

NOVEMBER 5, 1998

The Planning Commission, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Thursday, November 5, 1998, at 9:00 a.m.

Present were Commissioners:

Patrick McGinnis, Chairman
Steve Belack, First Vice-Chairman
Stanley K. Herbets, Third Vice-Chairman
Richard Bedford
Paul G. Sayers
E. H. Williams

Absent was: Mary Sheppard, Second Vice-Chairman

Also present were:

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

All witnesses and staff giving testimony were duly sworn.

ELECTION OF OFFICERS

Chairman - Steve Belack

Susan Romine, Deputy Clerk, opened the floor for nominations for Chairman.

Nominations: Steve Belack - by Mr. Bedford

Mr. Belack was elected Chairman by majority vote.

(Mr. Belack presiding)

First Vice-Chairman - Patrick McGinnis

Nominations were received for First Vice-Chairman:

Patrick McGinnis - by Mr. Sayers

Mr. McGinnis was elected First Vice-Chairman by majority vote.

Second Vice-Chairman - E.H. "Woody" Williams

Nominations were received for Second Vice-Chairman:

E. H. Williams - by Mr. Sayers

Mr. Williams was elected Second Vice-Chairman by majority vote.

Third Vice-Chairman - Stanley Herbets

Nominations were received for Third Vice-Chairman:

Stanley Herbets - by Mr. Bedford

Mr. Herbets was elected Third Vice-Chairman by majority vote.

MINUTES

There were no objections to request by Mr. Williams to correct the minutes of August 13, 1998, page 64, 7th paragraph, to read, "...motion carried 4 to 2..."

Motion was made by Mr. Williams, seconded by Mr. Bedford and carried 6 to 0, to approve the minutes of August 13, 1998, as corrected.

AGENDA CHANGES

There were no objections to removing from the Consent Agenda PDR-98-19(Z)(P) Ernest S. Marshall/River's Edge and PDR-98-13(P) Pursley, Inc./Mill Creek Phase IV for separate action.

GULF COAST FACTORY SHOPS (DRI 23)

Public hearing (Notice in the Bradenton Herald 10/20/98) was opened to consider

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(Continued)

PDMU-97-01(Z) (G) (R) GULF COAST FACTORY SHOPS (DRI 23)
(CONTINUED TO 12/3/98 AT 9:00 A.M.)

Request: Revised Zoning Ordinance for a 633,681-square-foot manufacturer's outlet center to amend Transportation Conditions affecting roadway improvements to 60th Avenue East, on 65.03 acres located on the east side of I-75, 200 feet north of U.S. 301 and extending northward to 29th Street East in Ellenton.

Public hearing (Notice in the Bradenton Herald 10/20/98) was held to consider

ORDINANCE 98-48 GULF COAST FACTORY SHOPS (DRI 23)
(CONTINUED TO 12/3/98 AT 9:00 A.M.)

Request: Determination of whether the proposed modifications to amend Transportation Conditions affecting roadway improvements to 60th Avenue East for the Gulf Coast Factory Shops DRI Development Order constitute a Substantial Deviation pursuant to Chapter 380.06, Florida Statutes, on 65.03 acres zoned PDMU located on the east side of I-75 200 feet north of U.S. 301.

Motion was made by Mr. McGinnis, seconded by Mr. Herbets and carried 6 to 0, to continue **PDMU-97-01(Z) (G) (R) Gulf Coast Factory Shops** and **Ordinance 98-48 Gulf Coast Factory Shops (DRI 23)** to December 3, 1998, at 9:00 a.m., or as soon thereafter as same may be heard, at the request of the applicant.

NU-GULF INDUSTRIES, INC. (WINGATE CREEK MINE DRI 4)

Public hearing (continued from 10/8/98) was opened to consider

R-98-182 NU-GULF INDUSTRIES, INC. (WINGATE CREEK MINE DRI 4)
(CONTINUED TO 11/12/98 AT 9:00 A.M.)

