

MAY 25, 1999

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, May 25, 1999, at 9:02 a.m.

Present were Commissioners:

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

Also present were:

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

Invocation by Rev. Douglas Aldrink, Bradenton Christian Reformed Church

All witnesses and staff giving testimony were duly sworn.

(Enter Mrs. Stein)

PROCLAMATION

Upon motion by Mrs. Glass and second by Mrs. Stein, a Proclamation was adopted 6 to 0, designating May 31, 1999, as **Memorial Day**.

Jack Farrar, Veterans Council Chairman, announced a program on May 31 at the Veterans Monument Park. He stated recognition will be given to Harold Rouse, the County's Veterans' Services Manager who died 5/11/99.

RECORD S46-2127

CITY OF GULF BREEZE - HERITAGE HEALTHCARE OF AMERICA II, INC.

Patricia McVoy, Assistant County Attorney, stated that Heritage Healthcare of America II, Inc., intends to acquire Fountains of Bradenton. Funding will be provided by the City of Gulf Breeze, Florida. She recommended adoption of

R-99-114 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE CITY OF GULF BREEZE, FLORIDA, TO OPERATE WITHIN THE BOUNDARIES OF MANATEE COUNTY FOR CERTAIN LIMITED PURPOSES; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT WITH THE CITY OF GULF BREEZE, FLORIDA, WITH RESPECT TO FINANCING A CAPITAL PROJECT WITHIN MANATEE COUNTY FOR HERITAGE HEALTHCARE OF AMERICA II, INC., AND ITS AFFILIATE (HERITAGE CARE OF BRADENTON, L.L.C.); AND PROVIDING AN EFFECTIVE DATE

(consenting to the City of Gulf Breeze issuing \$3,000,000 in revenue bonds to finance the acquisition).

Phyllis Cobb, representing Heritage Healthcare of America, stated that Heritage Healthcare provides assisted living and extended congregate care concentrating on Alzheimer's and dementia, and is affiliated with the University of South Florida.

Motion was made by Mrs. Glass and seconded by Mrs. Harris to adopt R-99-114. Motion carried 6 to 0.

RECORD S46-2128
 S46-2128A

CITIZENS' COMMENTS

Emerson Point Park - Nick Baden relayed concerns regarding development plans for the park, i.e., study centers, paving of roads and trails. He recommended the park remain a passive park in its natural ambience and that a video be prepared to educate students prior to visiting the park.

Discussion: Revised plan to be considered at the June 1 Board meeting.
 (Enter Ms. Brown)

Braden Woods Plaza Lighting - Richard Sulick, Braden Woods Homeowners Association, requested public input be permitted when the matter of exterior lights for the plaza are considered later in the meeting.

(Depart Mr. McClash)

Wilhelmina McFee questioned what part of the Land Development Code (LDC) was being interpreted regarding the lighting, and recommended that interpretation be extended to a definition appropriately attached to the Board's duties within the LDC.

Carol Clarke, Planning Director, advised the LDC provides for the Planning Director to request interpretation by the Board.

CONSENT AGENDA

ZONING

Public hearing (Notice in the Bradenton Herald 5/14/99) was held to consider

Z-99-02 NORMAN AND MARY ELLEN BLUM - HC (APPROVED)

ZONING ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY ORDINANCE 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 **HM** AND **NC-S** TO **HC**; PROVIDING AN EFFECTIVE DATE; ON TWO ACRES LOCATED AT THE NORTHEAST CORNER OF WHITFIELD AVENUE EAST AND U.S. 301.

Planning Commission recommended ADOPTION.

RECORD S46-2129

Public hearing (Notice in the Bradenton Herald 5/14/99) was opened to consider

PDMU-99-02 (Z) MANATEE JOINT VENTURE - PDMU/WP-E/ST (CONTINUED TO 7/1/99 AT 9:00 A.M.)

ZONING ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA...; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM **A-1** TO **PDMU** RETAINING THE **WP-E** AND **ST** OVERLAY DISTRICTS; PROVIDING AN EFFECTIVE DATE; ON 245 ACRES LOCATED AT THE SOUTHEAST CORNER OF THE S.R. 70 AND I-75 INTERSECTION, EXTENDING SOUTHWARD TO LINGER LODGE ROAD.

Planning Commission recommended ADOPTION with Stipulation:

1. No approval for a specific land use, density, or intensity is being granted at this time. Land uses, density, and intensity shall be approved, approved with conditions, or denied based on Section 603.4 of the land Development Code at time of General Development or Preliminary Site Plan review.

