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**SPECIAL PERMIT NO. SP-03-09
BVT BRADENTON ASSOCIATES/SPARKS CAR CARE**

CLERK OF THE DISTRICT COURT
MANATEE CO. FLORIDA

**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER
MARK D. SINGER ON BEHALF OF MANATEE COUNTY
GRANTING SPECIAL PERMIT NO. SP-03-09, TO ALLOW A
MAJOR MOTOR VEHICLE REPAIR FACILITY IN GC
ZONING; PROVIDING FOR SEVERABILITY; AND PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, Mark D. Singer, as the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, BVT Bradenton has requested a Special Permit to allow a major motor vehicle repair facility in GC zoning; and

WHEREAS, on April 21, 2004 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for major motor vehicle repair in GC zoning.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-03-09 requested by BVT Bradenton, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. This request is for a Special Permit for a major motor vehicle repair facility.
- B. The site is at 3811 14th Street West, Bradenton, Florida, with ± .96 acres.
- C. The site is zoned GC, General Commercial. The Future Land Use Designation is R/O/R, Retail/Office/Residential.
- D. To the north is a manufactured home park (Sunset Village) zoned RSMH-6 and vacant commercial, zoned GC. To the SOUTH is a car lot (Valu-Ride) and other commercial (Shepherd's Tire) zoned GC. To the EAST are single- family residences zoned RSF-4.5. To the WEST is 14th Street W. Across 14th Street W. is the new Lowe's location, the existing Sparks Car Care, and existing Kmart, zoned PDC.
- E. The applicant proposes a 6 ft. solid fence or wall and landscaping along the north and east property lines.
- F. The hours of operation will be limited to between 7am and 6pm, Monday through Saturday.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the County Comprehensive Plan and Land Development Code, the above referenced Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. The proposed use is consistent with the R/O/R Future Land Use Category, which allows for light and heavy commercial uses.
- D. The proposed use complies with Policy 2.6.1.1 of the Manatee County Comprehensive Plan, requiring compatibility of land uses, and the use of buffers and screening to mitigate impacts. The applicant has proposed a solid fence or wall and buffer landscaping on the two sides abutting residential uses.
- E. The proposed use will not be detrimental or an endangerment to the public health, safety, or general welfare of the residents in the neighborhood, or county as a whole.
- F. As conditioned herein, this request complies with Sections 505 and 704.64 of the Manatee County Land Development Code.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to BVT Bradenton for the property located at 3811 14th Street West, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a major motor vehicle repair facility, subject to the following conditions:

- A. This Special Permit shall not be effective until the applicant has recorded it in the Public Records of Manatee County, Florida, and a copy of the recorded Order is received by the Planning, Permitting and Inspections Department.
- B. The site plan submitted with this application shall be part of this approval.
- C. No overhead doors are allowed on the east side of the building. This shall be shown on the Final Site Plan.
- D. During the first year of operation the applicant shall submit quarterly noise studies to Manatee County that indicate the baseline, pre-construction noise generation, and post-construction a.m. and p.m. noise generation. Operation of the facility shall meet all Manatee County noise standards.
- E. The applicant shall provide a 20 ft. landscape buffer along the north and east property lines that contains one canopy tree per 50 linear feet, and one understory tree per 30 l.f., in addition to a solid 6 foot high decorative, opaque fence. All required landscaping shall be located on the outside of the wall. However, the 20 ft. landscape buffer may be reduced on the east side to a minimum of 15 ft. adjacent to the dumpster and to a minimum of 10 ft. adjacent to the two employee parking spaces.

- F. All pole lights and building mounted lighting shall be directed downward, have horizontal cutoff features, and not trespass on adjacent properties.
- G. There shall be no outdoor speakers on this site. This shall be indicated on the Final Site Plan.
- H. This Special Permit shall not be effective until the applicant has recorded it in the Public Records of Manatee County, Florida, and a copy of the recorded Order is received by the Planning Department.
- I. No outdoor storage of materials or equipment shall be allowed. No compressors or generators shall be permitted to be located or to be operated outdoors. However, air conditioning equipment shall be permitted on the exterior of the west side of the building.
- J. Final engineering drainage design shall be approved prior to approval of the Final Site Plan.
- K. A filtration system shall be installed as stipulated under 717.3.13 and located before pollutants enter the retention/detention area.
- L. Removal of all exotic nuisance plant species from upland portions of the site shall be completed prior to the first Certificate of Occupancy issuance or final plat approval.
- M. Erosion and Sediment Control devices shall be installed as indicated in the approved Final Site Plan and inspected by EMD staff prior to commencement of general construction activities.
- N. SWFWMD Rule Chapter 40D-3.531 requires proper abandonment of all unused wells. Plans for well abandonment shall be included in the Final Site Plan submittal.
- O. Prior to development related land clearing activities, all applicable County approvals must be obtained through the Planning Department. If burning of trees or branches is required for land clearing, a burn permit must be obtained from the EMD.
- P. The site plan submitted with this application shall be part of this approval, but only approved at the preliminary level. Administrative approval of the Final Site Plan shall be required subsequent to the Hearing Officer's approval of the Special Permit.
- Q. The hours of operation shall be limited to between 7am and 6pm, Monday through Saturday.
- R. All repair work shall be conducted inside the building.
- T. If the right-of-way on 14th Street West is used by either Manatee County or FDOT, a new 10-foot roadway buffer shall be installed by the applicant within 120 days of the dedication or Final Order relating thereto.
- U. A Water Well Construction Permit must be obtained from the EMD prior to construction of proposed wells.

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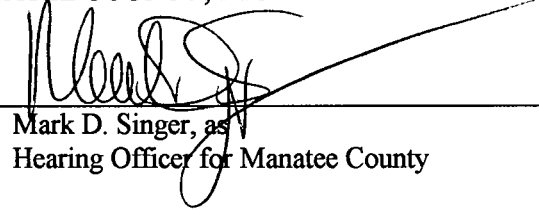
Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Court and receipt of a copy of the recorded Order by the Planning Department.

2004. ORDERED ON BEHALF OF MANATEE COUNTY this 28th day of May.

MANATEE COUNTY, FLORIDA

BY:


Mark D. Singer, as
Hearing Officer for Manatee County


ATTEST: R.B. SHORE
Clerk of the Circuit Court


Diane E. Vollmer
Deputy Clerk

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EXHIBIT "A"

LEGAL DESCRIPTION:

TRACT A, REVISED PLAT OF BELL'S SUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 61 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LESS ROAD RIGHT-OF-WAY.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

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R.B. SHORE CLERK OF CIRCUIT COURT MANATEE COUNTY FL.