

JANUARY 14, 1999

The Planning Commission, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Thursday, January 14, 1999, at 9:00 a.m.

## Present were Commissioners:

Steve Belack, Chairman  
 E. H. Williams, Second Vice-Chairman  
 Stanley K. Herbets, Third Vice-Chairman  
 Richard Bedford  
 Mary Sheppard  
 Paul G. Sayers

## Absent was:

Patrick McGinnis, First Vice-Chairman

## Also present were:

Mark P. Barnebey, Chief 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.

MINUTES

Motion was made by Mr. Williams, seconded by Mr. Bedford and carried 6 to 0, to approve the minutes of October 22, November 5 and 12, 1998.

CONSENT AGENDA

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

PDC-98-12(P) PIZZA HUT (APPROVED)

Request: Preliminary Site Plan to allow a 2,563-square-foot restaurant as an outparcel within the existing Fountains Shopping Center, on .487 acre, located on the west side of U.S. 41, north of 49th Avenue Drive West.

If approved, staff recommends six stipulations.

RECORD PC2-74

John Osborne, Planning Department, submitted a **revised** recommended motion deleting Stipulation 3.

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

PDPI-98-01(P) MANATEE COUNTY SOUTHWEST WASTEWATER TREATMENT PLANT EXPANSION

Request: Preliminary Site Plan for expansion of the existing wastewater treatment plant in five phases in the PDPI zoning district on 329 acres, located at 5101 65th Street West.

If approved, staff recommends four stipulations.

RECORD PC2-75

**Frank Stauss**, Glenn Lakes resident, stated there is confusion with the map sent to adjacent property owners indicating the proposed expansion will abut Glenn Lakes Subdivision.

PDPI-98-01(P) was pulled from the Consent Agenda for separate action. (NOTE: Action taken later in the meeting.)

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

PDMU-98-06(P) DOLPHIN AVIATION (APPROVED)

Request: Preliminary Site Plan to allow two new and one replacement aircraft hangars at Dolphin Aviation in the PDMU zoning district on 18 acres, located on the east side of U.S. 41 at 8191 North Tamiami Trail.

If approved, staff recommends stipulations:

1. There shall be no jet engine static test facilities included in the design of the hangar or on the site approved in this Preliminary Site Plan.
2. An application for a Fugitive Particulate Abatement Plan and an 8½ x 11-inch map of each site's construction area shall be submitted to the Director of the Environmental Management Department for review and approval prior to the approval of a Final Site Plan for the project.

Bob Pederson, Planning Department, acknowledged receipt of a letter from the applicant (dated 12/21/98, with agenda packet), subsequent to the public hearing advertisement, revising the request to one corporate hangar for seven aircraft.

Motion was made by Mr. Williams, to approve Items 1 and 3 on the Consent Agenda incorporating the language as stated in the recommended motions in the staff reports, with the elimination of Stipulation 3 in Item 1 and the Stipulations renumbered 1 through 5. Motion was seconded by Ms. Sheppard and carried 6 to 0.

(End Consent Agenda)

ZONING

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

PDR-98-05 (G) J. DAVID CASSILY/OAKLEY PHASES II & III

Request: General Development Plan for 350 multifamily units (Phase III) and 129 single-family units (Phase II) (advertised as 130 lots) on 102.26 acres, located at the southeast corner of I-75 and Mendoza Road.

If approved, staff recommends 16 stipulations; RECORD PC2-76  
 ADOPTION of the Findings for Special Approval;  
 GRANTING Special Approval for a project (1) exceeding 4.5 gross dwelling units per acre in the RES-6 FLUC and (2) in the Entranceway;  
 ADOPTION of the Findings for Denial; and  
 DENIAL of Specific Approval of Alternatives to Sections 907.9.4.2 and 712.2.8 of the Land Development Code.

John Osborne, Planning Department, stated the site includes scattered wetlands, mostly to the east, which are densely forested. The site, including Oakley Phase I, was approved in 1989 for 240 multifamily and 164 single-family units as part of PDR-88-07 (Ashwood Oaks). The area included with the 1989 application was never developed and the plan expired in 1992. Oakley Phase I, located south of Phase III, is currently being developed. He addressed the locations and plans for Phases II and III.

