

FEBRUARY 2, 1995

The Hearing Officer, Manatee County, Florida, convened a REGULAR HEARING in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Thursday, February 2, 1995, at 3:00 p.m.

Presiding was: Ann Marie O'Neil

Also present were:

Mark P. Barnebey, Assistant County Attorney  
Susan G. Romine, Deputy Clerk, representing  
R. B. Shore, Clerk of Circuit Court

All witnesses/staff giving testimony were duly sworn.

MINUTES

Ms. O'Neil approved the minutes of December 21, 1994.

(Court Reporter, Joann Zeck, present.)

SPECIAL PERMITS

Public hearing (continued from 12/21/94 and Notice in the Bradenton Herald 1/11/95) was held to consider

SP-94-17 ROBERT AND KAREN CHAPMAN

Request: Special Permit to allow a group care home with 40 beds in the RSF-4.5 zoning district on 2.11 acres located at 2614 43rd Street West (the west side of 43rd Street West, 400 feet south of 26th Avenue West).

If approved, staff recommended the following Conditions:

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, Permitting and Inspections Department.
2. The preliminary site plan submitted with this application shall be part of this approval.
3. A six-foot-high wooden fence shall be installed along the northern property line, beginning at the front yard setback and extending to the top of bank of the existing lake at the rear of the property.
4. The buildings shall be constructed substantially similar to the architectural renderings submitted with this application.

Darenda Marvin, Planning, Permitting and Inspections, reviewed the site plan for this property and noted that the Land Development Code (LDC) considers group care homes a residential land use; however, it requires a special permit in some instances to ensure compatibility.

Discussion: Buffering; fencing; employee parking; other residential care facilities within 1,000 feet of the site; letter from Cedar Hammock Fire Control District; etc.

Caleb Grimes, representing Just Like Home Inc., developer, and Robert and Karen Chapman, property owners, reviewed the request. He advised that deed restrictions which apply to the general area do not apply to this lot.

Betty Conard, applicant, attested to the residential nature of Just Like Home facilities and the service and level of care provided.

Mark Privette, project engineer, addressed issues of parking, traffic along 43rd Street, and drainage. He explained circumstances whereby a triangular strip of the lake and retention pond, as shown on the Site Plan, were inadvertently included in the legal description.

Mr. Privette reviewed the stormwater runoff plans. He referred to a letter from the Cedar Hammock Fire Control District, which lists deficiencies in the proposed development. He outlined modifications made to correct these deficiencies.

Mr. Grimes presented an aerial map to identify compatible, nonresidential structures in the area.

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(Cont'd)

Mr. Grimes referred to LDC, Sections 505, Special Permits, and 704.62, Residential Care Facility criteria and presented an architectural rendering of the facade to be used on the site. He also presented a list of the square footage of the units.

Ms. Marvin presented a letter from the project engineer addressing the concerns of the fire district, a letter of opposition from Patricia Fradley, and a petition in opposition to the project.

Howard Rosenfeld, representing residents of Colony Park Estates and Forty Three West Condominium, reported no public need has been shown according to the requirements of Section 505.1 "Purpose," of the LDC. He also referred to Section 505.2 "General Standards of Review," Standard 6, regarding community character, and outlined the differences between this development and the residential neighborhood. He requested the permit be denied based on Sections 505.1 and 505.2 of the LDC.

Rosalie Rosenfeld, representing 20 homeowners on Park Lake Drive, reported the size of the structure makes it more of a commercial institution. She questioned the number of employees necessary to handle all the services.

Clarence G. Fowler, Colony Park Estates, presented the original petition in opposition (submitted by Ms. Marvin) and expressed concerns over the backflow from the 60-foot line running to the back of his property, which overflows and contaminates the lake.

Joseph M. Williamson and Carol Wendt opposed the request.

George Haas, Colony Park Estates, also speaking in opposition, presented an article (1/18/95) from "The Wall Street Journal" relating to retention ponds, and questioned the planned maintenance/inspections procedures for the pond and the cost of cleaning up any resulting pollution from the facilities.

Jim Moon and Ruby Zielinski spoke in opposition.

Mr. Grimes submitted cases for review by Ms. O'Neil: Pollard v. Palm Beach County, 560 Southern Reporter 2d Series; and Rural New Town, Inc. v. Palm Beach County, 315 Souther Reporter 2d Series, Fourth District. He also discussed the issue of neighborhood consistency.

Dr. Richard Conard, developer, spoke regarding the demand for the Just Like Home facilities and to the presence of these homes in residential neighborhoods. He presented a letter (1/27/95) which he wrote to Clarence Fowler.

Mr. Privette described the retention pond, which is designed to exceed County and State requirements, and addressed the issues of flooding and pollution treatment.

Mike Pendley, Permitting, Permitting and Inspections, added the following Conditions:

5. The applicant shall revise the site plan prior to final site plan approval to match the boundaries of the revised legal description.
6. The stormwater retention which is being constructed to serve this site and which is partially located offsite shall be redesigned to be entirely within the boundary of the applicant's property.

To Condition 3 he added the word "opaque" between the words "wooden fence" regarding a fence along the northern property line.

Discussion: Buffering of northern and western boundaries; etc.

Chris Mowbray, Planning, Permitting and Inspections, confirmed that the proposed engineering design for the retention pond meets County regulations.

Mr. Barnebey recommended the following cases for review by Ms. O'Neil: Alachua County v. Eagle's Nest Farms Inc., 473 So.2d 257 (Fla. 1st DCA); Riverside Group Inc. v. Smith, 497 So.2d 988; City of Ft. Lauderdale v. Multidyne Medical Waste Management Inc., 567 So.2d 955; Salvation Army v. Board of County Commissioners of Metro Dade County, 523 So.2d 611. To show that lay testimony can be considered competent evidence, he recommended Grefkowicz v. Metropolitan Dade County, 389 So.2d 1041, as well as Board of County Commissioners of Pinellas County v. City of Clearwater 440 So.2d 497 (Fla. 2nd DCA)

He advised that based on the information provided, staff recommended approval.

Mr. Pendley submitted the draft Notice of Intent to Approve.

Ms. O'Neil reviewed the procedures of Section 502.6.6.7 of the LDC.

HEARING ADJOURNED

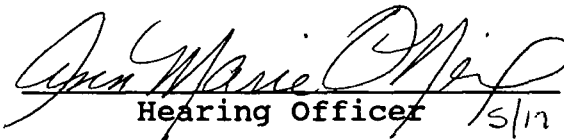
There being no further business, the hearing was adjourned.

Attest:

APPROVED:



Clerk



Hearing Officer 1/31/95

Adj: 5:29 p.m.  
/apa