Ms. Clarke advised that the applicant and Braden Woods Homeowners Association requested continuance to June 1, 1999.

Public hearing (Notice in the Bradenton Herald 5/14/99) was held to consider

PDR-98-24 (P) HOMESTEAD HOMES, INC./CHANCELLOR PARK AT PALMA SOLA - P/PLAN (APPROVED)

Request: Preliminary Site Plan for a 229 unit/bed group care living facility consisting of 30 duplex villa units, one single-family unit, and 198 beds in an assisted and independent living facility on 22.98 acres located at 3400 75th Street West.

Planning Commission recommended APPROVAL with seven Stipulations.

RECORD S46-2130

Public hearing (Notice in the Bradenton Herald 5/14/99) was held to consider

PDPI-96-01 (Z) (P) (R) MANATEE COUNTY GUN AND ARCHERY CLUB/SHERIFF'S DEPARTMENT (APPROVED)

REVISED ZONING ORDINANCE TO DELETE THE TIMING REQUIREMENT FOR OBTAINING BUILDING PERMITS FOR PHASES 1-3 (STIPULATION 8) ON 436.02 ACRES LOCATED ON THE WEST SIDE OF LOGUE ROAD, 1.5 MILES NORTH OF S.R. 64.

If approved, staff recommended eight Stipulations. RECORD S46-2131

COUNTY ADMINISTRATOR

GATES LIBRARY INITIATIVE GRANT

R-99-122 RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE SUBMISSION OF TWO GATES LIBRARY INITIATIVE FLORIDA STATE PARTNERSHIP GRANT APPLICATIONS (Local Library Grant and Supplemental Training Lab Grant: authorizing execution of the agreement and all documents with regard to acceptance of the grant; Gates, \$100,595; local match, \$57,938).

RECORD S46-2132,
S46-2132A, S46-2132B

MAY 25, 1999

(Continued)

MATERIALS AND SERVICES

1. **Crosley Estate Ornamental Ironwork** - Award IFB 99-2953KK to the lowest responsive, responsible bidder meeting specifications, Preservation Services, Inc., not to exceed \$267,840.
2. **Crosley Estate Masonry and Structural Repair** - Award IFB 99-2821CD to the lowest responsive, responsible bidder meeting specifications, Preservation Services, Inc., not to exceed \$124,257.

BONDS - FLORIDA DEVELOPMENT FINANCE CORPORATION

Advertise Tax Equity and Fiscal Responsibility Act (TEFRA) hearing regarding the Florida Development Finance Corporation issuing bonds to finance construction of two buildings for G.G. Schmitt & Sons at 1700 15th Street East, Bradenton.

CLERK OF CIRCUIT COURT**BONDS****Release:****Summerfield Village, Subphase C, Units 6-A & 7-A**

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (sidewalks and bikeways), \$31,340.40.
2. Performance Bond: \$31,340.40 (Surety Bond 08019667, Fidelity and Deposit Company of Maryland)

REFUNDS

Creekwood Investors, Ltd. - Right-of-Way Sign \$630.00

AUTHORIZE CHAIRMAN TO SIGN

9th Street East Road and Utility Improvements - Contract with Ajax Paving Industries, Inc., IFB 99-1644DC, \$4,937,641.24 (approved 5/4/99); date Performance/Payment Bond and accept Insurance Certificate. RECORD S46-2133

Partial Release of Special Improvement Assessment Liens:

Projects 3006/2505; 3009/5147(2); 3010/5148; 3100/2509/5152; 3102/2502(5); 5024; 5064; 5124; 5130; 5147(3); 5150(2)

ACCEPT

Records Destruction Request - Bureau of Archives and Records Management Form listing records for disposal:

Form 439, Public Safety (all areas with attached list of items to be destroyed)

BellSouth Communications Tower - Irrevocable License with BellSouth Mobility/Terri and Constance Martin to enter real property and remove abandoned telecommunication tower at 6105 31st Street East (AP-99-28). RECORD S46-2134

Upon motion by Mrs. Harris and second by Ms. Brown, the Consent Agenda dated May 25, 1999, was approved 6 to 0, incorporating the language as stated in the recommended motions in the staff reports with changes as read today.

