

MINUTES  
 PLANNING COMMISSION MEETING  
 SEPTEMBER 19, 2007

The City of Bradenton Planning Commission met on Wednesday, September 19, 2007 at 2:00 p.m. in City Hall Council Chambers.

**ATTENDANCE**

**Planning Commission Members** (Shaded area indicates absence, \*Indicates non-voting):

Chairman Diane Barcus	Richard Barnhill	Carlos Escalante	Vice-Chair Lucienne Gaufillet
	Allen Yearick	Allen Prewitt	
Alternate Brady Cohenour	Alternate O.M. Griffith		Alternate Joseph Thompson

**City Staff:**

<b>Development Services</b>	<b>Public Works</b>	<b>Fire</b>	<b>Police</b>
Director Tim Polk	Arlan Cummings	Kenny Langston	
Assistant Director Tom Cookingham			
Dev. Review Mgr. Ruth Seewer			
Review Coordinator Susan Kahl			

**PRELIMINARIES**

Meeting called to order by Chairman Diane Barcus at 2:00 p.m.

- 1) 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 10, 2007 at 8:30 a.m. unless otherwise announced.
- 2) Pledge of Allegiance at 2:01 p.m.
- 3) The Minutes of July 16, 2007 were approved unanimously.
- 4) Ms. Kahl swore in all those wishing to speak before the Commission.
- 5) The Chair advised that the August 13, 2007 meeting was not held for lack of a quorum.

**NEW BUSINESS**

**VA.07.0040 WARD 1 NEIGHBORHOOD 4.07 RS**

Request of Francis R. Ross, owner, for Variance for a reduction in rear yard setback from 20 feet to 13 feet for construction of a 15x21 room addition for property located at 7408 17<sup>th</sup> Avenue West (Zoned PDP)

Ms. Seewer read the request.

Greg Lapel, 527 Poinciana Drive, Sarasota, Fl. 34243, contractor for Mr. Ross, presented the request to the Commission. He requested a 50 foot encroachment to build a bedroom addition contending the area was an ideal flow for the layout of the house. He said the area for the addition recommended by City staff was closed in by a screened porch and a closed-in game room porch and not conducive to getting to a bedroom.

Ms. Gauffillet asked whether Mr. Lapel understood why staff was recommending denial of the request.

Mr. Lapel answered that it seemed that staff felt there was more room on the west side; but, he contended it was cluttered by the screened-in porches and if the addition were put there, one would have to go through a screened-in porch to get to the bedroom.

Ms. Gauffillet explained that for the Planning Commission to grant a variance there had to be a hardship not created by the actions or proposed actions of the property owner. She remarked that screen rooms would not create a hardship.

Mr. Lapel answered that in looking at the flow of the house, it made sense to put the guest bedroom in the living area of the house where the master bedroom and family living area were. He remarked that an out building should be built if one had to go through a porch to get to the guest bedroom. Mr. Lapel stated that they were just asking for 54 square feet, but he added that it was important to make a functional room. He said the room could be reduced to 10'x12', but he opined that that would be a walk-in closet.

Ms. Gauffillet disagreed with Mr. Lapel's statement advising that plans for new homes have been presented with 9'x9' or 10'x10' rooms, and those houses seemed to be marketable. She commented that Mr. Lapel was describing a certain way to walk around a house. She said that was not a hardship. Ms. Gauffillet explained that there had to be some condition which existed prior to the Code having gone into effect.

Mr. Lapel said it seemed irrational to have to walk out in bedroom slippers into the humidity of a porch.

The Chair asked why Mr. Ross did not tear down the screen room where there was already a slab and start the guest bedroom there and put the screened room smaller on the east side.

Mr. Lapel answered that the screened room slab would not support an addition.

The Chair commented that a new slab had to be poured anyway so she suggested the porch be moved, and a variance would not be needed.

Mr. Lapel countered that access would then be from a kitchen area.

The Chair said that was not a hardship.

Frank Ross, owner of the property, opined that the house did not lend itself to how people try to

live by going from an eating area into a bedroom.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and no one appeared. The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair closed the Public Hearing.