Staff does not find the proposed 20-foot-wide buffer between the single-family detached lots and dedicated right-of-way for the 60th Avenue East extension adequate and has stipulated a six-foot-high decorative wall be constructed (Stipulation 13.d.).

Mr. Osborne stated the staff report contains a discrepancy, and that Stipulation 10 is no longer needed.

Phase II contains two lots separated by an access to the Phase II community focal point. Staff recommended a stipulation to eliminate the two lots to achieve a more centralized focal point, however, the applicant has agreed to eliminate only one of the lots.

Mr. Osborne distributed a revised recommended motion and additional Stipulation 17 to address stormwater facilities:

17. The development shall provide a location on site, suitable to Manatee County Planning and Transportation Departments, for stormwater facilities for the 60th Avenue East Extension.

He gave a presentation showing directional views (9) of the site with existing and sparse landscape buffering. He also displayed a 1988 aerial map of area residential developments with similar landscape buffering, i.e., Covered Bridge and Oak Creek. Staff considered the proximity of the project to I-75 and the transition of multifamily to single-family uses and included stipulations.

Discussion: Lack of interneighborhood ties to single-family uses; sidewalk is proposed along Mendoza Road; elementary schools do not have adequate capacity to serve this development; concern of adverse visual impacts along an entranceway.

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(Continued)

With regard to school issues, Mr. Barnebey advised that the County has not yet established concurrency for school projects, parks and infrastructure needs because an overall, comprehensive method of addressing these issues has not been presented by the School Board.

Discussion: State regulations regarding school concurrency; implications of a denial recommendation of this project based on the availability or lack of school facilities.

**Hugh McGuire**, attorney for developer (J. David Cassilly), stated the majority of units in Phase I are complete. He used an aerial map and stated the staff report inaccurately refers to a grove across I-75 to the west. He stated the property is a tree farm northwest of the site. The developer plans to preserve the existing wetland vista in Phase II located in a hammock setting to the east.

**Tom McCollum**, project planner, pointed out the proportion of wetlands and open space, surrounding commercial uses, and the subject property on a site plan. He stated the 60th Avenue East extension north to Mendoza Road is being constructed by the J.P. Igloo developers.

He distributed and outlined requested revisions to the stipulations:

**Stipulation 1** - Amend the last sentence to read: "In addition, the average length of multifamily buildings on the perimeter of the site shall be 180 feet."

**Stipulation 6** - Add the following sentence at the end: "The second means of access may be designed for emergency use only."

**Stipulation 8** -

- Reduce sidewalk width to four feet in the first sentence.
- Amend the second sentence to read: "The sidewalk on the south side of Mendoza Road shall be constructed in the right-of-way adjacent to the north property line of the property."

**Stipulation 9** - Delete.

**Stipulation 13** -

- Amend the first sentence to read: "The applicant shall provide the following landscape buffers as part of the required greenbelt."
- Amend 13.c. to read: "Western boundary (along I-75) - a 40-foot-wide landscape buffer with a five-foot berm, two rows of 2-1/2-inch caliper canopy trees (at least 10 feet in height and four-foot spread) placed 50 feet on center."

Mr. McCollum stated the requested change to 13.c. removes the requirement for the six-foot-high decorative wall.

- Amend 13.d.: "Along the east side of 60th Avenue East from Mendoza Road south to the south side of the southernmost single-family lot along 60th Avenue East a 15-foot landscape buffer width designed consistent with Section 715, Figure 715.5, Option C shall be installed."

Mr. McCollum stated the requested change to 13.d. is in lieu of the six-foot-high wall.

**Stipulation 17** - Mr. McGuire requested Stipulation 17 not apply.

Discussion: Number of stories and multifamily buildings next to I-75 is uncertain at this time; maximum building height limitations; two- and three-story combinations are possible.

**Debbie Massey** requested staff examine flooding and drainage in this area. She also addressed concern of inadequate school facilities.

Recess/Reconvene. All members present except Mr. McGinnis.

Mr. Pederson responded to the suggested changes:

**Stipulation 1** - Staff proposed no change.

**Stipulation 6** - Staff proposed no change.

**Stipulation 8** - Staff concurred with the applicant's language, but recommended the sidewalk width remain at five feet.