(End Consent Agenda)

COMPREHENSIVE PLAN AMENDMENT

Public hearing (Notice in the Bradenton Herald 5/14/99) was held to consider

ORDINANCE 99-17 AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING MANATEE COUNTY ORDINANCE 89-01, AS AMENDED, THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR A SMALL SCALE PLAN AMENDMENT TO THE FUTURE LAND USE MAP (MAP 24) FROM MU TO IH ON TEN ACRES LOCATED AT 2508 LENA ROAD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

(PA-99-09: Property Owner - **C. T. and Maxine Adams**)
Planning Commission recommended ADOPTION.

Ms. Clarke outlined the criteria and procedures for a small scale amendment advising this request involves a 10-acre site.

(Enter Mr. McClash)

Leon Kotecki, Planning Department, referred to an aerial depicting the site as part of a larger parcel (62 acres). He outlined surrounding zoning and noted uses of residential, an abandoned landfill used as pasture, FP&L power lines, a wastewater treatment plant, and current landfill.

He referred to positive features including access, residential buffering, urban infill compatible to other MU uses, truck traffic exists on Lena Road, and surrounding land uses may not encourage residential development. Negative features including heavy industry (IH) near residential uses, view of IH from I-75, and access not directly from a collector or higher designated road.

Discussion: Justification for approval; access; possible loss of residential use in an MU; ownership of abandoned landfill (Mr. Adams); 44th Avenue alignment with Lena Road; plans for the site, etc.

Mark Ogles, Prenez En Gre, Inc., property purchaser, stated that IH would be the best use for the property given the surrounding uses and the need for industrial property. He referred to a site plan, outlined existing uses, and noted buffering would protect residences.

Patricia Petruff, attorney representing Mr. Ogles and the applicant, stated future uses could be controlled with stipulations.

Mark Barnebey, Chief Assistant County Attorney, advised that the proposed plan is not a consideration at this time (see next item).

Dan Lobeck, attorney representing area homeowners, submitted Future Land Use Maps depicting existing IH areas. He referred to the Comprehensive Plan Policy 2.6.3.1, i.e., toxicity, hazardous by-products, traffic, pollution, noise, etc., and requested denial.

Peter Dailey, of Bishop and Associates, addressed flooding, drainage, IH near residential, and the availability of 1,426 acres of undeveloped IH in the County, and requested denial.

Speaking in opposition were **Richard Wetzell**, **Bryan Bolles** (submitted an aerial of his property), **Brenda Lovette** (submitted a market analysis "Broker Opinion of Value"), and **Deborah Copeland**.

Discussion: Industrial not appropriate; reduction in enjoyment of life; negative visual impact; devaluation of land; air pollution; etc.

(Depart Ms. Brown during discussion)

Ms. Clarke referred to a chart of zoning classifications and uses allowed and addressed locational criteria.

Discussion: Objectionable impact versus adverse impact; S.R. 64 operating at a deficient level of service.

Based upon the evidence presented, comments made at the public hearing, upon the technical support documents, the action of the Planning Commission, and finding the request to be inconsistent with the Manatee County Comprehensive, Mrs. Stein moved to **deny** Manatee County Ordinance 99-17 (PA-99-09) for a small scale amendment from MU to IH. Motion was seconded by Mr. Bruce. Voting aye were Mr. McClash, Mrs. Stein, and Mr. Bruce. Voting nay were Mrs. Harris, Mrs. Glass, and Mr. Stephens.

(Note: A tie vote is a denial; reconsidered later in meeting.)

ZONING

Public hearing (Notice in the Bradenton Herald 5/14/99) was held to consider

PDI-98-05(Z)(G) C. T. AND MAXINE ADAMS (LENA ROAD BUSINESS PARK)

ZONING ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY ORDINANCE 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 **PDI**; PROVIDING AN EFFECTIVE DATE; (2) GENERAL DEVELOPMENT PLAN TO ALLOW AN INDUSTRIAL PARK WITH UP TO A MAXIMUM OF 944,642 SQUARE FEET; AND (3) GRANT SPECIAL APPROVAL FOR A PROJECT LOCATED IN THE ENTRANCEWAY ON 61.96 ACRES LOCATED ON THE SOUTH SIDE OF THE INTERSECTION OF LENA ROAD AND POWELL JOHNSON ROAD, ONE MILE SOUTH OF THE INTERSECTION OF LENA ROAD AND STATE ROAD 64.

Planning Commission recommended approval with 12 stipulations.

RECORD S46-2135

MAY 25, 1999

(Continued)

Erika Barrett, Planning Department, stated there is A-1 zoning to the north, south, and west, and PDPI to the east consisting of the wastewater treatment plant and Lena Road Landfill. She pointed out a wetland on an aerial noting there will be little impact for roadway improvements. She noted the MU Future Land Use Category allows for light industrial uses. Ms. Barrett submitted a revised **Stipulation 5**.