**Public Works -**

Mr. Cummings said that he had no comments.

**Fire Department -**

Fire Marshal Langston stated that he no comments.

**Staff Report-**

Ms. Seewer stated that when the application for the building permit came in, staff contacted the contractor and explained that there was a setback encroachment, and he was encouraged to put the addition on the west side by utilizing the game room and putting a smaller one on the other side or even adding out. Ms. Seewer said there was only an eight foot side setback required which gave plenty of room on the west side. She noted that in Mr. Ross' letter there was mention of a tree, and Ms. Seewer pointed out that the trunk of the tree was pretty far away and even if a sizable addition were put on, the tree would not be adversely affected based on its location. She said staff had trouble determining a hardship when there was plenty of room on the other side to put twice the size of what he requested so there was no hardship and that was why denial was recommended.

Mr. Yearick remarked that he was a bit sensitive about Mr. Ross' argument about accessing from the kitchen, and, in addition, it was his understanding that some modification on a portion of the screened-in area would be required anyway to accomplish the addition.

Mr. Lapel answered that the original drawing had no encroachment. He explained that after putting in the request for the Variance they added five foot to the screen because it presently was 16 foot and they wanted some storage area in addition to the bedroom. He said that in the first drawings there was a closet which took up space in the 14'x14' interior so with the Variance they were able to put the closet into the screened porch area.

Mr. Yearick suggested that Mr. Lapel reverse the plan and put the closet side on the outer addition which would take up four feet of the screened-in area.

The Chair concurred with Mr. Yearick.

Ms. Gauffillet moved, with a second by Mr. Thompson, to deny VA.07.0040 based on staff's recommendation that the hardship was self-induced.

Responding to Mr. Yearick's question about a resubmission, the Chair pointed out that if the plan were redesigned, a variance might not be needed.

Motion to deny VA.07.0040 carried unanimously.

**VA.07.0049 WARD 4 NEIGHBORHOOD 7.02A RS**

Request of Deitrich Construction, Inc., agent for George R. and Patricia A. Grau, owners, for reduction in side yard setback from five feet to two feet for an existing single story residence for property located at 25 Seminole Drive (Zoned R-4)

Ms. Seewer read the request.

John L. Deitrich, Deitrich Construction, 716 60<sup>th</sup> Street NW, advised that the owner had an existing garage built back in the 1920's. Mr. Deitrich stated that Mr. Grau drove a truck and could not get the truck inside the garage so he parked it in the driveout in the front. He stated that he wanted to take half of the garage down and extend a carport out in front of it. Mr. Deitrich explained that it would not encroach as far as the front setback; however, it came in line with the existing garage, which was at an angle to his property line, so that whenever he built in the front corner, it would encroach in the existing setback by three feet. Mr. Deitrich said Mr. Grau would like to build the carport and alter his garage.

Ms. Gaufillet asked what existed on Lot 107, the property to the north, which was the narrowest area. She said from the aerial it looked like a cut out so there was a good bit of space on the adjacent property.

Mr. Deitrich stated that Mr. Grau owned that property also, but it was all concrete in-between. He said at one time it had all been paved. He noted it was six or seven feet between the two properties, but the other house was not out as far because it sat on a curve.

Ms. Seewer remarked that she went out there and measured to the next building and with the proposed carport there would be six and one-half feet at the end of the existing garage between the structures. She added that when the carport was extended, there would be five and an eighth.

Ms. Gaufillet asked whether the carport would be open air or have walls.

Mr. Deitrich replied that one side was adjacent to the house and the backside would be adjacent to the existing garage, but the rest would be open air. He said that only one post would be new.

#### **Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and no one appeared. The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. There being no individuals wishing to speak, the Chair closed the Public Hearing.

#### **Public Works -**

Mr. Cummings had no comments.

#### **Fire Department -**

Fire Marshal Langston said that the Code required ten feet between the structures for new construction, and since there was only six now, he could not approve the application.

The Chair inquired whether the Fire Marshal could not approve the proposal with the use of non-combustible material.

Fire Marshal Langston said the Code required a ten foot separation and the structure was at six.