**Stipulation 9** - Staff recommended retaining Stipulation 9.

**Stipulation 10** - Staff recommended deletion as noted earlier.

**Stipulation 13** - Staff amended the initial sentence to read "The applicant shall provide the following landscape buffers: ~~as part of the required greenbelt.~~

**Stipulation 13.c.** - Staff concurred with the applicant's language.

**Stipulation 13.d.** - Staff proposed no change.

**Stipulation 17** - Staff recommended changing the word "provide" to reserve, and retain the rest of the wording.

Jerome Gostkowski, Planning Department, stated that staff plans to develop language prior to the County Commission meeting regarding use of the existing retention system proposed for the site.

Discussion: Distance to schools and available transportation; sidewalks are proposed along 60th Avenue East; proposed minimum lot size makes an upscale development questionable; additional stormwater drainage improvements have been installed to control flooding.

Mr. Osborne addressed the effectiveness of the 40-foot landscape buffer with five-foot berm and canopy trees to mitigate sound impacts to Phase III along I-75 (graphic in the staff report). He stated the six-foot-high wall may be required in the future based on the results of a sound analysis that must be performed.

Discussion: Proximity of the development to an interstate; runoff to add to the existing flooding in the area; existing schools cannot accommodate the accelerated development, etc.

Mr. Barnebey stated that school facilities should be examined as an overall issue affecting development projects in general and not on a case-by-case basis.

Inasmuch as Stipulation 10 has been deleted, Mr. Pederson stated that reference to Specific Approval of 712.2.8 of the Land Development Code should be eliminated from the motion.

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 General Development Plan **PDR-98-05(G)** with Stipulation 1 by staff; 2 through 5 by staff; 6 including the amendment by the applicant; 7 by staff; 8 with the sidewalks to remain at five feet in width, and to accept the remaining language by the applicant; include Stipulation 9; delete Stipulation 10; accept 11, and 12 by staff; 13 as previously agreed upon between staff and the applicant; 13.c. and 13.d. by the applicant; 14 through 16 as presented by staff, and 17 as presented by staff with the changing of the word "provide" to reserve; and GRANTING Special Approval for a project (1) exceeding 4.5 gross dwelling units per acre in the RES-6 FLUC and (2) in the Entranceway; ADOPTION of the Findings for Denial, and DENIAL of Specific Approval of alternatives to Section 907.9.4.2 of the Land Development Code. Motion was seconded by Mr. Sayers.

Discussion: Concern regarding a project in an entranceway without building elevations; project timing; responsibility of the School Board to analyze the need for schools.

Motion carried 4 to 2, with Mr. Herbets and Ms. Sheppard voting nay.

Mr. Herbets voted against the project due to the lack of adequate school facilities. Ms. Sheppard voted against the project because of inappropriate project timing and because a planned development project along an entranceway has been presented without building elevations.

**PDPI-98-01(P) MANATEE COUNTY SOUTHWEST WASTEWATER  
TREATMENT PLANT EXPANSION**

(continued from earlier in the meeting)

Laurie Suess, Planning Department, submitted a letter of opposition from **Floyd Winters**. She displayed an aerial map of the site and surrounding properties. The site is located on the east and west

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(Continued)

sides of 65th Street West, with the expansion primarily on the east side of the existing facility. Ms. Suess clarified that the proposed expansion does not include any portion of the existing golf course facility.

**Paul Samios, Fred Cremo, Joseph Mathis and Aurora Ficalora** addressed the odor problems from the plant, the timing of the project and questioned if it affects the golf course.

(Mr. Herbets absent for a portion of presentation)

Ms. Suess stated any changes beyond the five phases will require a public hearing. She stated the time frame to complete the five phases could extend over six years. She distributed an **amended** motion deleting Stipulation 3.

**Lynn Green**, Black and Veatch, displayed an aerial map showing the existing facility, storage ponds for reclaimed water and the changes to each phase. No open tanks are proposed for Phase II. Phase III involves additional tanks, new equipment, and a small building. Phase IV consists of internal improvements and storage pond modifications. Phase V will involve pumping equipment and the addition of a filtration open tank for treated water that will not be a source of odor.

Inasmuch as there has not been major construction on site in the last ten years, the existing parking lots on both sides of the street as well as the pond areas and landscaping will be brought up to compliance with the Land Development Code.

Ms. Green stated there will not be additional open treatment tanks to produce further odor, and that the project will improve the efficiency of the water treatment plant.

Len Bramble, Public Works Director, stated plans are being implemented to reduce odor emanating from this plant, and the other two plants.

