECIFIC APPROVAL; GRANTING SPECIFIC APPROVAL TO ALTERNATIVES TO SECTIONS 712.2.8 AND 907.9.4 OF THE LAND DEVELOPMENT CODE; AND PROVIDE AN EFFECTIVE DATE; ON 1,790.8 ACRES LOCATED SOUTH OF THE INTERSECTION OF S.R. 70 AND LAKEWOOD RANCH BOULEVARD.

(AMENDING Z-86-30 AS AMENDED BY Z-86-30(R), Z-86-30(R2), Z-86-30(G)(R3-A), AND Z-86-30(G)(R4) SCHROEDER MANATEE, INC. (CYPRESS BANKS)).

Planning Commission recommended APPROVAL;
GRANTING Special Approval for alternatives to Sections 712.2.8 and 907.9.4 of the Land Development Code; and
ADOPTING the Findings for Specific Approval.

and

ORDINANCE 99-25 SCHROEDER MANATEE RANCH, INC. (CYPRESS BANKS DRI 17)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING, REPLACING, AND SUPERCEDING RESOLUTION R-95-220, AS AMENDED BY R-89-161, R-89-161(R), R-92-170 AND R-94-133 WHICH ISSUED A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL FILED BY SMR-1 DEVELOPMENT CORPORATION, A FLORIDA CORPORATION, FOR CYPRESS BANKS DEVELOPMENT OF REGIONAL IMPACT, ALSO KNOWN AS DRI 17; TO REVISE THE LEGAL DESCRIPTION TO REFLECT THE ADDITION OF LAND FROM THE ADJOINING UNIVERSITY LAKES DRI, AMEND MAP H TO REFLECT THE CHANGE IN THE LEGAL DESCRIPTION AND PROJECT BOUNDARIES, REDUCE THE SINGLE-FAMILY ACREAGE WHILE INCREASING OPEN SPACE, AMEND EXHIBIT D (THE PROPOSED PHASING SCHEDULE) TO DELETE THE REQUIREMENT FOR 100 UNITS IN PHASE 1 TO BE MULTIFAMILY UNITS, AMEND MAP H TO ADD A NEW ACCESS POINT TO STATE ROAD 70, AND RESTATE THE PROVISIONS THAT REMAIN UNCHANGED; PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended APPROVAL.

Norm Luppino, Planning Department, referred to the revised development plan and stated the Cypress Banks DRI was approved in 1989, Phase I has been completed and Phase II is about to commence. He reviewed the request and submitted a revised Stipulation H.(19) addressing building height and setbacks of multifamily buildings. Referring to the second access (on S.R. 70) east of Lakewood Ranch Boulevard, he submitted a letter (4/16/99) from the Department of Community Affairs (DCA) approving the second access and objecting to the deletion of the east-west roadway, which would connect Lorraine Road and Lakewood Ranch Boulevard.

Jerome Gostkowski, Planning Department, stated that the elimination of the only internal roadway linking the east and west portions of the project will force residents to utilize S.R. 70 or University Parkway to access the other half of the development. He utilized the Cypress Banks Development Comparisons map, with an overlay, comparing the traffic flow of similar areas and the effects of the elimination of certain roadways. He advised there are two out parcels that have not been figured in the transportation network.

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(Continued)

Georgianne Ratliff, representing Schroeder-Manatee Ranch, Inc. (SMR), stated the requirement of the east-west roadway would have a negative impact on the development of Lakewood Ranch (the community which encompasses the Cypress Banks DRI). Referring to the Lakewood Ranch Land Use plan, she noted even though University Lakes (to the south) is a separate DRI, the two developments have been planned as one community and Lakewood Ranch Boulevard is planned to provide the connection. Due to the 100-year floodplain, the entire community area has been replanned, providing a natural area to separate the two communities. She stated the east-west roadway would have to traverse the floodplain and preclude development of a private, gated golf course community.

Joe Gramayo, Dames and Moore, referred to an aerial map and noted Lakewood Ranch Boulevard is planned to extend from S.R. 64 to Fruitville Road in Sarasota County. Lorraine Road is planned to extend from University Parkway to S.R. 64. He advised the east-west roadway was not included in the traffic studies for Cypress Banks, and noted east-west access is provided from Lakewood Ranch Boulevard and in the future phases to Lorraine Road. The applicant has accommodated internal capture through the communities having access to Lakewood Ranch Boulevard and Lorraine Road providing access to the commercial and office components which have collector roads.

