

**ABBREVIATED MINUTES
PLANNING COMMISSION MEETING
MARCH 18, 2009**

The Planning Commission met in the City of Bradenton Council Chamber, 101 Old Main Street, Bradenton, Florida on March 18, 2009 at 2:00 p.m.

ATTENDANCE

Present:

Planning Commission Members: Allen Yearick, Vice-Chair; Diane Barcus, Adam Buskirk, Allen Prewitt; Jason Taylor, Joseph Thompson

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

Absent:

Planning Commission Members: Lucienne Gauffillet, Chair; Brady Cohenour (alternate); O.M. Griffith (alternate)

City Staff: all present

PRELIMINARIES

Meeting called to order by Vice-Chair Allen Yearick at 2:00 p.m.

- 1) The Vice-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, April 8, 2009 at 8:30 a.m. unless otherwise announced. Any display materials or boards used for presentation are required in duplicate for all public hearings.
- 2) The Pledge of Allegiance was recited.
- 3) Mr. Prewitt moved to approve the Minutes of January 21, 2009 Meeting as presented. Motion was seconded by Mr. Thompson, Motion carried.
- 4) Ms. Aihara swore in all those wishing to speak before the Commission.

NEW BUSINESS

VA.09.0053 WARD 5 NEIGHBORHOOD 1.03 RS

Request of Stanley Thompson, owner for a Variance approval for a six foot wrought iron security fence on the property located at 812 19th Avenue West (zoned C3).

Ms. Seewer read the request.

Mr. Thompson, owner, 812 19th Avenue West, gave an overview of the request. Mr. Thompson requests a fence height of six feet due to safety and security concerns. Questions from the Planning Commission were answered.

Public Hearing - The Vice-Chair opened the public hearing for those wishing to speak in favor or against, and no one appeared. The Vice-Chair closed the public hearing.

Public Works - Mr. Cummings had a question about the location of the water meter. Meter needs to be located outside of the fence for monthly readings.

Fire Department - Fire Marshal Langston had no objections.

Staff Comments – Fence was installed several months ago; stipulation for water meter will be added. Police Department commented at DRC meeting that they approved of the increased fence height for security reasons.

Staff recommends APPROVAL of the request for a six foot high aluminum picket fence with security being the justifiable hardship. Stipulation added to verify the water meter is located outside of the fence.

Planning Commission Action – APPROVAL

Ms. Barcus moved to approve VA.09.0053, Ward 5, Neighborhood 1.03 with the stipulation that we verify the water meter is located outside the fence. Motion was seconded by Mr. Thompson. Motion carried, 6-0.

VA.09.0054 WARD 4 NEIGHBORHOOD 7.02 RS

Request of Scott & Elizabeth Foeller, owners, for a 3-foot front yard setback variance approval for the property located at 2002 Riverside Drive to meet FEMA Grant funding requirements (zoned R1-B).

Ms. Seewer read the request.

Ms. Foeller, homeowner, gave an overview of FEMA grant submitted in early 2008, approval in November 2008 to bring the existing structure into current floodplain elevation compliance. Current elevation is 4.4 feet 3 cm, flooding five times since 1958, three times since 2000. Hardship is that structure is on a corner lot with two setback requirements. Questions from the Planning Commission were answered.

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

In Favor – no one appeared.

Opposed - **Attorney Peter Mackey** came forward representing Jeanette and Doug Moran, owners of the residence to the east of the subject property. They were in opposition to the request. Mr. Mackey stated that the courts have ruled that if there is right-of-way between the subject property and the water, the property owners do not have riparian rights, that the applicants are creating their own hardship, obstructing visibility at the intersection, and adding to the creation of a “canyoning” or tunnel effect on the side street leading to Riverside Drive. He further stated that the double frontage lot is not a hardship, the property owners knew this was a corner lot with restrictive setbacks when they purchased it.

Mr. Doug Moran, 2008 Riverside Drive East, Bradenton resident, stated that he was disappointed there was no architectural review committee that would oversee this kind of redevelopment.

Jeanette Moran, 2008 Riverside Drive East, owner, is in favor of the Foeller’s new house; but that they should do it within the confines of the law.