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 APPROVAL of Preliminary Site Plan **PDPI-98-01(P)** with Stipulations 1, 2, and 4. Motion was seconded by Mr. Sayers and carried 6 to 0.

(Court Reporter, Elsa Rohow, present)

**ORDINANCE 98-51: PUBLIC NUDITY**

Public hearing (Notice in the Bradenton Herald 12/31/98) was held to consider

**ORDINANCE 98-51** AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING CERTAIN PROVISIONS OF THE MANATEE COUNTY CODE OF LAWS, INCLUDING PROHIBITING NUDITY IN ALL PUBLIC PLACES IN THE UNINCORPORATED AREAS OF MANATEE COUNTY, WITH CERTAIN SPECIFIED EXCEPTIONS TO THIS ORDINANCE; PROVIDING FOR A MISDEMEANOR VIOLATION PUNISHABLE BY A FINE UP TO \$500 OR IMPRISONMENT OF SIX MONTHS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 1, 2000.

Mr. Belack stated a letter of support (1/13/99) from the Federation of Manatee County Community Associations was entered into the record.

James Minix, Assistant County Attorney, advised that Ordinance 98-51 involves issues of legal sufficiency, and should not be confused with the Adult Entertainment Ordinance which regulates conduct in the context of adult entertainment establishments. Ordinance 98-51 is designed to prohibit nudity in public places in unincorporated Manatee County regardless of what kind of facility or type of activity.

Mr. Minix stated the ordinance is modeled after Polk County Ordinance 92-31 (see 11/3/98 County Commission meeting), which was upheld by the Second District Court of Appeal in the case of Shetler v. State. Mr. Minix stated it is the opinion of legal staff that the ordinance will meet legal challenges and is sufficient on a legal basis.

Mr. Barnebey stated the letter from the Federation of Manatee County Community Associations, written by Ernest Marshall, Vice-Chairman of the Federation, stated that it is not to be construed as the official position of the Federation.

**Luke Lirot**, attorney representing the Peek-A-Boo Lounge and Temptations II adult entertainment establishments, stated the "Whereas" clauses appear to state the goal of the Ordinance is to prevent people from exposing themselves in public. He stated that Ordinance 98-51 appears to take that concept and unconstitutionally apply it to what has been found by the courts to be protected expression. He submitted a Handbook of Human Sexuality and an Appendix in Support of Peek-A-Boo Lounge and Temptations II's Opposition to Proposed Ordinance 98-51, Volumes I and II.

Mr. Lirot stated the United States Supreme Court ruled in the Barnes v. GlenTheatre, Inc. case that exotic (nude) dancing is protected by the First Amendment. He gave his opinion that the specific facts of that case do not apply to the regulations being considered at this time. He also stated the Shetler case does not provide sufficient evidence to uphold Ordinance 98-51.

Mr. Lirot stated the ordinance would limit the type of expressive dance performances these businesses are designed to present to the public. Mr. Lirot stated it is incumbent by the County to show these particular businesses are not adequately controlled by the present regulations.

**Steven Mason**, attorney for Peek-A-Boo Lounge and Temptations II, outlined reasons as to why Ordinance 98-51 is ill-advised for Manatee County. He stated the language in Ordinance 98-51 is very broad, specifically the words "bona fide live communication" in Section 5.b. He introduced **Dean** and **Kelly Bowley**, owners of Peek-A-Boo Lounge.

Discussion: Settlement agreement for injunction between the County and Peek-A-Boo Lounge (dated May 1989, contained in Appendix, Volume I); clarification of letter from Ernest Marshall.

Recess/Reconvene. All members present except Mr. McGinnis.

Speaking in support of the Peek-A-Boo Lounge were: **James** and **Melody Robinson**, **Leslie Morris**, and **Mary Mullen**. Melody Robinson stated her comments also apply to the Temptations II establishment.

**Dr. Mike Fleck** stated there is confusion with the language of Ordinance 98-51, and it appears to have an effect on the moral standards in the community as it relates to apparel and attire. He stated documentation should be produced to substantiate the moral decay of the community in order to enforce regulations that already exist.

**Donna Whittaker** stated the Peek-A-Boo lounge is a source of employment.

Mr. Minix emphasized the purpose of the ordinance is to prohibit nudity, as defined throughout the unincorporated areas of Manatee County. Based on testimony indicating that nude dancing does not occur, he stated the Peek-A-Boo and Temptations lounges are in compliance with the proposed ordinance.