Bob Lombardo, Lombardo & Skipper, referred to the aerial map and pointed out three projects (River Wilderness, Rosedale, and University Park) stating not one has an east-west thoroughfare.

Discussion: Internal capture of traffic is important; intensity of comparison developments; roadway comparisons included geographic areas with intense commercial not required at Cypress Banks; private roads with no public thoroughfares, etc.

Rex Jensen, representing SMR, referred to the aerial plan and the comparison areas, pointing out the grid system and density. He noted the lower density of Cypress Banks requires a different development pattern. He offered a compromise of a "punch through," gated connection into the Lakewood Ranch Country Club (a gated community), allowing country club residents access through the unconstructed neighborhood. He stated the proposed east-west connector would require floodplain mitigation, which is not necessary or practical.

Wilhelmina McFee, resident of Braden Woods, stated the development east of I-75 needs to include growth management regarding population, water, and schools.

June Stroup spoke in opposition to the location of a veterinary hospital, unless noise is mitigated, and to the construction of the east-west roadway. **Donald O'Leary** and **JoAnne Dain** opposed construction of the east-west connector road.

Mr. Gostkowski explained internal capture as: (1) taking an existing through trip off the road; (2) serving a trip purpose without affecting the thoroughfare system; and (3) maintaining trip purposes off arterial roadways. He reviewed the comparisons presented by the applicant stating River Wilderness is not a DRI and has less than 1,000 units; Rosedale is not a DRI but has an obligation to connect to the Cortez Road extension; and University Park is a DRI and has dedicated the right-of-way to Honore Road.

Discussion: Road is in the plan; DCA objection; safety issues for public services; use of state roads for local needs; deficient levels of service; resistance to plan; entire area has the potential for intensive commercial development; relief for S.R. 70 and University Parkway; density; employment opportunity will provide capture, etc.

Mr. Luppino explained that the site plan submitted by the applicant, depicting the floodplain area with no development, is not the site plan for this application.

Mr. Jensen referred to the site plan submitted with the application and pointed out internal streets connecting pods. He stated the compromise access, by way of an internal street network, would connect the two areas and provide another means of access for safety.

Husham Abdulsattar, Planning Department, stated the east-west connector will have an impact on the internal capture. He noted the detailed traffic impact study has not been reviewed.

Discussion: Gross density approved at 3.1; compromise offered does not help circulation from Lakewood Ranch Boulevard to Lorraine Road.

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. McClash moved to adopt Manatee County Zoning Ordinance **Z-86-30(G)(R7)**; adopt the findings for Specific Approval; and grant Specific Approval for alternatives to Sections 712.2.8 and 907.9.4 of the Land Development Code, as recommended by the Planning Commission and including the revised Stipulation H.(19) and all of the conditions attached. Motion was seconded by Mr. Stephens.

Discussion: Traffic analysis and impacts to S.R. 70 and University Parkway; inadequate information from EMS and fire districts; consider deferral; east-west connector is required; DCA concerns.

Following discussion, the motion carried 7 to 0. RECORD S46-2010

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 2020 Manatee County Comprehensive Plan, the Manatee County Land Development Code, Section 380.06, Florida Statutes, and Rule 9J-2.025(3), Florida Administrative Code, as conditioned in Ordinance 99-25, Mr. McClash moved to adopt the findings that the proposed NOPC modifying the Cypress Banks DRI, as approved by the Board, does not constitute a Substantial Deviation and adopt Manatee County Ordinance **99-25**, replacing in their entirety R-89-161(R), R-92-170, R-94-133, and R-95-220, as recommended by the Planning Commission with the modification to C.(8). Motion was seconded by Ms. Brown and carried 7 to 0. RECORD S46-2011

Recess/Reconvene. All members present.

ZONING

Public hearing (Notice in the Bradenton Herald 4/16/99) was held to consider

PDR-97-10(G)(R) GUSTAVE BERNE FOUNDATION, INC./BERNE NORTH

Request: Revised General Development Plan for Phases V and VI to allow 180 multifamily residential units at a maximum of 8.5 du/acre in Phase V (21.24 acres), and 71 single-family units at a maximum of 3.0 du/acre in Phase VI (23.79 acres) located on the eastern and western boundaries of the Glenn Lakes Subdivision (Phase V at the northeast corner of 53rd Avenue West and 43rd Street West and Phase VI at the northwest corner of 53rd Avenue West and 54th Street West).