Request: Determination of: (1) whether the proposed addition of a third haul route for the truck transport of phosphate rock; and, (2) authorization of the use of any qualified material transporter, constitutes a substantial deviation (pursuant to Section 380.06, Florida Statutes), to the Wingate Creek Mine DRI Development Order (R-88-236, amended), on 3,015.23 acres located on the north side of State Road 64, six miles west of the Manatee and Hardee County line.

Motion was made by Mr. McGinnis, seconded by Mr. Bedford and carried 6 to 0, to continue the public hearing to November 12, 1998, at 9:00 a.m., or as soon thereafter as same may be heard.

CONSENT AGENDA

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDR-96-15(P) CENTEX HOMES, INC./RIVER POINTE III

Request: Preliminary Site Plan to allow 9 lots at a gross residential density of 2.80 dwelling units per acre, on 3.21 acres located north of State Road 64 between 39th Street East and 41st Street East.

If approved, staff recommended 7 stipulations; RECORD PC2-52
GRANTING Special Approval for a project partially located within the Coastal Evacuation Area.

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDC-98-08(Z) (P) GIUNTA GROUP/CROWDER BROTHERS HARDWARE

Request: Zoning Ordinance of the County of Manatee, Florida...; providing for the rezoning of certain land from GC to **PD-C**; providing an effective date; **and** Preliminary Site Plan for a 27,925-square-foot retail hardware store, on 2.25 acres located at the southeast corner of Manatee Avenue West and 55th Street West (5409 Manatee Avenue West).

If approved, staff recommended 3 stipulations. RECORD PC2-53

James Farr, representing the applicant, responded to questions regarding retention and landscaping.

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDR-98-08(P) SMUGGLER'S LANDING

Request: Preliminary Site Plan to add two multifamily buildings (10 units) to the existing Smuggler's Landing Condominiums, on 7.9 acres located on 128th and 129th Street West.

If approved, staff recommended 5 stipulations; RECORD PC2-54
GRANTING Special Approval for a project within the Coastal Storm Vulnerability Area and Coastal Evacuation Area.

Motion was made by Mr. Williams, seconded by Mr. Herbets and carried 6 to 0, to approve **PDR-98-15(P) Centex Homes, Inc./River Pointe III, PDC-98-08(Z)(P) Giunta Group/Crowder Brothers Hardware, and PDR-98-08(P) Smuggler's Landing** incorporating the language as stated in the recommended motions in the staff reports.

(End Consent Agenda)

ZONING

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDR-98-13(P) PURSLEY, INC., MILL CREEK PHASE VI

Request: Preliminary Site Plan to allow 38 lots at a gross residential density of .83 dwelling units per acre on 45.6 acres zoned PDR located at the northwest and northeast intersection of State Road 64 and Rye Road.

If approved, staff recommended 18 stipulations; RECORD PC2-55
GRANTING Special Approval for a project located adjacent to a perennial stream;

ADOPTION of the Findings for Specific Approval;

GRANTING Specific Approval of alternatives to Sections 907.9.4.2 and 907.7.3 of the Land Development Code; and

DENIAL of Specific Approval of an alternative to Section 772.1.4 of the Land Development Code.

Mr. McGinnis declared a conflict of interest and abstained from voting.

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. Williams moved to recommend approval of Preliminary Site Plan No. **PDR-98-13(P)** with Stipulations 1 through 18; granting Special Approval for a project located adjacent to a perennial stream; adoption of the Findings for Specific Approval; and granting Specific Approval of alternatives to Sections 907.9.4.2 and 907.7.3 of the Land Development Code; and denial of Specific Approval of an alternative of Section 772.1.4 of the Land Development Code. Motion was seconded by Mr. Bedford and carried 5 to 0, with Mr. McGinnis abstaining.