Discussion: Intent of the ordinance is not specific; Section 4; does not apply to private residences; artistic productions exempt under Section 2.b.; lack of documentation to support the whereas clauses; primary purpose and intent of Polk County ordinance to address scantily clad (or nude) hot dog vendors; applicability to lingerie shops; effect on adult entertainment establishments if Ordinance 98-51 is adopted.

(Depart Mr. Herbets)

Mr. Lirot stated that under Florida Statutes (Chapters 800.03, 796.07) and the common law concept (Chapter 775), the act of being nude in a public place is a criminal offense, but coupled with an expressive performance has been found to be protected.

(Enter Mr. Herbets)

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Mr. Lirot stated both Peek-A-Boo and Temptations II have the appropriate zoning and licensure to conduct an adult entertainment business and requested they be exempt from the provisions of Ordinance 98-51. He suggested language be added to state the ordinance does not apply to licensed adult entertainment businesses.

Discussion: Existing regulations affect Manatee County's public beaches; enforcement by Sheriff's office.

Motion was made by Mr. Sayers, to recommend adoption of Ordinance 98-51 with the language recommended by Mr. Lirot regarding exempting licensed adult entertainment businesses. Motion was seconded by Mr. Bedford.

Mr. Minix offered wording to read, "This ordinance shall not apply to duly licensed adult entertainment establishments.", and stated the language could be inserted into Section 5.d. Mr. Sayers and Mr. Bedford agreed.

Motion, with the additional language, carried 4 to 2, with Mr. Herbets and Mr. Williams voting nay.

Recess/Reconvene. All members present except Mr. McGinnis.

Mr. Herbets voted against Ordinance 98-51 because the impacts to existing regulations are uncertain, and because it is an attempt to legislate morality. Mr. Williams voted against Ordinance 98-51 because he does not want to promote adult entertainment activity.

ZONING (Continued)

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

PDO-96-02(P)(R) SPRING FOREST OFFICE PARK

Request: Revised Preliminary Site Plan to allow a 29,997-square-foot office complex in the PDO/WP-E/ST zoning district on 7.0 acres, located on the south side of S.R. 70, 330 feet east of River Club Boulevard at 10950 S.R. 70 East.

If approved, staff recommends 16 stipulations; RECORD PC2-77  
GRANTING Special Approval for (1) a project located in the Watershed Overlay District; and (2) a small commercial use exceeding 3,000 square feet in the OL Future Land Use Category; and,  
GRANTING Specific Approval of an alternative to Section 715.5.2 of the Land Development Code.

Misty Servia, Planning Department, stated this project was approved by the County Commission (12/16/97). This revision is to subdivide the project into six lots with six buildings and add 17 square feet of office space. She displayed a site plan and stated proposed land uses include professional office, a daycare, a veterinarian clinic and an accessory food court. She stated staff has concern over the number of mature trees that will be removed.

**Marla Hough**, representing developers Mark Ogles and Dr. Jeff Thompson, stated minor changes to the previously approved plan include the repositioning of buildings to be parallel to S.R. 70 and the repositioning of stormwater retention facilities. She stated there is no impact to the wetland or its 30-foot buffer.

Ms. Hough addressed Stipulation 9 stating there will be a pedestrian walkway from Braden River Elementary School to the daycare facility without having to access S.R. 70.

With regard to private easements versus private streets through this development, Ms. Servia stated this project will be similar to a shopping center that is subdivided, whereby access is provided by easements to the lots rather than through a private street.

Jerome Gostkowski, Planning Department, stated several shopping centers in the County have access via private easements.

Based on 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. Herbets moved to recommend APPROVAL of Revised Preliminary Site Plan **PDO-98-02(P)(R)**; APPROVAL of the Revised Preliminary Site Plan with Stipulations 1 through 16; GRANTING Special Approval for (1) a project located in the Watershed Overlay District, and (2) a small commercial use exceeding 3,000 square feet in the OL Future Land Use Category; and Granting Specific Approval of an alternative to Section 715.5.2 of the Land Development Code, as recommended by staff. Motion was seconded by Ms. Sheppard and carried 6 to 0.

