

**ABBREVIATED MINUTES  
PLANNING COMMISSION MEETING  
SEPTEMBER 17, 2008**

The Planning Commission met in the City of Bradenton Council Chamber, 101 Old Main Street, Bradenton, Florida on September 17, 2008 at 2:00 p.m.

**ATTENDANCE**

**Present:**

**Planning Commission Members:** Lucienne Gaufillet, Chair; Diane Barcus; Adam Buskirk, Allen Prewitt, Jason "J.B." Taylor, Joseph Thompson

**City Staff:** Tim Polk, Planning Director; Thomas Cookingham, Assistant Planning Director; Ruth Seewer, Development Review Manager; Arlan Cummings, Public Works; Kenny Langston, Fire Marshal; Karen Aihara, Executive Assistant

**Absent:**

**Planning Commission Members:** Allen Yearick, Vice-Chair; Brady Cohenour (alternate), O.M. Griffith (alternate)

**PRELIMINARIES**

Meeting called to order by Chairperson Lucienne Gaufillet at 2:02 p.m.

- 1) Pledge of Allegiance was recited.
- 2) Ms. Barcus moved, with a second by Mr. Prewitt, to approve the Minutes of July 30, 2008 Special Meeting. Motion carried unanimously, 6-0.
- 3) The Chair advised that with the exception of variance requests, all items being considered at this meeting would be heard by City Council at its regularly scheduled meeting on Wednesday, October 8, 2008 at 8:30 a.m. unless otherwise announced. Any display materials or boards used for presentation are required in duplicate for public hearings.
- 4) Ms. Aihara swore in all those wishing to speak before the Commission.

**NEW BUSINESS**

**VA.08.0049 WARD 3 NEIGHBORHOOD 6.01**

Request of Donald L. Behnen for approval of a variance to reduce the side and rear yard setback requirement from 5 feet to 1.6 feet and 2.6 feet, respectively, to allow reconstruction of a non-conforming shed for the property located at 1721 12<sup>th</sup> Avenue West (Zoned R-2B)

Ms. Seewer read the request.

Mr. Behnen explained that the shed was placed on a pre-existing concrete pad. The extenuating circumstances for the reduced shed setback include the custody of their grandchild and storage for their collection of angel ornaments. Mr. Behnen answered questions of the Commission Members.

**Public Hearing** - The Chair opened the public hearing for those wishing to speak in favor or against:

In Favor: none appeared.

Opposed: Mr. Charles McMichael, 1715 12 Avenue West, Bradenton, next door property owner. Mr. McMichael stated that no permit was pulled to start Mr. Behnen's shed project. Mr. McMichael submitted pictures that Mr. Behnen's shed is 5 ½ inches from fence, not 1.6 feet as stated on his request. The overhang is 6 inches and rainwater from the shed's roof runs onto his property. Mr. McMichael requests that the shed be brought into compliance with current law.

In rebuttal, Mr. Behnen stated that he understood that there are rules and regulations that he has to live by and the shed is not harming anyone. The rest of Mr. Behnen's comments did not pertain to the issue at hand.

**Public Works** - Mr. Cummings asked for clarification, the survey shows the concrete slab is 1.6 feet from property line. The shed is situated 5 ½ inches from fence, even closer to the fence than shown on the survey.

**Fire Department** - Fire Marshal Langston had no comment.

**Staff Report** - Ms. Seewer stated that a variance has to show a viable hardship and a replacement building has to be in conformance. The staff recommends denial of VA.08.0049, due to lack of viable hardship.

**PLANNING COMMISSION ACTION: DENIAL**

Ms. Barcus moved, with a second by Mr. Thompson, to deny VA.08.0049. Motion carried, 6-0.

**SU.08.0055 WARD 5 NEIGHBORHOOD 7.03**

Request of Phillip Garrett, Agent, for Special Use Approval for operation of produce market with plant nursery, embroidery t-shirts, gift shop, and refreshments for the property located at 704 Manatee Avenue East (Zoned C-1)

Ms. Seewer read the request.