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDR-98-19(Z)(P) ERNEST S. MARSHALL/RIVER'S EDGE

Request: Zoning Ordinance of the County of Manatee, Florida...; providing for the rezoning of certain land from RDD-4.5/WP-E/ST to **PDR-WP-E/ST**; providing an effective date; and Preliminary Site Plan to allow a 124-lot residential subdivision at a gross density of 3.1 dwelling units per acre, on 38.97 acres located at the southwest corner of Linger Lodge Road and 65th Avenue East (Braden Road).

If approved, staff recommended:

GRANTING Special Approval for a project located in the Watershed Overlay;

ADOPTION of the Finding for Specific Approval; and

GRANTING Specific Approval of an alternative to Section 604.1.2.13 of the Land Development Code.

Misty Servia, Planning Department, reviewed the request and displayed a zoning map and a site plan. She distributed Development Review Committee comments (10/28/98). She stated that although the advertisement and agenda reflect a 124-lot subdivision, the plan was changed to a 122-lot subdivision.

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Al Wallace, Planning Department, stated there are no anticipated problems with drainage.

Bill Merrill, representing Ernest Marshall and the contract purchaser, reviewed the request stating it conforms with the surrounding area. He noted that although duplex units are allowed, the proposal is for single-family units only. He pointed out there are no recommended stipulations because all requirements have been included in the site plan.

Harry Bodell, 6822 68th Avenue East, stated he lives two blocks from the property but did not receive notice. He questioned if duplexes would be allowed and expressed concern regarding drainage, the impact on roads and sewer system.

Robert Pederson, Planning Department, explained the notice requirements stating adjoining or abutting property owners receive direct notice in the mail; signs are placed on the property; and notice is placed in the newspaper via legal ad. He addressed concerns regarding traffic, flooding and stated only single-family homes are proposed.

James Holmes, adjacent property owner, stated he did not receive proper notification but that his neighbors did. He stated the property is currently a pasture, which floods. He expressed concern regarding impact on roads, as well as discharge into a river.

Angela Dukeman, adjacent property owner, expressed concern regarding the environmental impact on the river.

Ray Manning expressed concern regarding increased traffic and impact on the watershed.

Upon question as to whether proper notice was given, Ms. Servia stated Mr. Holmes' and Ms. Dukeman's properties are not considered contiguous properties and that proper notice had been given.

Ms. Servia stated that a Certificate of Level of Service has been approved. She pointed out that prior to platting the 50th unit, the applicant must provide a southbound right-turn lane at the main access on Linger Lodge Road.

Mr. Merrill addressed concerns raised.

Larry Lippert, consulting engineer representing the applicant, reported that only one corner of the property is a flood area. He concurred that standing water has been observed in the pasture, but pointed out that occurrence is not unusual in pasture areas.

Bill O'Shea, Environmental Management Department, addressed water quality concerns.

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, Mr. Bedford moved to recommend adoption of Manatee County Zoning Ordinance **PDR-98-19(Z)(P)**; and approval of the Preliminary Site Plan; granting Special Approval for a project located in the Watershed Overlay; adoption of the finding for Specific Approval, and granting Specific Approval of an alternative to Section 604.1.2.13 of the Land Development Code. Motion was seconded by Mr. McGinnis and carried 6 to 0.

Recess/Reconvene. All members present except Ms. Sheppard.

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDC-98-01(P) DAVID K. DEITRICH, AS TRUSTEE, ET AL/MARKET PLACE WEST

Request: Preliminary Site Plan to allow a 107,894-square-foot commercial/retail shopping center, on 16.28 acres located at the

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southwest corner of 53rd Avenue West and 34th Street West.

If approved, staff recommended 8 stipulations.

RECORD PC2-56

John Osborne, Planning Department, reviewed the request referencing a graphic of the area. He submitted revised Stipulation 3.f. and added Stipulation 9. He reported that in 1994 the site received approval for the development of a shopping center and outparcels; however, the plan expired. He stated this request is essentially the same.