The applicant and the County agreed upon 22 stipulations.

RECORD S46-2012

Mark Barnebey, Chief Assistant County Attorney, stated that in 1997 the Berne Foundation proposed a site plan similar to one approved in 1994 (PDR-93-08) with multifamily at approximately eight dwelling units per acre on two phases (Phase V and Phase VI). On April 28, 1998, the Board approved a site plan with stipulation limiting development to 3.0 dwelling units per acre and single-family development in both phases.

He noted the applicant challenged the decision (Case CA-98-2236), and the Circuit Court ruled for the applicant stating the action was not consistent with the Comprehensive Plan and Land Development Code. The Court remanded the matter to the Board for action consistent with the Order Granting Petition for Writ of Certiorari. RECORD S46-2013

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(Continued)

Mr. Barnebey advised that, since the order was rendered, the applicant has offered to settle if the Board approves the revised general development plan. He stated this proposal would approve a plan for both phases allowing 8.1 dwelling units per acre for Phase V, but with a number of design conditions to mitigate concerns raised by the neighborhoods to the north. He noted Phase VI would be limited to single-family units at a density of 3.0 dwelling units per acre with several design considerations.

Norm Luppino, Planning Department, referring to the revised general development plan, stated the applicant is seeking approval for 71 units at 3.0 dwelling units per acre in Parcel VI. Stipulation 22 requires an access to 53rd Avenue West. He stated Parcel V would be approved for multifamily two-story buildings with a height of 35 feet, with the exception of five buildings located on 43rd Street West, which are approved at one-story with a height of 19.5 feet. In addition, the buildings located west of the retention area and east of the tennis court would be approved for three-story buildings at a maximum height of 35 feet.

Tom McCollum, representing the applicant, and **Mark Barnebey**, Chief Assistant County Attorney, requested the evidence from prior public hearings be entered into the record (motion later in the meeting).

James Warrick, representing the West Glenn Homeowners' Association, requested consideration of the following changes for the transitioning from single-family to multifamily: (1) incorporate plantings for the buffer on the north and east edges of Phase V; (2) infrastructure should apply to West Glenn as well as Glenn Lakes; (3) elimination of the proposed extension of 42nd Street from 52nd Drive in West Glenn to 43rd Street. He advised that without the street, additional buffering will separate the multifamily units and the single-family community.

Clyde Erb, West Glenn resident, agreed with the elimination of 42nd Street extension and requested consideration of a high, dense green barrier of plantings between West Glenn and the subject parcel. He questioned why the one-story buildings along 43rd Street could not be moved to the east side.

Aurora Ficalora, resident of Glenn Lakes, spoke in opposition to the project. **David Bright**, president of Glenn Lakes Homeowners' Association, requested clarification of the court order and what options were available to the homeowners. He opposed construction of the multifamily housing in one of the most densely populated areas of the County. **Vic Proudian**, of Glenn Lakes, asked if the density could be decreased and opposed the suggested relocation of multifamily.

Mr. Barnebey reviewed options: (1) approve the general development plan and settle the case; (2) appeal the court decision, which is rarely overturned; or (3) reject the plan and reconsider the matter in its entirety. He explained that the court focused on the 1994 Board approval. He noted staff has found the request to be consistent with the Comprehensive Plan and he recommended settlement of the litigation.

Mr. Luppino referred to a colored rendering and clarified the planting on the northeast edge of Phase V is a 40-foot buffer, however, trees are not stipulated.

Mr. Gostkowski stated the 42nd Street extension was proposed to provide relief for West Glenn residents and an opportunity to exit onto 43rd Street without going onto 53rd Avenue. He noted, if residents prefer not to have that option, the project could provide a free right-turn lane on 53rd Avenue between the westerly entrance of West Glenn to 43rd Street for that movement. Referring to the site plan, he pointed out the location of the roadway and right-turn lane onto 43rd Street.