RECORD S46-2136

She outlined the site plan noting the project will be developed in three phases. She addressed Entranceway criteria, accesses, buffering to single-family homes, and referred to related stipulations.

Recess/Reconvene. All members present.

Mark Ogles, Prenez En Gre, Inc., property purchaser, stated that the Floor Area Ratio (FAR) is 30 percent of the allowable amount. He has agreed to County approval of all site plans.

Dan Lobeck, representing surrounding neighbors, referred to allowable uses in the MU designation which would be compatible to residents. He requested that evidence submitted during the hearing for Ordinance 99-17 be a part of this hearing. Without objection the request was approved.

He stated concerns of inadequate buffering to a neighborhood, lack of open space, flooding, lack of storage area, and traffic.

Peter Dailey, of Bishop and Associates, requested the site plan reflect additional Entranceway open space pursuant to the Land Development Code (LDC), Section 737.5.4. He also referred to reducing the FAR in the Entranceway, industrial road standards, and mitigating visual impacts.
(Depart Mrs. Glass)

Bryan Bolles, area resident, presented a video of the neighborhood and its proximity to the site stating existing area uses are acceptable.

Jerome Gostkowski, Planning Department, addressed concurrency and procedures to determine capacity of roadways, noting that S.R. 64 currently meets the analysis, however, marginally.

Recess/Reconvene. All members present.

Mr. Ogles requested **reconsideration of Ordinance 99-17 (PA-99-09)**.

Ms. Clarke advised that if Ordinance 99-17 is reconsidered and approved, there will be no limitations on the uses within the heavy industrial category on this plan unless the Board stipulated uses.

Staff submitted **Stipulations 5** (revised) and **13** (new). RECORD S46-2137
(Note: Public hearing continued later in the meeting)

COMPREHENSIVE PLAN AMENDMENT - ORDINANCE 99-17

Motion was made by Mrs. Harris, and seconded by Mrs. Glass, to **reconsider** Ordinance 99-17 (PA-99-09)/C. T. and Maxine Adams due to a tie vote. Motion carried 4 to 3, with Mr. McClash, Mrs. Stein and Mr. Bruce voting nay.

Discussion: Adverse environmental impacts/risks on neighborhood; insufficient access; inadequate road infrastructure; IH allows objectionable impacts on nearby residential uses; economic impact on property; defining "objectionable" impacts; "manufacturing" definition in Comprehensive Plan; industrial criteria; etc.

Motion - Failed

Based upon the evidence presented, comments made at the public hearing, upon the technical support documents, the action of the Planning Commission, and finding the request to be inconsistent with the Manatee County Comprehensive Plan, Mrs. Stein moved to **deny** Manatee County Ordinance 99-17, PA-99-09, for a small scale plan amendment from **MU** to **IH**. Motion was seconded by Mr. Bruce. Motion **failed** 3 to 4, with Mrs. Harris, Ms. Brown, Mrs. Glass, and Mr. Stephens voting nay.

Motion - Approved

Based upon the evidence presented, comments made at the public hearing, upon the technical support documents, the action of the Planning Commission, and finding the request to be consistent with the provisions of Chapter 163, Florida Statutes, and the Manatee County Comprehensive Plan, Mrs. Glass moved to **adopt** Manatee County Ordinance 99-17 (PA-99-09) as recommended by the Planning Commission. Motion was seconded by Mrs. Harris and carried 4 to 3, with Mr. McClash, Mrs. Stein, and Mr. Bruce voting nay. RECORD S46-2138

ZONING (Continued)**PDI-98-05(Z) (G) C. T. AND MAXINE ADAMS**

Discussion: Amending stipulations to limit certain IH uses; requiring public hearing to review general development plans.

Mr. Barnebey suggested options: (1) there shall be no heavy industrial uses allowed on this site, if permitted by the Comprehensive Plan, without a revision of the General Development Plan approved by the Board of County Commissioners after recommendation by the Planning Commission; or (2) there shall be no heavy industrial uses allowed on this site or on Lots 14 and 15 of this site, if permitted by the Comprehensive Plan, except stipulated uses.

Discussion: Type of development not known; whether public hearings are required for other County heavy industrial sites; Board review of preliminary site plan prior to approval; length of time for approvals.