#### **Staff Report-**

Ms. Seewer recommended approval stating it had been discussed by staff but apparently she misunderstood that by replacing the wood frame structure with non-combustible was a safer situation than what existed now. Ms. Seewer said it was up to the Planning Commission.

The Chair asked whether the truck would fit if they tore down the existing garage and just built the carport, which would be taller than the garage, and not extend it out any further to the north.

Fire Marshal Langston commented that when this was discussed before, he did not have any plans and he was just looking at them now.

Ms. Gauffillet pointed out that only the corner of the carport encroached. She commented that basically the Variance was for the one post. She said if the post was not there, this would be an overhang and it would not be considered an encroachment.

Mr. Prewitt remarked that it seemed safer to him to remove an old wood wall.

Ms. Seewer stated that she had misunderstood the Fire Marshal and thought that he had agreed to it and that was what she had put in her report.

Mr. Yearick asked that after this discussion whether it changed the opinion of the Fire Marshal with respect to where the storage area stopped.

Fire Marshal Langston responded that it did a little bit, but a garage was being partially torn down and more added. He said if part of the garage was being taken down, it would have to comply.

Mr. Yearick said he was leaning toward whether one scenario was more fire safe than the other.

Fire Marshal Langston replied that it depended on whether what it was attached to was combustible and that was where he had the problem. He said if the wall in the storage room closest to the other house was made fire safe, he would agree to it.

Ms. Seewer remarked that could be stipulated and if the owners did not agree to do it, they could not put on the carport.

Mr. Deitrich asked for clarification as to whether the Fire Marshal was suggesting hardiplank or the like.

The Chair noted that hardiplank was cement based.

Mr. Deitrich said that could be done. He commented that the wall was only about ten feet long.

Ms. Seewer stated she would add the stipulation for hardiplank or fire safe material along with the original stipuation that the carport would be constructed of non-combustible material.

Mr. Yearick moved, with a second by Mr. Prewitt, to accept Staff's recommendation and approve VA.07.0041 with the following two stipulations:

1. The carport will be constructed of non-combustible material;
2. Provide hardiplank or fire safe material on north wall of storage room;

the hardship being the existing lot configuration and existing residence construction. Motion carried unanimously.

#### **VA.07.0037 WARD 5 NEIGHBORHOOD 1.03/1.04 RS**

Request of Anthony Melkey, agent for Greenbriar Nursing Home, owner, for Variance for reduction in front yard setback from 25 feet to 5 feet to provide a covered entrance for emergency vehicles for property located at 210 21st Avenue West (Zoned R-3A)

Ms. Seewer read the request.

Anthony Melkey, 3912 46<sup>th</sup> Avenue, St. Petersburg, requested a Variance to cover the ambulance entrance on 21<sup>st</sup> Street West. He said that he had made a mistake in the request. He explained that instead of going to a five foot setback, three foot was needed. He advised that the edge of the drive was actually five foot and another two foot was needed for structure of the columns.

Responding to the Chair's inquiry, Mr. Melkey advised that the State required a covered entrance for bringing in patients from an ambulance, and Greenbriar did not have one.

Ms. Seewer stated that since the request was changed to increase the setback two more feet, which further reduced the setback, it had to be re-advertised and re-noticed.

The Chair asked Mr. Melkey to provide information at the next meeting when the State law changed and why it had to be done now but not previously.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor and the following individual appeared:

Mike Harmon, Corporate Director of Plant Operations for the Greenbriar facility, appeared and commented that he had not been sworn. Ms. Kahl swore in Mr. Harmon. Mr. Harmon explained that the residents who come and go were getting soaking wet from the rain. He said although the regulations on new construction required a covered entranceway, his biggest concern was that the residents and ambulance personnel were getting soaked trying to load and unload the people who were already in poor health. Mr. Harmon said there was no benefit to the facility or property other than keeping everyone dry.

The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair said the Public Hearing would remain open until the October 17 Planning Commission Meeting at 2:00 p.m.

Mr. Melkey asked whether the signs had to be reposted, and Ms. Seewer responded affirmatively.