He submitted correspondence (10/30/98, 2/9/94 and 3/11/94) from **Robert Lucas**, Morton Village resident; draft Ordinance PDC-93-13(Z)(P)/93-S-26 David Deitrich, et al; and memorandum (4/24/98) from **Avid Engineering**, commenting on the proposal.

Mr. Osborne submitted a sketch depicting a proposed northbound "left-turn in" lane on 34th Street which, presents some potential safety concerns for Morton Village residents, e.g., a longer merge movement with the existing northbound traffic.

Ed Vogler, attorney representing the applicant, stated they will cooperate with the School Board regarding an access on the west side of the property (revised Stipulation 3.f.). He submitted stipulations including recommended deletions and changes, and those for which no changes are requested.

RECORD PC2-57

Tom McCollum, representing the applicant, submitted a copy of Ordinance PDC-93-13(Z)(P)/93-S-26 David Deitrich, et al, approved March 24, 1994, which contains conditions similar to those proposed this date, as well as the previously approved development plan.

He noted the primary access into the site will be through the joint access between the School Board property and the shopping center, which is a signalized intersection. He reviewed the stipulations submitted by Mr. Vogler and explained the reasons for the recommended changes.

Dina Ramadon, Kimley Horn and Associates, referred to the site plan and addressed traffic issues. Discussion followed regarding stacking lanes, raised median, signalization, etc.

Herb Stern, President of Morton Village Homeowners' Association, expressed concern regarding the left-turn lane due to increased traffic from the shopping center.

Robert Lucas, Morton Village resident, referenced his memoranda submitted by staff. He requested residents be afforded an opportunity to review the proposed changes and meet with the developers.

Stanley Doan and **Edward Zahra**, Morton Village residents, objected to the proposed left-turn lane in the northbound lane on 34th Street as well as any modification to the current merging lane, which was added to assist residents exiting Morton Village.

Recess/Reconvene. All members present except Ms. Sheppard.

Mr. Osborne summarized the request and reviewed the stipulations recommended for change.

Jerome Gostkowski, Planning Department, pointed out that Certificates of Level of Service have been issued and the capacity is adequate to handle the traffic. He stated that right-of-way exists for extension of El Conquistador to 75th Street; however, it is not projected in the five-year program at this time.

Discussion: Limitation on hours of deliveries; limiting deliveries on the south side of the site; requirement for 30-foot buffer is not unique; 34th Street West design; etc.

Harry Mendenhall, Transportation Department, stated the proposed northbound, left-turn on 34th Street is acceptable.

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Mr. Pederson revised Stipulation 9:

9. "There shall be no commercial vehicle parking between the rear of the shopping center and the south property line, or the wall, between 10:00 p.m. and 7:00 a.m.

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. Williams moved to recommend approval of Preliminary Site Plan No. **PDC-98-01(P)** with Stipulation 1 as recommended by staff, with 1.e. amended to eliminate "at a ratio of 5 percent" through "for the shopping center"; 2.a. as suggested by staff; 2.b. as suggested by the applicant; 3 as recommended by staff with 3.f. amended per handout by staff; 4 as staff recommends; 5 as staff recommends; 6 to read, "All deliveries and truck loading and unloading on the south side of the main building shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., and there shall be no truck parking along the wall on the south side of the property."; 7 deleted, and 8 as recommended by staff. Motion was seconded by Mr. Herbets.

Discussion followed during which Mr. Williams clarified his motion as follows:

Stipulations 1(a) and 1(c): Delete "(at least 3' in width)";
Stipulation 3(f): As recommended by staff;
Stipulation 3(d): Include "facilitating a northbound left turn into this facility" after 34th Street West;
Stipulation 6: Use staff's wording regarding deliveries and loading/unloading including the wording "on the south side of the main building" and add "commercial" before "truck parking".

Mr. Herbets agreed. Motion carried 6 to 0.