Rebuttal by Ms. Foeller – stated that they are reducing the setback encroachment and that they are not within the visibility triangle. There is a stop sign for vehicular safety, and they are elevating their home because they are a repetitive loss property. She stated that all the properties along Riverside Drive are subject to flooding and would be eligible for the same grant she has applied for. Additional questions from the Planning Commission were answered.

Response by Mr. Mackey – Mr. Mackey stated that the stop sign is on 20th Street and does not help the westbound traffic on Riverside Drive. Grant application has to comply with City's laws, codes and ordinances. Permit application cannot create your own hardship by continuing non-conforming use. This is a chance to correct any variance.

The Vice-Chair closed the public hearing.

Public Works - Mr. Cummings had no objections.

Fire Department - Fire Marshal Langston had no objections.

Staff Recommendation – Ms. Seewer stated that a double frontage is a hardship, and the Commission has issued many variances based on double frontage hardship. She also stated that the applicant provided an updated survey and the licensed surveyor indicated the lot had riparian rights. The staff recommends approval, based on the following:

1. The proposed setback of 22 feet constitutes a 12 foot decrease in the existing non-conforming setback.
2. Additional setback has been provided on the east side in accordance with code requirements to protect the abutting property owner to the east.
3. The hardship is the double frontage, which creates two technical front yards and subsequent building constraints for properties located at intersections.

Board Comments - Mr. Taylor asked the staff if the house was damaged 40%, could it be rebuilt on the existing lines of the house. This was confirmed by Ms. Seewer. Mr. Taylor proposed an additional stipulation to move the garage back to meet the set-back requirement. Mr. Taylor reiterated that the visibility is not an issue to the Fire Department.

Planning Commission Action – APPROVAL

Mr. Taylor moved to approve VA.09.0054, Ward 4, Neighborhood 7.02 with the three staff recommended stipulations with an additional stipulation that the garage must move back to the current setback line of 25 foot. Motion was seconded by Ms. Barcus. Motion carried, 5-1.

SU.09.0060 WARD 4 NEIGHBORHOOD 7.03 RS

Request of Kimberli Cotton-Deleonardis, agent for Special Use approval of a preschool and daycare center on the property located at 126 6th Street NE (zoned C1-A).

Ms. Seewer read the request.

Ms. Cotton-Deleonardis, agent, gave an overview of proposed day care center, Minnie Miracles. Property is leased for two years. DCF has approved center for 28 children, aged two to five years old with operating hours 6:30 am to 11:30 pm, Monday – Friday. Questions from the Planning Commission were answered.

Public Hearing - The Vice-Chair opened the public hearing for those wishing to speak in favor. No one appeared.

Ms. Anita Rogers, 515 1st Avenue East, appeared to ask questions about the day care. She received the meeting notice and understood that the property is leased for day care, but was concerned that the fence has been removed on south side of property. Ms. Rogers is also concerned about mess created by car traffic during rainy season, and the safety of the children due to the proximity to the Manatee River.

Rebuttal by Ms. Cotton-Deleonardis – She stated that the fence was temporarily removed to construct a circle driveway. She has no plans to take the children on walks near the river. The playground area is directly behind building with a six foot fence on north side of property and a chain link fence around the remaining play area.

The Vice-Chair closed the public hearing.

Public Works - Mr. Cummings stated that Public Works' concern was the handicapped parking space is a 12x20 with a 5-foot travel way in the building. Request for shell parking spaces is deferred to Planning.

Fire Department - Fire Marshal Langston stated that through working with the applicant, all requirements have been met. Cooking is limited to microwave and crock pot.

Staff Recommendation: Several meetings have been held with Ms. Cotton-Deleonardis, originally with a different parcel. Circular drive requirement is due to the drive length is 20 feet and to ensure that no one is parking in the street for child drop off/pickup. Staff parking will be off-site through a lease agreement with the landlord. Parking spaces depicted will have to be adjusted, not properly sized and will have to be paved, no shell. APPROVAL of SU.09.0060 with the following stipulations:

1. This approval constitutes a temporary use for two years. Any extension must be brought before the Planning Commission and City Council for a Special Use Amendment.
2. This approval does not constitute permission for any overnight occupancy.
3. All staff parking will be off-site through a lease agreement.
4. The proposed parking areas will be 9x20, and the handicap space will be 12x20 with a 5-foot landing.
5. Landscaping material will be planted around the vehicular use areas.
6. Security lighting will be installed as recommended by the City of Bradenton Crime Prevention Division.