Phillip and Toni Garrett's request will combine husband and wife's businesses in an interior temperature-controlled market. Business will be located in the Enterprise Zone. Arrangements have been made with Palmetto High School FSA to use over-ripe vegetables and fruit for animal feed and to participate in Bradenton's cardboard recycling. Mr. and Mrs. Garrett answered the Commission Members' questions.

**Public Hearing** - The Chair opened the public hearing for those wishing to speak in favor or against. None appeared. Public hearing was closed.

**Public Works** - Mr. Cummings had no objections.

**Fire Department** - Fire Marshal Langston had no objections.

**Staff Report** - Ms. Seewer stated that the City is always looking to for redevelopment opportunities in the Old Manatee Area and the staff recommends APPROVAL of SU.08.0055 with the following stipulations:

1. Hours of operation will be 9:00 a.m. to 6:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday, and closed on Sunday.
2. Landscaping will be installed where necessary to meet minimum code requirements. Location and materials will be subject to approval of the Planning and Community Development Director.

**PLANNING COMMISSION ACTION: APPROVAL**

Mr. Thompson moved, with a second by Mr. Taylor, to approve SU.08.0055 with the staff's stipulations. Motion carried, 6-0.

**PR.08.0040 WARD 1 NEIGHBORHOOD 4.03**

Request of Marie McCaughen, Agent for Yulara II Inc. for approval of a revised Planned Development Project design reducing the density from 16 units to 14 units, for the property located at 701 63<sup>rd</sup> Street West (Zoned PDP)

Ms. Seewer read the request.

Ms. McCaughen addressed the current site plan reduction of 16 units to 14 units with cul de sac, easement from Hidden Lakes, and will put in a lift station to tie into city water and sewer. Copy of easement submitted for the record. Ms. McCaughen answered questions of the Commission Members.

**Public Hearing** - The Chair opened the public hearing for those wishing to speak in favor or against:

**In Favor:** None appeared.

**Opposed:**

Ms. Katherine Salemi, 6224 7<sup>th</sup> Avenue Drive West, homeowner has concerns of the street flooding after thunderstorms on 7<sup>th</sup> Avenue Drive West cul de sac. Fence is proposed with two foot concrete base; Ms. Salemi is requesting a taller wall to provide privacy and noise reduction due to the high density project. Landscaping and trees placement are requested to provide additional privacy.

Mr. Jerry Salemi, 6224 7<sup>th</sup> Avenue Drive West, homeowner, concerns of flooding that did not pre-exist before beginning of this project. Bulldozing of trees and added dirt has raised the elevation of project site. Mr. Healey stated at the last City Council Meeting that 50+ loads of dirt were dumped on site (7-12 cu yards each) increasing elevation 26 inches. Mr. Salemi stated that it is unacceptable; a two foot footer with PVC fence with swale inside will not hold water back. The % of storm water 120% pre-construction and 120-150% post-construction storm water, does it meet acceptable levels? Noise abatement wall requested.

Ms. Joan Papa, 6212 8<sup>th</sup> Ave Drive West, homeowner near cul de sac. Ms. Papa would like the entire wall to be concrete and moved in 5 feet with landscape buffer. Her concerns included that Mr. Healey's PVC fence material would be require regular maintenance and no landscape buffer for the six homes is on the current plan. The cul de sac turnaround is 6 feet from Ms. Papa's pool; for safety reasons, the fence should be moved in five feet and be concrete with trees. A two foot unprotected drainage ditch around family units creates a safety hazard. Entire site is concrete and asphalt with no natural absorption. Trees were buried and building on top

of them will cause flooding to property owners and units to settle and crack.

Rebuttal by Ms. McCaughen. Storm water management system is designed to not backflow to the rear of the property. The two foot high concrete is two foot above proposed grade, so water would be in the building long before the water will go into the neighbors. Many landscape trees are proposed for this development. Survey and design is based on topography done prior to dirt being put on the property, which should alleviate those concerns. The wall is a styrofoam wall, prefabricated with stucco on it, concrete block will be added on bottom of wall.