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

**PDR-98-23(P) THE PALMA SOLA CORPORATION/BRADENTON ACADEMY**

Request: Preliminary Site Plan to allow a private school for 650 students on 11 acres, located at the terminus of 40th Avenue West, (1,250 feet west of 75th Street West) at 8900 40th Avenue West.

If approved, staff recommends stipulations:

1. Prior to the issuance of the first Certificate of Occupancy, the developer shall complete the following transportation improvements:
  - a. Fortieth (40th) Avenue West, specifically the section between the development's access driveway and 75th Street West, shall be widened to 24 feet in width with curbs and gutter, in accordance with the LDC;
  - b. The access point to this property shall be reconfigured into a "T" intersection with the driveway access to Palma Sola Park. The design details for this improvement shall be specified by the Manatee County Transportation Department with the Final Site Plan.
  - c. Any additional site related improvements as required, based on the findings of the traffic study report.
  - d. Participation in future signalization (amount to be determined after traffic study review) of the 75th Street West and 40th Avenue West intersection, whenever warranted; and
2. The Final Site Plan shall indicate a 20-foot greenbelt and landscape buffer along the east property line. This buffer shall be planted with two rows of canopy trees (2-1/2-inch caliper canopy trees at least 10 feet in height and a 4-foot spread) spaced 40 feet on-center. The two rows will be offset from each other to give the appearance of trees located 20 feet on-center.

Mr. Pederson submitted two letters in support of the application. He also distributed revised stipulations, with changes to Stipulation 1.a. reducing the width of 40th Avenue to 22 feet and eliminating curb and gutter, 1.d., and the addition of 1.e. RECORD PC2-78

Mr. Gostkowski stated staff has determined the proposed changes to 40th Avenue West and the 75th Street West intersection are adequate to serve traffic needs. Stipulation 1.e. makes available to the County the applicant's design-build bid prices should the County opt to construct a sidewalk from Palma Sola Park to 75th Street West.

**Diane Chadwick**, Lombardo, Skipper and Foley, displayed a general development plan and an architectural rendering of the school. Ms. Chadwick submitted a letter in support of the project (9/8/98) from the **Palma Sola Park Association**.

**Bob Lombardo**, representing the applicant, addressed Stipulation 1.a., stating 40th Avenue West is a deficient roadway that is being used intensively as access to and from Palma Sola Recreational Park and by existing subdivisions to the south. He questioned why the applicant must fund the entire widening of the roadway. He also requested staff clarify the issue of overlaying the entire road, which would be a considerable expense.



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**Gerri Messick**, representing Palma Sola Park Association, stated the Association is in favor of the project.

Mr. Gostkowski stated that staff is not requiring the applicant to upgrade 40th Avenue to County standards with curb and gutter, but rather to achieve a substandard road level by providing only those improvements necessary to serve the needs of the school and adjacent park area.

Mr. Pederson stated the parking study indicated a higher percentage of students who are bused to the school, which would result in a higher percentage of bus traffic, thus need for Stipulation 1.a.

Discussion: Retention pond adjacent to the school should have a barrier for the safety of the children; possibility of retaining the oak hammock; fairness of the applicant upgrading 40th Avenue; applicant will be required to obtain a right-of-way use permit for the road improvements; fencing the retention pond will be the decision of Bradenton Academy.

**Diane Small**, Director of Student Activities at Bradenton Academy, stated measures will be taken to insure the safety of the children.

Mark Barnebey, Chief Assistant County Attorney, advised that the fence is not a Land Development Code requirement.

Mr. Pederson presented additional Stipulation 3:

3. The design of the building shall be in substantial conformance with the elevation rendering entered into the record for this request.

Mr. Lombardo stated every effort will be made at the final design phase to reposition the stormwater management system in order to preserve the oak hammock.

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 APPROVAL of Preliminary Site Plan No. **PDR-98-23(P)** with Stipulations 1, 2, and 3, with 1 and 2 submitted by staff and 3 as read by Mr. Pederson, and GRANTING Special Approval for a nonresidential use exceeding 30,000-square-foot gross floor area in a RES-16 Future Land Use Category, as recommended by staff. Motion was seconded by Mr. Herbets and carried 6 to 0.

