

JUNE 13, 2007

The Hearing Officer, Manatee County, Florida, convened a REGULAR HEARING in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Wednesday, June 13, 2007, at 3:00 p.m.

Presiding was: John Roe

Also present were:

Jason Henbest, Associate County Attorney
Nancy Harris, Deputy Clerk,
representing R. B. Shore, Clerk of Circuit Court

All witnesses and staff giving testimony were duly sworn.

AGENDA

The agenda of June 13, 2007.

[HO20070613DOC001](#)

(Court Reporter, Penny Zucker, present)

SPECIAL PERMIT

Public hearing (Notices published) was held to consider

SP-06-11 MANATEE ANIMAL HOSPITAL AND EMERGENCY CLINIC

Request: Special Permit to allow a 5,726-square-foot Veterinary Hospital and 24-hour Emergency Clinic in the A-1 zoning district on 1.11 acres at 9620 36th Avenue East, Ellenton. If approved, staff recommended 23 Stipulations.

Lisa Barrett, Planning Department, used a slide presentation, a site plan, and building elevations to review the request. Referring to the site plan, she pointed out the recommended 24-foot-wide cross-access easement to the parcel to the east (**Stipulation 8**) due to future development of parcel, which is in a commercial node. This access will reduce traffic to Moccasin Wallow Road and be limited to right-in, right-out in the future. Currently, the impacted roadways are operating below the adopted Level of Service, and to mitigate potential traffic concerns, the applicant has agreed to dedicate the right-of-way without seeking impact fee credit. The final site plan cannot be approved until a Certificate of Level of Service (CLOS) is issued.

Brandon Daniels, attorney representing the applicant, agreed to the Stipulations with the exception of **Stipulation 8**. This easement would be considered a "taking." The applicant purchased and developed this corner parcel to maintain the access and convenience for their clients. He stressed consideration of the safety factor as clients will be walking animals recovering from surgery through the parking area, and moving traffic would cause concern. He indicated the detriment to this parcel outweighs the benefit of future planning uses. Stipulating right-in, right-out will further force people to drive through the applicant's parking lot to gain access to Ellenton-Gillette Road.

Robert Pederson, Planning Department, stated Moccasin Wallow Road is required to be improved as a four-lane roadway, with right-of-way acquisition for six lanes. He indicated it is good planning to provide the cross-access connection at this time and noted right-in, right-out at both entrance points is in the applicant's best interest. Future commercial and roadway development in this area will prohibit traffic maneuvers.

Discussion: Why is the applicant not entitled to compensation; cross-access for proper planning for connectivity is similar to interneighborhood ties in subdivisions; other zoning decisions on Moccasin Wallow Road with several interneighborhood ties; does Land Development Code (LDC) mandate cross-access easement; Special Permits are not limited just to LDC requirements; etc.

Mr. Daniels noted the cross-access easement is not a requirement of the LDC. The proposed site plan is in accordance with the guidelines of the LDC. This cross-access easement is something the Planning Department chooses to implement subjectively upon the applicant's parcel. The applicant has given one half acre of right-of-way without seeking compensation (value over \$100,000). He stated the applicant should not be penalized because they purchased a corner parcel and the parcel to the east needs access to the intersection through the applicant's property. The requested cross-access will also require the need for additional physical structure maintenance, and the applicant should not be penalized for the future projected use of the parcel to the east.

Ms. Barrett stated there is not a requirement in the LDC for cross-access pertaining this site; however, there are requirements within the entranceways and two Comprehensive Plan policies (Policy 5.0.1.2 and Policy 5.2.2.12) which encourage cross-access easements.

Mr. Pederson stated cross-access is an appropriate planning decision and noted repercussions where cross-access has not occurred, and benefits where this course of action has taken place.

Jason Henbest, Assistant County Attorney, stated there is also the transportation element to be considered. One requirement for Special Permits is that adequate measures must exist or be taken to provide adequate ingress/egress in a manner that minimizes traffic congestion on the public street. This is the general basis cited by staff for the cross-access easement requirement even though the LDC does not specifically indicate the requirement. It could be the case that a Special Permit should not be issued for this use without the appropriate ingress/egress.

Mr. Pederson discussed concurrency issues and the added trips to thoroughfare roadways.

Mr. Daniels stated the ingress/egress is for the parcel to the east, not to the applicant's parcel which has proper ingress/egress. Development to the east is unknown and the easement is a viable economic commodity to the applicant.

Mr. Henbest disagreed and stated the cross-access easement provides access to both parcels. The parcels will be limited to right-in, right-out ingress/egress at both Ellenton-Gillette Road and Moccasin Wallow Road. He discussed distance requirements from intersections and the inability for left turns.

Mr. Pederson indicated hardscaping will be required at the driveway to prevent left-out turns and reviewed traffic options at the intersection.

Mr. Daniels stated the detriment and the value of the cross-access easement is a concern. The applicant's plan for the cross-access easement is to be a dividing line for the animal hospital property. This subjective enforcement has not been done in the past. It is difficult to agree to an unknown development next door with no established, proposed use.

Discussion: Easement is wanted without compensation; entitlement to compensation; value cannot be determined at this time; adequate value could be negotiated; County position is this is not compensable; the issue is Stipulation 8; etc.

Mr. Pederson disagreed indicating there are many examples of cross-access easements in projects within the County, which could be documented if requested.

John Roe, Hearing Officer, advised that he viewed the site.

Mr. Pederson submitted a Draft Notice of Intent and Final Order for review by the Hearing Officer.

HEARING ADJOURNED

There being no further business, the hearing was adjourned.

Adj: 3:33 p.m.
/njh

Minutes Approved: August 10, 2007