The Chair closed the public hearing.

**Public Works** - Mr. Cummings asked if storm water facility is designed for 25 year storm event. Ms. McCaughen replied, yes, and it will be SWFMD reviewed and approved. It will be up to the City to ensure that the water does not escape from the site, everything will be contained. This is a preliminary design, it will have a filtration system under the 2.5 foot deep swale (pond) to lower water level in deeper end, filtered and returned to Hidden Lakes. Strongly recommend concrete block wall around site for protection of neighborhood, water, noise, etc.

**Fire Department** - Fire Marshal Langston requested an addition stipulation of no parking signs in the driveway and turnaround for fire lane.

**Staff Report** - Ms. Seewer stated that the project was previously approved by the Planning Commission for 16 units. The City Council meeting issue was with the County access to roads for emergency and sanitation vehicles, plan was rearranged to provide cul de sac and utility easement through Hidden Lake and not the County property. City staff understands is that once the project is underway, the drainage problem will be alleviated. The permit for drainage requires state and city approval. Code approvals are not typically done at the preliminary stage.

The staff recommends APPROVAL of PR.08.0040 with changes to the cul de sac and utility easement through Hidden Lake, plus the following 6 stipulations:

1. The south recreation area will have picnic tables and benches, at a minimum, and two shade trees.
2. The trees proposed along the north, south and east property lines will be live oak trees a minimum of 15 feet in height at planting, and strategically placed at the discretion of the Director of Planning and Community Development and to block visibility between the development to the east and the subject property.
3. An additional water service for the 13R fire sprinkler system will be installed.
4. A fire hydrant will be installed, if deemed necessary, by the Fire Marshal at the time of site construction review.
5. A decorative wall, not Styrofoam, at least six feet in height shall be installed along the entirety of the north, east, and south property lines.
6. Additional tree replacement may be required at the discretion of the Director of the Planning and Community Development.

Question from Mr. Taylor, can the 6 ft fence be increased to 8 feet to address noise concerns? 2 ft cement base with 6 ft PVC was discussed at City Council. No objections from Arlan.

Ms. Seewer stated that landscaping was discussed at City Council. The landscaping can be put on the outside, to avoid access gates and maintenance on private property, plus an easement would be required. To address privacy issues, trees will be large to block views and Mr. Healey

agreed to plants on the outside of the fence with fence on the property line.

**PLANNING COMMISSION ACTION: APPROVAL**

Mr. Taylor moved, with a second by Ms. Barcus to approve SA.08.0011 with the six staff's stipulations, and driveway and cul de sac designated as fire lane parking. Motion carried, 6-0.

**EAR-based Amendments** have been submitted to State and we received a request back for an underlined and crossed-out format. Mr. Cookingham called and made arrangements to submit a letter of explanation that we have re-written the entire document, except the levels of services in the comp plan, including Recreation and Open Space, CIE, and others with potable water. State accepted the letter and we have not received any further comments from them. Adoption by City Council is targeted for October, pending no further or additional data analysis requested by DCA. Review turnaround time is typically 45 days.

Ms. Seewer reported that Land Use Regulations have been started. PCD is planning to develop an easier format, new future land use designations, and new zoning designations.

Mr. Cookingham received the electronic format of the EAR cover and will take orders at next Planning Commission Meeting.

Welcome to J.B. Taylor, he was appointed at September 10<sup>th</sup> City Council Meeting. Mr. Escalante has resigned and Mr. Taylor will fulfill his term on the Planning Commission to 6/09.

**ADJOURNMENT**

There being no further business to come before the Commission, Mr. Buskirk moved, with a second by Ms. Barcus, to adjourn the meeting at 3:25 p.m. Motion carried unanimously.

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Lucienne Gauffillet  
Chairman

**PURSUANT TO FLORIDA STATUTE 286.0105, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, COUNCIL, AGENCY OR COMMISSION AT THIS MEETING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, MAY NEED TO WHICH THE APPEAL IS TO BE BASED.**