Planning Commission Action – APPROVAL

Mr. Prewitt moved to approve SU.09.0060, Ward 4, Neighborhood 7.03, with the six stipulations as amended by the staff. Motioned was seconded by Mr. Buskirk. Motion carried, 6-0.

(Fire Marshal Langston excused from the meeting.)

SA.09.0013 WARD 3 NEIGHBORHOOD 1.01 RS

Request of First Baptist Church of Bradenton, owner and David Windham, agent for Special Use Amendment approval for a church park on the property located at 1306 Manatee Avenue West (zoned C1/UCBD).

Ms. Seewer read the request.

Mr. Windham, agent for First Baptist Church, gave an overview of the proposed private church park for use by Sunday school classes. A small granite or bronze monument will be erected on the northeast corner of the park, outside the fence. Monument will use some of the original City Hall brick. It is the historical site of the first Fire Station, original City Hall, and first Stockade during the Indian Wars. Park will be enclosed by fence and locked due to the homeless situation. Questions from the Planning Commission were answered.

Public Hearing - The Vice-Chair opened the public hearing for those wishing to speak in favor or against, and no one appeared. The Vice-Chair closed the public hearing.

Public Works - Mr. Cummings had no objections with two stipulations. First stipulation is that the dumpster location will be added to the final construction plan. The second stipulation is that full access to utilities easement in the 4th Avenue vacated right-of-way.

Additional Comments

Mr. Windham addressed stipulation 3, relocation of gate. The gate is requested due to their senior members and would like to keep in original location shown on plan. Park and bathrooms will be private and locked for safety reasons.

Ms. Seewer stated that Sgt. Millard recommended the gate on 13th Street will be relocated to the interior of the property to avoid traffic / pedestrian safety issues. The commemorative plaque is a requirement of the Architectural Review Board, when the church requested approval to demolish the historical building in poor condition on their property.

Mr. Cummings suggested that the gate be relocated to the northeast corner at the cross walk.

Mr. Windham stated that the monument and plaque are slated for under the giant oak tree in that corner; the south corner may be workable.

Mr. Cookingham summarized that the concerns seem to be mid-block crossing and the timing of the opening of gate to allow entry into park.

Mr. Taylor stated that it is a shame that this could not be a public/private shared park given the downtown location.

Staff Recommendation: APPROVAL with the following stipulations:

1. The dumpster location is subject to approval of the Public Works Department.
2. The applicant will provide an easement to the city of Bradenton for access to the utilities within the vacated right-of-way. Legal description subject to approval of the Public Works Department.
3. The gate location on 13th Street will be re-evaluated by City Police.

Planning Commission Action – APPROVAL

Mr. Prewitt moved to approve SA.09.0013, Ward 3, Neighborhood 1.01 with the staff recommended stipulations. Motion was seconded by Ms. Barcus. Motion carried, 6-0.

MA.09.0023 WARD 5 NEIGHBORHOOD 7.03 RS

Request of Tropicana Manufacturing Co., 1001 13th Avenue East, owner and Alan Prather, Esquire, agent for an amendment to an existing PDP for additional storm water detention to be

located at 1001 9th Avenue East (zoned I/C1-A/CIS).

Ms. Seewer read the request.

Mr. Prather, Esq., agent and attorney for Tropicana, introduced this project which adds an additional 2.79 acres into existing PDP to be utilized as an additional storm water detention area. This project does not expand the industrial facility, industrial growth, or jobs. It is a detention area necessary in order to finalize or build-out the PDP. Storm water detention was originally located within the interior of the plant, but by acquiring this property, it gave Tropicana a better opportunity to utilize the interior portion without interrupting the operations. Not in favor of a solid fence due to the graffiti issue and plans to make it esthetically as pleasing as possible. Mr. Prather is meeting with Public Works this Friday to address the large right-of-way from property line to actual pavement line of 8th which has become a neighborhood dumping zone. Easement requested for utilities along 9th Avenue. This project does meet the City's Comprehensive Plan and is consistent with Land Use Regulations.