(Depart Mr. Herbets)

Public hearing (Notice in the Bradenton Herald 1/2/99) was held to consider

**PDMU-98-04(G) ACA FINANCIAL CORPORATION/KEYSTONE RANCHES**

Request: General Development Plan for a mixed use development that includes **Light-Industrial** (340,400 square feet), **Commercial** (75,946 square feet), **Office** (43,680 square feet), **Hotel** (2 hotels, 180 rooms), and **246 Multifamily dwelling units** at 5.44 dwelling units per gross acre on 183.7 acres, located south of Moccasin Wallow Road, southwest of the Moccasin Wallow/I-75 interchange.

If approved, staff recommends stipulations addressing Architectural and Design Guidelines (7); Site Design and Land Use (17); multifamily Development (8); Fire Protection (1); Intermodal Design (5); Drainage Design (4); Public Utilities/Facilities (1); Environmental (1); and Preservation and Conservation (5);

GRANTING Special Approval for a project (1) located within an Entranceway; (2) containing nonresidential uses exceeding 150,000 square feet of gross building area; (3) located adjacent to a perennial stream (Cabbage Slough); and (4) located in the Mixed Use Future Land Use Category.

RECORD PC2-79

Aristotle Shinas, Planning Department, submitted the following items into the record:

- Typical cross section details of the roadways and buffers;
- Staff's recommended changes to Architectural and Design Guidelines Stipulation 6, Site Design and Land Use Stipulations 3 and 7, and new Stipulations 18 and 19, Site Design and Land Use; RECORD PC2-80
- Applicant's requested language change to Site Design and Land Use Stipulation 3 (letter 1/13/98); RECORD PC2-81
- Additional landscape buffering suggestion by Mark Privette, project engineer (letter 1/13/98);
- Revised statement of school needs from the School Board (letter 1/8/99);
- Comments from Florida Department of Transportation (FDOT) (1/13/99);
- Letter of no objection (1/13/99) from A. Cueto, GC Imperial Investments Corporation, owner of Imperial Lakewood Golf Club;
- Letters (two dated 1/7/99) from Cecil Burnett to the Planning Commission and Board of County Commissioners indicating approval of the project and no objection to 81st Street East being upgraded from a local county road to a future collector.

(Enter Mr. Herbets)

Mr. Shinas displayed a zoning map of the surrounding area and addressed the proposed uses on the site. An aerial map was used to show surrounding land uses which include the Gateway North DRI project, a commercial nursery, a citrus operation, and a vacant parcel zoned RSMH-6 to the north, Imperial Lakes Estates and two PDC-zoned parcels to the east across I-75, and property zoned A-1 to the south. An aerial photograph of the I-75/I-275 interchange and surrounding areas including Port Manatee (previously submitted by the applicant under Z-85-127, 8/28/86) was also shown.

To address concern regarding truck traffic serving the light industrial uses traveling through the commercial and hotel areas to reach Moccasin Wallow Road, staff recommended the site plan be modified to include a third access to Moccasin Wallow Road to serve the light industrial area only, or to provide a joint-access connection with the property to the east. Access to the development is proposed at two locations on Moccasin Wallow Road connecting to internal roadways. A third access will also be made to 81st Street East (Cecil Burnett Road).

Mr. Shinas stated FDOT has concern regarding the access points on Moccasin Wallow Road. The roadway belongs to the County but the right-of-way of I-75 belongs to the State. It is the opinion of FDOT that the south side of Moccasin Wallow Road meets the DRI requirements for future access and roadway improvements. Staff recommended a stipulation requiring the access points to the site line up with access points to the Gateway North DRI.

Due to concerns regarding compatibility regarding the internal arrangement of uses and the location of industrial uses near the proposed residential development, staff recommended stipulations to limit the type of light industrial uses. Additionally, the applicant plans to preserve the majority of wetlands on site and maintain natural vegetation along Cabbage Slough and the west property line to further mitigate against visual and adverse impacts.

Mr. Shinas showed a video of the site and the extensive, natural vegetation throughout the property.

The applicant proposed an eight-foot-wide bicycle/multi-purpose trail on one side of the boulevard roadway and five-foot sidewalks on both sides. The applicant is also providing wider buffers than required by Code, special landscaping, sign control criteria and project design.

**Gale VanSkyhawk**, applicant, stated the property was an agricultural ranch started by her grandfather in 1916. She stated the project design attempts to retain the natural vegetation on site. She displayed four photographs of the site.