Ed Vogler, representing the applicant, advised the applicant would agree to eliminate the extension of 42nd Street and construct a right-turn lane westbound on 53rd Avenue at the intersection of 43rd Street. He noted this change would provide 105 feet of buffer on the east side of Phase V; therefore, no further enhancement is planned.

Discussion: In order for settlement, applicant would have to agree to any changes; savings for elimination of road should pay for buffer enhancement; reopening public hearing; rejecting settlement offer may result in multifamily in both phases; in lieu of extending 42nd Street and installing a five-foot sidewalk, developer shall contribute an amount equal to those improvements to County for improvements surrounding development; no right-of-way dedicated for 42nd Street; maintenance liability; if developer is going to contribute money, assurance must be supplied regarding use of funds, etc.

Mr. Vogler recommended the applicant retain ownership and maintenance responsibility of the proposed extension of 42nd Street; not build the roadway; double the County requirement for landscaping and adopt a stipulation. He clarified that the applicant would build or contribute to the cost of building the turn lane; developer will install and maintain the landscaping but will not contribute other funds unquantified at this time.

Recess/Reconvene. All members present.

Motion was made by Mr. McClash to incorporate the records of February 24, 1998, March 24, 1998, and April 28, 1998 (refer to agenda folders), of the Berne site plan proceedings into this record. Motion was seconded by Mrs. Stein and carried 7 to 0.

Ms. Clark entered letters of opposition into the record.

Mr. Barnebey read the revised Stipulation 1 and a new Stipulation 23:

1. A double staggered row of canopy trees spaced 40 feet on center shall be planted within the 40-foot buffer along the north and east property lines of Phase V prior to the first Certificate of Occupancy. The trees shall be 3 inches caliper at the time of planting. The property shown on the General Development Plan for the extension of 42nd Street shall be utilized solely for buffer landscaping.
23. A right-turn lane westbound on 53rd Avenue at the intersection of 43rd Street shall be constructed in accordance with Florida Department of Transportation standards. Prior to permitting, the Developer shall contact the Project Management Department for coordination of construction. If improvements to 53rd Avenue are imminent, the Developer, in lieu of turn lane construction, shall contribute an equivalent amount of funds, based on a Certified Engineer's estimate, to the County for the construction of such a turn lane by the County if such situation is approved by the Project Management Department Director.

Mr. Vogler, on behalf of all the parties to the proposed settlement agreement and releases, stated the stipulations were acceptable.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Ms. Brown moved to approve Revised General Development Plan **PDR-97-10(G)(R)** with Stipulations 1 through 23; with Stipulation 1 and 23 as read by Mr. Barnebey and agreed upon by the applicant. Motion was seconded by Mrs. Stein and carried 7 to 0.

RECORD S46-2014

ADMINISTRATIVE DETERMINATION - KARL ORDET

Public hearing (Notice in the Bradenton Herald 4/16/99) was held to consider

AA-99-01 KARL ORDET

Request: Appeal of an Administrative Decision regarding the construction of a four-foot wall in the WR overlay district in the front yard of a residence located at 322 Buena Vista Avenue (the southwest corner of Buena Vista Avenue and Whitfield Avenue).

APRIL 27, 1999

(Continued)

Jeffrey Steinsnyder, Assistant County Attorney, explained that this is an appeal of a decision by the Planning Director under Section 516 of the Land Development Code (LDC). The issue is whether the interpretation of the Whitfield Residential Overlay District (WROD), as it relates to fences, has been applied correctly to this property.

Bob Schmitt, Planning Department, stated the property is a corner lot, which in terms of the LDC, has a front yard and the remaining yards are side yards. He stated Sections 604.7.3.4 and 703.2.8.2 of the LDC prohibit fences in front yards in the WROD. He defined a front yard:

Yard, Front shall mean a yard extending across the full width of a lot, measured from and perpendicular to the front lot line, or streetline, whichever is closer, and extending to the principal building or structure.

Referring to a diagram, he pointed out the requested installation, and stated initially Mr. Ordetz was informed the fence was to be parallel with Whitfield Avenue from the corner of the house straight back to the end of the property line. The fence plan was then modified, but not agreed upon, to turn parallel to Whitfield Avenue at the midpoint. He stated Mr. Ordetz is appealing how the regulation was applied to his property and if it was applied correctly.