Ms. Barcus asked if the development qualifies for beautification funds. No one knew the answer.

Public Hearing - The Vice-Chair opened the public hearing for those wishing to speak in favor or against, and no one appeared. The Vice-Chair closed the public hearing.

Public Works - Mr. Cummings asked about installing a sidewalk along the easement on north side of property along 9th Avenue and pipe between lakes.

Mr. Prather stated that due to liability issues, a sidewalk is not preferred on their titled property along 9th Avenue. The easement is for utilities, public and private only. Pipe between lakes will be owned and maintained by Tropicana and will obtain a right-of-way use permit.

Staff Recommendation - APPROVAL based on the Findings of Fact and Analysis of the proposed Planned Development Project Amendment, and pursuant to the General Standards and Regulations requirements of Section 404 with the following stipulation:

- Landscaping will be installed in accordance with the landscape plan submitted with this application and identified as page L-1 in City of Bradenton Exhibit F.

Planning Commission Action – APPROVAL

Mr. Thompson moved to approve MA.09.0023, Ward 5, Neighborhood 7.03 with the stated staff recommendation. Motion was seconded by Mr. Buskirk. Motion carried, 6-0.

(Mr. Prewitt excused from the meeting.)

OFFICE OF GREENWAYS & TRAILS 2009 APPLICATION FOR NORMA LLOYD PARK JW

Request of the City of Bradenton for the Planning Commission, serving in the capacity of a Recreation Board, to review, discuss, and provide a recommendation for the proposed improvements to Norma Lloyd Park located at 1024 24th Street East.

Ms. Jeana Winterbottom, Grants Administrator for the City of Bradenton provided an overview of the Norma Lloyd Park project that included the proposed enhancement creating a multi-use trail. She stated that the City of Bradenton is requesting grant funds from Recreational Trails Program offered through the Florida Department of Environmental Protection, Office of Greenways and Trails. Ms. Winterbottom stated the multi-use trail would enhance the pedestrian experience within the park and would be of benefit to the surrounding neighborhood. She stated \$250,000 is being requested through the Recreational Trails Program and that the

Central Community Redevelopment Agency (CCRA) is providing the \$250,000 match. The Tree Board has reviewed the proposed multi-use trail and recommended approval during its regularly scheduled meeting. The Planning Commission will serve as the City's Parks & Recreation Board and provide input as to the proposed multi-use trail project for the Norma Lloyd Park.

Comments from Board

Ms. Barcus commented that she is excited to see so many local entities working together to enhance Norma Lloyd Park.

Mr. Cummings questioned the composition of the multi-use trail. Ms. Winterbottom stated that mulch is the most cost effective. Mr. Buskirk commented that asphalt is more conducive to walking, rollerblading, and more bike friendly.

Mr. Yearick asked about the current varied fence height. Ms. Winterbottom stated that part of the Norma Lloyd Park project will be to build a consistent height fence.

Public Hearing - The Vice-Chair opened the public hearing for those wishing to speak in favor of this project.

Mr. Sherod Halliburton, Executive Director of the Central Community Redevelopment Agency spoke in favor of the project and stated that the CCRA Board had approved the \$250,000 match for the project should funding be awarded.

No one appeared to oppose this project. The Vice-Chair closed the public hearing.

Staff Recommendation – APPROVAL of this project.

Planning Commission, acting as the Parks & Recreation Board – APPROVAL

Ms. Barcus moved to approve the request of the Planning Commission, serving as the Parks & Recreation Board, to apply to the Office of Greenways & Trails 2009 Funding for Norma Lloyd Park. Motion was seconded by Mr. Thompson. Motion carried, 5-0.

ADJOURNMENT

There being no further business to come before the Commission, Mr. Taylor moved, with a second by Mr. Thompson, to adjourn the meeting at 4:19 p.m. Motion carried unanimously.

Allen Yearick
Vice-Chairperson

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.