Public hearing (Notice in the Bradenton Herald 10/23/98) was held to consider

PDMU-98-03(Z)(P) SARASOTA HOTEL OWNERS, LP/HOLIDAY INN AIRPORT - SHOOTERS

Request: Zoning Ordinance of the County of Manatee, Florida...; providing for the rezoning of certain land from GC/WR/AI, PR-S/WR/AI, and PDR/WR/AI to **PDMU/WR/AI** retaining the WR and AI overlay districts; and Preliminary Site Plan for a new bar area and additional restaurant seating (already constructed) in addition to the existing hotel and marina facility, on 6.2 acres located on the west side of U.S. 41, south of Bowlees Creek at 7150 North Tamiami Trail.

If approved, staff recommended 10 stipulations; RECORD PC2-58
GRANTING Special Approval for a mixed use project in an R/O/R Future Land Use Category;
ADOPTION of the Findings for Specific Approval; and
GRANTING Specific Approval for alternatives to Sections 710.1.6, 715.5.1, 715.5.2, and 715.6 of the Land Development Code.

Bob Pederson, Planning Department, reviewed the request and referred to site plan. He stated the hotel was renovated in 1997 resulting in the dockmaster's quarters being converted into an outdoor bar and additional outdoor seating for the restaurant by adding a canopy near the pool. Neither of these additions received proper approval.

The renovations require additional parking; however, there is no room available on the site to provide that additional parking. Consequently, the applicant is requesting specific approval to authorize what was constructed ("after the fact") but not provide the additional parking.

Mr. Pederson reported that, as a result of the outdoor bar and canopy expansion, Code Enforcement cited the property owners but delayed action pending the outcome of this request. He stated the stipulations were developed to address concerns regarding parking, noise and lighting.

He reviewed the recommended stipulations. He recommended the wording, "Prior to use or operation of the fueling facility," be deleted from the beginning of Stipulation 10.

He submitted a letter in opposition (10/28/98) from **Dale Reuter**; Suggested Revised Stipulations provided by the applicant; revision to Stipulation 6 recommended by staff regarding non-amplified music; comments from Bill O'Shea, Environmental Manager (8/21/98); and a diagram showing lighting in the area of the marina parking lot.

Mr. Pederson stated that if the request were denied the applicant could be required to remove the tiki bar or convert it to its previous condition, and remove the canopy and restaurant seating.

Discussion: Denial would not address noise complaints; applicant did not seek proper approvals; bringing applicant into compliance; imposing some penalty for noncompliance, etc.

Bruce Franklin, planner representing the applicant, stated the current owners inherited the problem and are trying to cure it. He reviewed the applicant's Suggested Revised Stipulations (submitted earlier by Mr. Pederson).

George Bottini, Holiday Inn General Manager, expressed concern regarding limiting amplified outdoor entertainment to Saturdays and Sundays, but stated he would be agreeable to limiting the hours, e.g., no later than 7:00 p.m. He stated it was very unlikely any Holiday Inn employees, or customers, were parking on Holly or Shephard Street.

Herb Dewey, area resident, spoke in opposition to the loud music from the tiki bar, having an open bar serving within 200 feet of a residence, excessive lighting, and parking on the streets.

Jack Scott, adjacent property owner, spoke in opposition to the noise.

Discussion: Need to resolve noise problem; current noise ordinance is not enforceable; keep noise level below level requiring a monitor, etc.

Mr. Franklin noted the decibel rating for conversational speech is 40 to 45 decibels. He suggested a stipulation that a 50-decibel level at the property line be allowed for live nonamplified music, from noon to 7:00 p.m., seven days per week.

Mr. Pederson stated he did not object to revised Stipulation 2 proposed by the applicant with the addition of, "as shown on the attached drawing"; suggested that revised Stipulation 4 be added to the site plan; and that Stipulation 6 be amended as suggested by Mr. Franklin.

