

MAY 15, 1991

The Hearing Officer, Manatee County, Florida, convened in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Wednesday, May 15, 1991, at 3:08 p.m.

Presiding was:  
James Paulmann

Also present were:  
Mark Barnebey, Assistant County Attorney  
Evelyn Lloyd, Deputy Clerk, representing  
R.B. Shore, Clerk of Circuit Court

News media notified, but not present.

The hearing was called to order by Mr. Paulmann.

All witnesses/staff giving testimony were duly sworn.

SPECIAL PERMITS

Public hearing (Notice in The Bradenton Herald 4/26/91) was held to consider

SP-91-008 PRESTIGE AUTO SALES - VEHICLE SALES ESTABLISHMENT

Request: Special Permit to allow Motor Vehicle Sales Establishment in the GC district on 1.15 acres located on the north side of Cortez Road 200 feet east of the intersection of Cortez Road and 34th Street West.

Staff recommended the following stipulations:

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning and Zoning Department.
2. No outdoor speakers or similar devices shall be used in conjunction with this business.
3. The site plan submitted with this application shall be part of this approval.

Janet Stewart, Planning and Zoning Department, displayed a map and stated the property has been used for commercial enterprises in the past. The applicant is proposing 15,376 square feet of an existing building for indoor display of used automobiles and four parking spaces along Cortez Road for minimum outdoor vehicle display. The site has adequate parking and ingress/egress. The applicant is proposing to have a shared parking agreement with the restaurant to the east.

She reviewed surrounding land uses and stated the residential properties to the north are screened with a densely vegetated, 10-foot buffer to help minimize visual impacts. The proposal appears consistent with the area, which consists of extensive commercial development.

John Georgie, general partner, stated no external changes will be made to the structure.

Mark Barnebey, Assistant County Attorney, advised that the Land Development Code (LDC) requires a court reporter to be present at all Hearing Officer proceedings. Inasmuch as a court reporter was not present, he asked if the Hearing Officer and the applicant would allow a copy of the tape recording to be transcribed.

Mr. Paulmann stated that a transcription of the tape was sufficient and Mr. Georgie agreed.

Mr. Paulmann reviewed provisions of Section 502.6.6.7 of the Land Development Code.

Recess/Reconvene.

(Court Reporter Joann Zeck present)

Public hearing (Notice in The Bradenton Herald 4/26/91) was held to consider

SP-91-003 MANASOTA MEMORIAL PARK CEMETERY - MAUSOLEUM

Request: Special Permit to allow the construction of a mausoleum in an existing cemetery on 29.29 acres located on the southwest corner of 53rd Avenue East and Old U.S. 301 (aka 15th Street East). Staff recommended approval with stipulations:

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning and Zoning Department.
2. The site plan submitted with this application shall be part of this approval.
3. Drainage design shall be approved prior to the Final Site Plan sign off by staff.
4. The roadway buffer required along 53rd Avenue and Old U.S. 301 shall comply with the standards of Section 715.5.1 as follows: The required canopy trees may be placed in a clustered non-linear pattern, and the required shrubs may be replaced by vines on the existing fence. A landscape plan showing this buffering shall be approved prior to the Final Site Plan being signed off by staff.

Sarita Kruysman, Planning and Zoning Department, referred to a site plan and stated that construction of the mausoleum is scheduled in two phases. The cemetery has been in existence since 1925 and is accessed by Old U.S. 301 and 53rd Avenue East.

She stated that Public Works Department supports the waiver request to dedicate an additional nine feet of right-of-way on 53rd Avenue and twenty-seven feet on 15th Street East required by the County for future expansion on both roadways.

Directional photos of the site and a location map depicting property lines were displayed.

The proposed mausoleum will be located in the center of the cemetery among trees and does not appear to have adverse visual impacts on adjacent properties. Adequate buffers and screening are provided on the south and west sides.

Pursuant to LDC Section 715.5.1, a ten foot wide landscaped buffer is required along the abutting roadways. The applicant indicated it was not possible to comply with the buffer requirement due to the location of a four foot chain link fence on the property line with the existing graves immediately adjacent to the fence. Staff suggested an alternative landscape plan of vines and tree clusters.

Photos (4) showing the location of the burial plots to the fence were submitted.

Betsy Benac, Planning and Zoning, advised that one of the criteria requiring right-of-way dedication is that it must appear on the five-year Capital Improvement Program (CIP) and that it is determined that a Level of Service problem exists. She stated that neither roadway appears in the five-year CIP; therefore, the County cannot require the dedication of the additional right-of-way.

A legal opinion (memorandum 4/23/91) given by Mr. Barnebey concerning right-of-way issues, was entered into the record.

Discussion: Setbacks are based upon the proposed right-of-way; existing use of right-of-way; no improvements shall be placed in or about the dedicated right-of-way as stipulated by engineering design standards.

David Haley, Haley Engineering, Inc., and representing the applicant, agreed to the stipulations. He stated a letter (3/26/91) was sent to Public Works staff, with copies to the Planning Department, requesting a waiver of the right-of-way dedication.

Mr. Paulmann requested that the letter be made part of this hearing.

MAY 15, 1991

(Cont'd)

Mr. Haley stated that due to the age of the cemetery, there is no known site plan approval and a further request was made for the plan, as presented, to be considered the Final Site Plan. He also requested deletion of Stipulation 4.