Ms. Petruff objected to Option 1 as the Comprehensive Plan and LDC set forth criteria and performance standards for industrial uses; and requiring the public hearing process could take several months.

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, motion was made by Mr. McClash to **ADOPT** Manatee County Zoning Ordinance **PDI-98-05(Z) (G)**; and **APPROVE** the General Development Plan with Stipulations 1 through 4, 5 (Option 1 by Mr. Barnebey), 6 through 12, and 13 (added); **GRANT** Special Approval for a project located in the Entranceway, as recommended by the Planning Commission. Motion was seconded by Mr. Bruce and carried 4 to 3, with Ms. Brown, Mrs. Glass, and Mr. Stephens voting nay. RECORD S46-2139

Public hearing (Notice in the Bradenton Herald (5/14/99) was held to consider

PDR-99-04(P) SENIOR HOUSING RETIREMENT CAMPUS - P/PLAN

Request: Preliminary Site Plan to allow: (1) a three-story group care facility for 80 residents; (2) a five-story multifamily building consisting of 160 dwelling units; and (3) 104 dwelling units (advertised as 106) comprising of two-, three-, four-, and six-unit buildings, at an overall gross density of 8.6 dwelling units per acre (advertised as 8.7) on 32.17 acres located on the south side of 30th Avenue West, midway between 14th Street and 26th Street West.

Planning Commission recommended **APPROVAL** with 17 stipulations; **GRANTING** Special Approval to a project exceeding six dwelling units per acre in the RES-9 future land use category; **ADOPTION** of the Finding for Specific Approval; and **GRANTING** Specific Approval of an alternative to Section 710.1.5.1.1 of the Land Development Code regarding parking to allow vehicles to back into the street. RECORD S46-2140

(Depart Mr. McClash)

Norm Luppino, Planning Department, reviewed an aerial and noted that 30th Avenue West is designated as a minor collector and proposed for extension to 26th Street West and improvements at the 14th Street intersection. He presented slides depicting the surrounding uses.

MAY 25, 1999

(Continued)

He outlined the Site Plan and submitted a stipulation to address concerns of the Planning Commission and residents:

18. Prior to Temporary Certificate of Occupancy or Certificate of Occupancy for the 160-unit multifamily building or the 80-unit group care facility, the applicant shall verify compliance that dumpsters and HVAC equipment is not visible from any residential units in Bayshore on the Lakes. In addition, the applicant shall conduct an acoustical analysis verifying that the noise levels from the HVAC equipment do not exceed 50 dBAs at the property line at any height.

Mr. Luppino referred to stipulations and architectural renderings.

(Enter Mr. McClash)

Jerome Gostkowski, Planning Department, outlined improvements scheduled for 30th Avenue West, e.g., alignment, signalization, turn lanes, level of service, and drainage.

Kevin Bessolo, representing the applicant, stated the owner is a non-profit agency, Florida Christian Homes, which cares for the elderly. He referred to renderings addressing buildings, landscaping, and noise. He requested an amendment to Stipulation 18 to allow 55 dBA during the day and 50 dBA at night and limit height of noise to five stories.

Jim Shaw, KEM Engineering, representing the applicant, addressed drainage.

Speaking of concerns were **Jane Sheridan** and **Bob Blanchard**.

Items addressed: Applicant clearing land without permit; relocating five-story building; fire lanes; access; lack of a park; relocate dumpsters, HVAC/chillers; and flooding.

Don Windmiller, Bethel Baptist Church, spoke in favor noting the need for affordable elderly housing and the developer's sensitivity to protecting the environment.

Mr. Luppino addressed setbacks, buffering for the buildings, and dumpsters. He advised the emergency access used by Bayshore on the Lakes encroaches onto the applicant's property.

Mr. Bessolo referred to noise levels at Bayshore on the Lakes (60 dBAs) and the views from existing buildings and dumpsters.

Discussion: Whether emergency access was required for Bayshore on the Lakes; setting noise levels pursuant to Ordinance 99-20; relocating chillers to lessen noise impact; Bayshore Complex noise exceeded 60 dBAs during day; adding language to Stipulation 17 regarding dumpster odors; average density for RES-9 since plan adoption is 4.82; possible easements for Bayshore on the Lakes emergency access.

Ms. Clarke amended language in the last sentence of **Stipulation 18** "...verifying that the noise levels from the HVAC equipment is in compliance with the County's noise ordinance at the property line at any height up to five stories."

Mr. Barnebey suggested adding the following sentence to Stipulation 17: "Noxious odors from this site shall not be perceptible by a reasonable person at the property line."