Discussion: According to Code there is no back yard; an accessory structure attached to principal structure becomes part of principal structure; not sure if that attachment applies in case of a fence/wall; vegetation fence; Whitfield rules were adopted; no variance provision; Whitfield/Ballentine Homeowners Association Board of Directors should review and make recommendation; uphold decision but look at regulation for some degree of exception; fences are external to boundary limits; stay within building envelopes of property setbacks, etc.

Christina Ordetz stated the home was built in 1926, consists of three lots, and they are attempting to restore the property. Following research, the decision was made to propose a stucco wall for aesthetic detail, which will increase the value of the neighborhood and provide privacy and safety in an area with a busy roadway. She advised they propose the 30-foot setback and consider it to be a continuing structure of the house.

Discussion: Interpret as a structure or a fence; fence is a freestanding structure; building is any structure that encloses a space used for sheltering any occupancy; investigation for future reference; historic designation for property; fence and wall in terms of LDC are synonymous; if attached to structure, it is not freestanding and would become part of structure; if part of structure, it must meet setbacks on all four sides of house, etc.

Dorothy Nathan, member of the Whitfield/Ballentine Homeowners Board, requested upholding the Director's decision. She was concerned that this will set a precedent and suggested a review of the ruling on corner lots.

Ms. Clarke stated it would be permissible for a structural addition to the house meeting the setback requirements.

Discussion: Maintain 30-foot setback along the front and 10-foot side setback provided it is attached to the house; appellant should apply for a structural addition to the property.

Ms. Brown moved to uphold the Planning Director's administrative decision regarding the construction of a four-foot wall in the Whitfield Residential Overlay District. Motion was seconded by Mrs. Glass and carried 7 to 0.

CORTEZ SCHOOLHOUSE

Ernie Padgett, County Administrator, presented a status report on the purchase of the Cortez Schoolhouse property. He reviewed the history of the negotiations, as well as the Florida Communities Trust (FCT) grant regulations and the rules relating to the purchase of property.

He requested approval to proceed with the acquisition with FCT involvement, which includes a management plan, a new appraisal and acquiring additional real property; or to proceed by factoring out FCT. He stated acquisition may be more expeditious by factoring out FCT; however, the 88 percent FCT funding would be lost.

Discussion: Why there is no contract on the property contingent on FCT funding; communication with seller; pre-purchase not allowed by FCT.

Maggie Marr, Grants Coordinator, stated when a contract is signed with FCT, it will be for a maximum amount approved, contingent upon appraisal, surveys, and closing costs. A reconciliation sheet will be provided and FCT will pay 88 percent, which is an estimate of FCT grant funds to purchase Cortez Schoolhouse property plus 70 acres (88 percent of \$470,200 or \$413,776; County cost \$56,000).

Mr. McClash moved to proceed with the acquisition of the Cortez Schoolhouse property with FCT involvement. Motion was seconded by Mrs. Glass and carried 7 to 0.

GULF COAST FACTORY SHOPS - ESCROW AGREEMENT

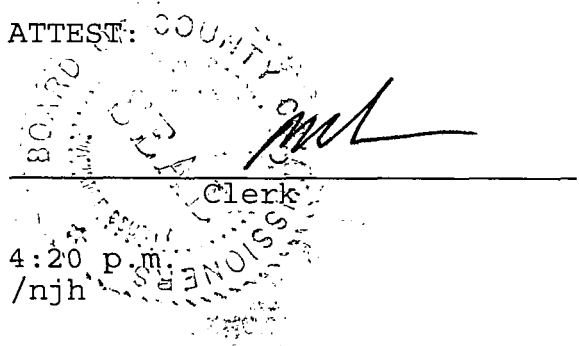
Mr. McClash moved to execute the amendment to the Gulf Coast Factory Shops escrow agreement (10/16/98) for 60th Avenue East to conform to Ordinances 98-48 and PDMU-97-01(Z)(R). Motion was seconded by Mr. Bruce and carried 7 to 0. RECORD s46-2015

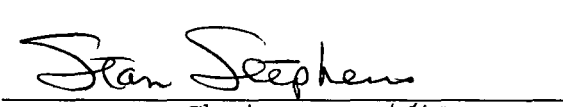
MEETING ADJOURNED

There being no further business, the meeting was adjourned.

ATTEST:

APPROVED:


Clerk


Chairman 7/6/99

Adj: 4:20 p.m.
/njh