Ms. Benac cited LDC Section 715.5.1 setting forth landscape/buffering requirements. She stated that although there is no room to plant a buffer, there is no provision to waive the requirement. In view of this, staff recommended an alternative landscape plan of vines and tree clusters in areas pursuant to LDC Section 715.5.4.

Discussion: If the existing trees meet the intent of the buffer requirement; if additional trees are needed; count existing trees towards the buffer requirement; the trees have to be within the required ten foot landscape buffer; there is no room to plant additional trees.

Ms. Benac pointed out that Section 715.54 "Constraints" provides for flexibility regarding an alternative landscape and screen plan; the constraint in this situation being the location of the graves which prevents additional trees from being planted. She, therefore, modified Stipulation 4 to eliminate the requirement for the canopy trees and only require the vines and the fence.

Mr. Paulmann reviewed provisions of Section 502.6.6.7.

Public hearing (Notice in The Bradenton Herald 4/26/91) was held to consider

SP-91-07 CROWN OAKS CEMETERY - MAUSOLEUMS AND GROUND BURIALS

Request: Special Permit to allow a cemetery to include both mausoleums and ground burials on 32.94 acres located at the northeast corner of 9th Street East and 53rd Avenue East.

Staff recommended the following stipulations:

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning and Zoning Department.
2. The site plan submitted with this application shall be part of this approval.
3. The ditch on 9th Street East shall be piped along the entire property frontage, as shown on the site plan.
4. This Special Permit shall not include the out parcels which are shown on the site plan and included in the legal description. Prior to the sale and development of these out parcels, approval of a subdivision plat, consistent with Section 902 of the Land Development Code, shall be required.

Ms. Benac displayed a map depicting residential uses to the north, west and south. The request is for the expansion of the Manasota Memorial Park cemetery. Access will be via the existing cemetery to the east and also from 9th Street East.

Discussion: Landscaping/buffers; outparcels, etc.

A Preliminary Landscape Plan was displayed showing existing trees and the proposed new trees to surround the boundaries of the property which will minimize adverse visual impacts.

Ms. Benac addressed the request by Public Works for an additional 17 feet of right-of-way along 53rd Avenue East, and an additional 25 feet along 9th Street East. She advised that 9th Street East appears in the five-year CIP for expansion; therefore, right-of-way dedication is required and will be shown at the time of Final Site Plan. Fifty-third Avenue is not in the current five-year CIP; therefore, right-of-way will not be required until the land is developed. It was noted that the applicant has not yet applied for a waiver of right-of-way.

A legal opinion (4/23/91 memorandum) from Mr. Barnebey concerning various aspects of the project, was submitted into the record.

Jerome Gostkowski, Public Works Department, opposed a right-of-way waiver for 9th Street.

Jerry Zoller, Architect, stated that a buffer is proposed along the single-family residences to the north. He reported that a memorandum (5/2/91) from Public Works staff stated additional right-of-way requested on 53rd Avenue could be waived with the stipulation that the applicant not use that area for burial purposes.

Ms. Benac stated the intent of the memo was to assure the outparcel along 53rd Avenue would not be included in the Special Permit, but that right-of-way would be dedicated when development occurred.

Mr. Zoller agreed not to use the right-of-way area for burial purposes. He stated that a waiver for a left-turn lane into the site from 9th Street was granted. He objected to Stipulation 3 regarding piping the ditch along the entire frontage of 9th Street as it is not required under the LDC. He stated that drainage and retention for the site will be addressed in the Final Site Plan.

Mr. Gostkowski stated it has been policy of the Public Works Department, when development occurs, to pipe frontages. Additionally, a stormwater system will be required and the ditch will serve as the source for discharge and will require improvements. He did not recommend a waiver to pipe the ditch.

Discussion: Design of retention area; whether the widening of 9th Street will destroy the pipe improvements; if the ditch will increase \* groundwater elevation; impact upon the wetlands by piping the ditch; impact on the overall project and surrounding properties; wetland area appears to encroach the right-of-way where the piping would occur.

Mr. Zoller assured that no burial plots will be placed in the wetland area; however, the Southwest Florida Water Management District has allowed the use of the lands for purposes of retention and attenuation for the development.

Upon question regarding a requirement for mausoleums and ground burials to be twenty-five feet away from development lines, Ms. Benac cited Section 704.91 "Setbacks," and recommended a stipulation be added to assure the Site Plan complies.

Ms. Benac submitted a letter in support of the project from adjacent property owner, Jerry McClish.

Dorothy Bond, representing 57 residents of Heatherwood Villas, stated the project is the best use of the land.

Don Weichert, resident of Golf Lakes, spoke in favor of the request.

Mr. Paulmann reviewed provisions of Section 502.6.6.7.

MINUTES

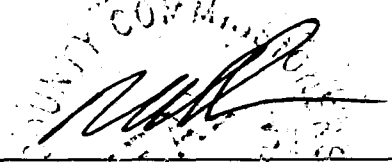
The minutes of April 17, 1991, were approved by Mr. Paulmann.

HEARING ADJOURNED

There being no further business, the hearing was adjourned.

Attest:

APPROVED:

  
\_\_\_\_\_  
Clerk

  
\_\_\_\_\_  
Hearing Officer 7/11/91

Adj: 4:30 p.m.  
/rll

\* Corrected to read "decrease."