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, Mrs. Stein moved to approve Preliminary Site Plan **PDR-99-04(P)** with Stipulations 1-16, 17 (as amended by Mr. Barnebey), and 18 (submitted by staff/amended by Ms. Clarke); GRANT Special Approval to a project exceeding 6 dwelling units per acre in the RES-9 Future Land Use Category; ADOPT the Finding for Specific Approval; and GRANT Specific Approval of an alternative to Section 710.1.5.1.1 of the Land Development Code. Motion was seconded by Mrs. Harris and carried 7 to 0.

RECORD S46-2141

Public hearing (continued from 4/27/99) was held to consider

PDC-87-01(P) (R-3) HEARTLAND SARASOTA-BRADENTON LTD. PARTNERSHIP

Request: Amend Stipulation 1 of Preliminary Site Plan PDC-87-01(P)(R-2) to delete the requirement to install a wall along the project's (Braden Woods Plaza) southern property line with development of the project's outparcels on 28.34 acres located on the south side of State Road 70, ½ mile east of I-75.

Mr. Luppino stated there is a question of interpretation as to whether the wall (Stipulation 1) was required with any development of the property, including the five outparcels.

He referred to the site plan pointing out that a Hess gas station and convenience store is being constructed on outparcel 2. Slides were shown depicting views and Mr. Luppino noted that the gas station was barely visible for outparcels 1, 2, and 4, however, more significant for 3 and 5.

Mr. Luppino outlined alternative Stipulation 1 recommended by staff, which would not require a wall for outparcels 1, 2, and 4 depending on building height and setbacks, but would require a wall for outparcel 5 prior to Certificate of Occupancy. RECORD S46-2142

Ms. Clarke submitted a stipulation by Stephen Thompson, representing Hess, regarding fencing. RECORD S46-2143

Discussion: Wall to address visual/noise impacts; lawsuit Settlement Agreement between applicant and Braden Woods Homeowners specific about the wall, etc.; whether wall would block view of building; elimination of trees and vegetation to construct wall; etc.

Stephen Thompson, representing Hess, stated he interpreted Stipulation 1 to mean that the wall would be built with the shopping center, not with the outparcels. He supported staff's recommendation to address impacts on a site-specific basis with shopping center development.

Reid Cook, representing Hess, stated there was no indication from staff during initial reviews of the Hess project that a wall was required.

Ron Larsen, engineer for Hess, submitted a copy of the pre-application form depicting items discussed, which did not include the wall. He stated the elevation of the station is higher than the subdivision so the wall would not conceal the building.

John Moody, landscape architect for Hess, referred to an aerial and photographs depicting the natural vegetation buffering.

Rick Fawley, architect for Hess, stated that loss of vegetation and trees would alter the drainage pattern for the site.

Discussion: Impacts created with construction of wall; outparcels development minimal on residents; Stipulation 3 tree requirement; etc.

Richard Sulick, Braden Woods Homeowners Association, submitted a letter referring to the Settlement Agreement with the applicant.

Wilhelmina McFee, Braden Woods resident, referred to the Settlement Agreement issues of stormwater drainage, the wall, and exterior lights, stating all parties should approve any changes to the agreement.

Speaking were **Debbie Baldwin-Crist** and **Ron Johnson**, Braden Woods residents.

Items addressed: Need for wall to address concerns of visual impact, safety, and security; making sure wall is permanent.

Caleb Grimes, representing Heartland Sarasota-Bradenton Ltd. Partnership, outlined the project history and referred to Stipulation 16 language confirming the intent to build the wall when the shopping site was built, not the outparcels. He recommended that original Stipulation 1 not be amended.

MAY 25, 1999

(Continued)

Ms. Clarke stated that her interpretation of the Stipulation was to require the wall with development of the (outparcel) Hess project. The Board could determine otherwise and/or amend the stipulation.

Discussion: Construct wall at this time; no assurance shopping center will be constructed; elevation effect if wall is constructed now; Hess unaware of the wall issue until the building permit was received; Hess does not own the property where wall is to be built; existing vegetation buffers the visual impacts, etc.

Motion - Interpretation

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, Mr. McClash moved that the Stipulation 1 for **PDC-87-01(P)(R-3)** does not require the eight-foot wall to be built for construction of outparcels 1, 2, 3, 4, and 5 since this is not considered the shopping site. The remaining buildings shown on the Site Plan, not including outparcels 1, 2, 3, 4, and 5, are considered by the Board of County Commissioners to be the shopping site. Motion was seconded by Mrs. Harris.