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(Continued)

**Mark Privette**, Cyrix Engineering, project engineer, stated the applicant proposes to recontour the 25-year floodplain, which will result in a post-development topography that elevates structures, infrastructure and roadways above the 25-year floodplain elevation. The project was designed with a 25-year storm event for normal drainage and with compensation for the 25-year floodplain as well as the 100-year floodplain.

Mr. Gostkowski addressed the signalization and the potential for a pedestrian system at the entrance along Moccasin Wallow Road.

Ms. VanSkyhawk stated all parking and loading for buildings on the light industrial parcels along I-75 will be located behind the buildings along the vegetative buffer.

Discussion: Design of the buildings fronting I-75.

Recess/Reconvene. All present except Mr. McGinnis.

**Roger Conley**, attorney for Jack and Ada Tolar (east property owners), stated the Tolars plan to develop their property as an upscale, recreational vehicle park (Happy Trails RV Park). They met with FDOT regarding a full median cut to access their property. He stated they have concern that the third joint access will cause large RV's to attempt unsafe maneuvers to access their RV park and make it difficult to stack the RV units. Mr. Conley stated the Tolars have further concern as the third access would require a drive to be built across jurisdictional wetlands into their property.

Mr. Conley submitted a letter from FDOT (1/13/99) denying the joint access, but granting the Keystone project the two, full median cuts. In order to resolve the access issue and not delay the project, he requested Stipulation 7 be put on hold to allow traffic engineers to meet with County staff to work out the issues.

**Randy Alley**, Traffic Engineer for the Tolars, stated the Tolars need a full median connection but are only getting a directional median cut westbound. He stated the applicant's secondary access to accommodate light industrial vehicles is not necessary as the commercial area will draw the same size and amount of vehicles. He requested Stipulation 7 be deleted.

**Michael Burton**, Environmental Affairs Consultants, stated the Tolars will impact jurisdictional wetlands if the joint access road is required. He stated Mr. Tolar could be required to provide wetland mitigation at a 4 to 1 ratio. This would make Mr. Tolar unable to develop his property as intended and create additional burden and permitting costs. He located the jurisdictional wetland areas on an aerial map. A reduced map was distributed.

Discussion: Two parcels between the Tolar parcel and I-75; FDOT would support a frontage road parallel to Moccasin Wallow Road; meet with parties before County Commission meeting regarding Stipulation 7, etc.

Bill O'Shea, Environmental Management Department, advised that mitigation is required for any wetland alterations.

Mr. Pederson read additional Environmental Stipulations 2 and 3, as recommended by Mr. O'Shea and agreed upon by the applicant:

2. The jurisdictional limits of the off-site ditch along the eastern property line shall be delineated on the preliminary site plan. Wetland buffers shall be provided in accordance with Section 719 of the Land Development Code, and shall be delineated on the preliminary site plan.
3. Prior to final site plan approval, all required landscaping within the wetland buffer shall be reviewed and approved by the Environmental Management Department.

Mr. Privette stated concern regarding Site Design and Land use Stipulation 2 concerning the joint access connection to the east. He stated additional wording should be added to Site Design and Land Use Stipulation 7 to clarify that the truck loading and service areas would be located behind the buildings that front I-75.

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(Continued)

Mr. Pederson stated Site Design and Land Use Stipulation 2 in the staff report is misnumbered as Stipulation 7 in the handout from Mr. Shinas earlier in the meeting. The handout should indicate Stipulation 2.

Mr. Barnebey stated the word "and" in Site Design and Land Use Stipulation 7 in the staff report should be changed to or.

In order to allow time to review the stipulations, motion was made by Mr. Sayers to continue PDMU-98-04 (G) to January 21, 1999, at 1 p.m., or as soon thereafter as same may be heard, in these chambers. Motion was seconded by Ms. Sheppard and carried 6 to 0.

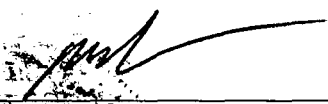
Ms. VanSkyhawk submitted three letters of support into the record.

**MEETING ADJOURNED**

There being no further business, the meeting was adjourned.

Attest:

APPROVED:

  
\_\_\_\_\_  
Clerk  
Adj: 5:36 p.m.  
/rll  
PLANNING COMMISSION

  
\_\_\_\_\_  
Chairman 4/8/99