Discussion: Limiting any music to 50-decibels, 24 hours per day, any day; limit to outdoor music only; etc.

Mr. Pederson recommended Stipulation 6 read, "The only outdoor entertainment that shall be allowed is nonamplified, live outdoor music, noon to 7:00 p.m. Any music audible outdoors and generated at the Holiday Inn shall not exceed 50 db at the property line 24 hours per day, seven days per week. Notwithstanding the foregoing, all activities at this facility shall comply with the Manatee County Noise Ordinance, Article 2 of Chapter 2-21, Manatee County Code of Laws, as may be amended from time to time."

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. Bedford moved to recommend adoption of Manatee County Zoning Ordinance **PDMU-98-03(Z)(P)**; Granting Special Approval for a mixed use project in an R/O/R Future Land Use Category; and Approval of the Preliminary Site Plan for the existing hotel and marina uses, including a new bar area and outdoor seating area, with Stipulation 1, as presented by staff; 2, as recommended by applicant with note at the end "as shown on the attached drawing", the drawing to be that submitted by Mr. Pederson earlier in the meeting; 3, as per staff; 4, as per applicant; 5, as per staff; 6, as read by Mr. Pederson; 7, 8 and 9, as recommended by staff; and 10, as amended

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eliminating the first line up to the word "applicant"; Adoption of the Findings for Specific Approval; and Granting Specific Approval for alternatives to Sections 710.1.6, 715.5.1, 715.5.2, and 715.6 of the Land Development Code. Motion was seconded by Mr. McGinnis and carried 5 to 1, with Mr. Williams voting nay.

Mr. Williams stated he did not want to set a precedence that approval could be obtained "after the fact."

Recess/Reconvene. All members present except Ms. Sheppard.

Z-98-11 PAUL D. MAUS

Request: Zoning Ordinance of the County of Manatee, Florida,...; providing for the rezoning of certain land from RSF-4.5 to **PR-S**; and providing an effective date, on .7 acres located at the southwest corner of U.S. 301 and 30th Avenue East at 1704 30th Avenue East.

Staff recommended DENIAL.

Misty Servia, Planning Department, reviewed the request and site plan. She explained that due to the requirement for direct access and the inability for this site to take access onto U.S. 301, a limited access facility, and the local street classification of 30th Avenue East, staff cannot recommend approval of this request. Approval would be in conflict with Policy 2.10.3.2 of the Comprehensive Plan.

She stated this segment of 30th Avenue East is classified as a local street due to the fact there is a fire station located on the north side of the street. When U.S. 301 was relocated, Florida Department of Transportation (FDOT) entered into an agreement with the fire department to leave this intersection open. In the event the fire station relocates, FDOT is planning to close this intersection.

Jerome Gostkowski, Planning Department, stated that regardless of any action taken today, the option to close 30th at 301 remains a viable option for the FDOT.

Discussion: This is not a viable residential lot; whether a fly-over will be constructed; alternatives available to use the property; etc.

Mark Barnebey, Chief Assistant County Attorney, stated this property cannot be designated for Professional without a change to the Comprehensive Plan, e.g., Office Light or a redesignation of the roadway in this particular area to a collector or higher.

John Benson, representing the property owner, stated FDOT indicated no plans for an overpass or closing the intersection. He noted this is not a desirable location for a residence.

Discussion: How classification of roadways is determined; Comprehensive Plan Amendment is necessary to resolve issue; roadway can be reclassified to collector through a Comprehensive Plan amendment but could take as long as one year; redesignation of the site would be less time consuming; etc.

Mr. Benson stated he would prefer a continuance to allow the applicant an opportunity to return with a Small Scale Plan Amendment.

Motion was made by Mr. McGinnis, seconded by Mr. Herbets and carried 6 to 0, to continue the public hearing to a date to be set in the future.

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:

Clerk

Adj: 4:30 p.m./eml

Chairman 1/14/99