Discussion: Stipulating that if there is no shopping center, the wall shall be constructed by Hess; wall could cause drainage problems; interpretation that wall is not required at this point.

Motion carried 5 to 2, with Mrs. Stein and Mr. Bruce voting nay.

Motion - Continued

Motion was made by Mr. McClash, seconded by Mrs. Harris, and carried 7 to 0, that **PDC-87-01(P)(R-3)**, as requested by the applicant, be continued indefinitely (and readvertised if necessary).

HEARTLAND SARASOTA-BRADENTON LTD. PARTNERSHIP - EXTERNAL LIGHTS

Carol Clarke, Planning Director, requested an interpretation of the Development Order and the Settlement Agreement with Heartland Sarasota-Bradenton Ltd. Partnership and Braden Woods Homeowners Association regarding external lights at the commercial site (Hess gasoline station). She stated the Settlement Agreement referenced external lighting being amber and facing downward. It also prohibited neon signs and external white lights except with an approved sign or under covered walkways of the shopping center. The issue now is the Hess canopy (approved 2/99), which included Stipulation 28 noting all development on site shall comply with the Settlement Agreement (5/5/98).

Ms. Clarke advised that residents feel the canopy lights are external and should be amber; Hess argues the lights are in the canopy and fall within the exemption for walkway lights. She referred to alternatives.

Motion was made by Mr. Bruce, and seconded by Mrs. Stein, that the canopy lights be amber.

Speaking for Braden Woods residents were **Richard Sulick, Wilhelmina McFee, Ron Johnson, and Jean LePoidevin.**

Items addressed: Seeking an administrative interpretation; canopy lights are exterior; light glare has noxious impact on neighborhood.

Stephen Thompson, attorney representing Hess, advised that all pole lights at station will be amber. He stated the County treats a canopy as a building and as part of the gross floor area ratio with impact fees; therefore, lights are internal to the building.

Representing Hess were **Rick Fawley**, architect; **Jerry Zoller**, engineer; and **Reid Cook**, lighting engineer, who submitted a lighting diagram.

Items addressed: White lights necessary for safety purposes; amber lights distort colors; reading information difficult under sodium/amber lights; LDC and Building Code states canopies are buildings, etc.

Motion failed 2 to 5, with Mrs. Harris, Ms. Brown, Mrs. Glass, Mr. McClash and Mr. Stephens voting nay.

ZONING (Continued)

Public hearing (continued from 5/6/99) was held to consider

PDR-97-13(G) GILBERT WATERS FAMILY PARTNERSHIP

Request: General Development Plan to allow 118 single-family detached dwelling units at a density of 2.63 dwelling units per acre on 47.43 acres, located at the southwest corner of 69th Street East and Ellenton-Gillette Road.

Jeffrey Steinsnyder, Assistant County Attorney, stated this hearing is a result of a dispute resolution hearing, pursuant to Section 70.51 Florida Statutes, requested by the applicant when the Board altered the Preliminary Plan (PDR-97-13[Z][P]) by requiring minimum lots of 20,000 square feet and setbacks the same as A-1 zoning (3/24/98). He recommended execution of the Settlement Agreement and associated documents with The Gilbert Waters Family Limited Partnership and Gilbert Waters.

He outlined changes to the plan: 122 units to 118, density from 2.6 to 2.4 du/acre; minimum lot sizes north of McMullen Creek increased from 7,000 to 8,500 square feet; south of the Creek increased from 9,600 to 10,000 square feet; an additional 40-foot landscape and drainage easement on adjacent properties; and a 20-foot landscape buffer along Ellenton-Gillette and Erie Roads.

Robert Pederson, Planning Department, stated the neighborhood tie has been eliminated; the retention pond has been moved; access from Ellenton-Gillette Road has been eliminated; 20-foot setbacks for front yards/15-foot for rear; and minimum floor area of 1,200 square feet not to exceed 35 feet in height. He submitted letters (5) in opposition.

Caleb Grimes, attorney representing the applicant, requested approval of the Settlement Agreement as proposed.

Speaking in opposition to the General Development Plan were **Walker McCraw** (submitted an aerial photograph of his property); **Marvin Cadwell**; **Gerry Lebda** (Shadowbrook Condominium Association); **Brenda Fennimore**; **Carol Adams**; **Susan Gamery** (submitted a list of people for whom she was speaking); **Pearl McGraw**; **Diane Popovice** (submitted a list of people for whom she was speaking).

Items addressed: Area is rural; flooding; retaining current density; lack of recreational facilities; require larger house sizes (1,500 square feet); swale; setting a precedence in agriculture districts; new plan basically same as original plan; no detailed plan for project; Special Master did not allow enough time for opposition speakers; time involved in hearing this case; requiring 15,000-square-foot lots; loss of enjoyment of life/property values; proposal not a compromise; additional buffering to transition uses; incompatibility, etc.

Mr. Steinsnyder advised that if the court case is heard, the County would be defending the original request against the plan approved by the Board (3/24/98).

Discussion: Possibility County could win in court; Board should stand by decision (3/24/98); Special Master (Steven Seibert) well versed on land use issues and conducting meetings; review public hearing tapes.

Motion was made by Mrs. Harris to (1) authorize the Chairman to execute the proposed Settlement Agreement and associated documents; and (2) based upon the staff report, evidence presented, comments made at the public hearing, the record of the February 12, 1998, Planning Commission, and the February 24, and March 24, 1998, Board hearings, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, moved to APPROVE General Development Plan **PDR-97-13(G)** with Stipulations 1 through 11. Motion was seconded by Mrs. Glass and carried 4 to 3, with Mr. McClash, Mrs. Stein and Mr. Bruce voting nay.

RECORD S46-2144
S46-2145

MAY 25, 1999

(Continued)

FAIRWAYS AT IMPERIAL LAKEWOODS - STREET NUMBERING WAIVER

Motion was made by Mrs. Stein, and seconded by Mrs. Glass, to approve the request by developers of Fairways at Imperial Lakewoods to waive the street numbering requirement and utilize named streets.

(Depart Mrs. Harris)

Vickie Fenton, Planning Department, presented slides depicting surrounding new developments using the County's addressing grid. She stated the Address Review Committee recommended denial.

Caleb Grimes, attorney for the applicant, stated the roads wind around within the project and it would be difficult to assign numbers.

Mrs. Stein restated the motion to approve the request and adopt the Finding of Fact that emergency response will not be compromised (as recommended by the Code). Motion carried 5 to 1, with Mr. Stephens voting nay.

HOPE VI GRANT - ROGERS GARDENS PARK RESIDENTS

Motion was made by Mrs. Stein and seconded by Mrs. Glass to adopt

R-99-120 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, EVIDENCING ITS SUPPORT OF A HOPE VI GRANT APPLICATION TO ASSIST THE RESIDENTS OF THE ROGERS GARDENS PARK COMMUNITY; AND IDENTIFYING CERTAIN EFFORTS THAT THE COMMISSION WILL UNDERTAKE IN SUPPORT OF THE HOPE VI GRANT AND ON BEHALF OF THE RESIDENTS OF THE AFOREMENTIONED COMMUNITY

(to support the Bradenton Housing Authority to revitalize the community; County to donate in-fill dirt from the Wares Creek project, if available (\$250,000 value); and provide SHIP funds (if available) to first-time home buyers.

Discussion: Whether County would have monetary obligation; common support to accomplish needs for that area.

Motion carried 6 to 0.

RECORD 546-2146

CLEAN AIR ACT - NONATTAINABLE STATUS

Motion was made by Mr. Bruce and seconded by Mrs. Stein to execute a letter to Governor Jeb Bush asking that Manatee County be excluded from the Tampa Bay airshed designation.

(Depart Ms. Brown)

Discussion: Including language advising that the County's most severe pollution is when the wind comes from the northwest (TECO plant), etc.

Karen Fleming, Environmental Management Director, stated the letter would be revised.

Motion carried 5 to 0.

MEETINGS

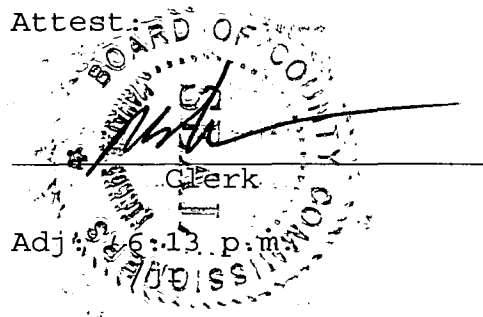
The Chairman announced that the Board meeting scheduled for June 22 has been rescheduled to June 29, 1999, in order for members to travel to Tallahassee regarding permitting for the Port.

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:


Clerk


Chairman 7/27/99

Adj: 6:13 p.m.