**VA.07.0042 WARD 3 NEIGHBORHOOD 6.02 RS**

Request of Nancy L. Perry, agent for Bradenton Tropical Palms, owner, for Variance for reduction in front yard setback from 5 feet to 2 feet for property at 1503 23rd Avenue West (Zoned R-4)

Ms. Seewer read the request.

Stacia Scofero, 4803 Turtlebay Terrace, Bradenton, FL 21207, advised that she was agent for Bradenton Tropical Palms. She stated that since the Variance was applied for, Bradenton Tropical Palms switched management companies and she represented the new management company and the Board of Directors of Bradenton Tropical Palms which put in the request for the Variance for a reduction of a front yard setback. Ms. Scofero said that a homeowner had purchased a new mobile home to bring into the Park but the new mobile homes were slightly larger than the older ones. She advised that the neighbors had been surveyed, and no one opposed the home going in.

Mr. Yearick noted that it was implied in the letter of request that there had been a loss of renters.

Ms. Scofero said that this was an older community and the residents were trying to revitalize it. She commented that there were many empty lots and in an effort to revitalize the community they were trying to bring in new homes. She added that the present homes were 1967-68 vintage and were smaller. Ms. Scofero explained that the co-op owned the entire piece of land. She stated there was ten feet between homes in the back; the only issue was two and a half feet in the front.

Ms. Gaufillet remarked that the plat should be vacated. She opined that this request was not appropriate because there was no hardship. She stated that the hardship was that a bigger house was wanted but this was an inappropriate vehicle. Ms. Gaufillet commented that if this request were approved, the Commission would be in effect approving a variance without a hardship. She said there was an absolute way of rectifying the situation which would be to vacate the plat. Ms. Gaufillet added that every time the Park wanted to put in a bigger home, the Board of Directors would be asking for a variance because the home would not fit and the hardship would be that the person wanted something larger which was not a true hardship.

Ms. Scofero inquired whether it was a hardship that a 92 year old man trying to move into a house was stuck in the process. She said he owned the house and could not move in or move forward.

Ms. Seewer said she had told them that this would be a short fix because they would run into this every time. She stated that part of this was a misunderstanding on the Park's part because when the co-op was purchased, they thought the lots went away. Ms. Seewer stated that they did not go away to the City and that was where the problem was. Ms. Seewer advised that the mobile home had been sitting there since May and nothing had been done and now there was a big rush because it was hurricane season. She commented that it was hurricane season on June 1<sup>st</sup> so there had been plenty of time for it to be taken care of but it just did not happen.

The Chair stated that looking at just the small, overhead shot she could see potentially twelve variances coming before the Commission.

Ms. Gaufillet reiterated that this was the wrong application.

Mr. Yearick concurred. He said that knowing that the time frame had been since May, he was less sensitive to the urgency today.

Mr. Thompson concurred that the entire plat for the entire Park should be vacated.

Ms. Scofero stated that she planned to do whatever was necessary to remedy the situation. She commented that she did not know what kind of time frame it would be to vacate the plat, and she would comply with that but her first concern was this particular house.

Responding to Mr. Yearick's inquiry, Ms. Seewer advised that it would be December before a plat vacation could be accomplished. She said they would have to apply in October, go to Planning Commission in November and City Council in December.

Mr. Prewitt said it seemed that a fix was important on a temporary measure, but he felt torn in light of Ms. Gaufillet's comments.

The Chair expressed concern that it had taken four months to bring this forward.

Ms. Seewer opined that it was one of the reasons why Nancy Perry was probably no longer there.

Ms. Scofero concurred.

Mr. Prewitt stated that it did not seem that someone should be punished for a previous management decision.

Ms. Seewer commented that this why she allowed Bradenton Tropical Palms to apply for the Variance for this one. Moreover, she advised that the entire co-op was under the impression that it no longer owned lots but owned a percentage and that was where the confusion lay.

Mr. Yearick felt the Commission knew where it was so he suggested that the Public Hearing be opened because he sensed there were other people who might want to speak.

Ms. Seewer pointed out that the application to move the mobile home into the Park came in with seven feet to the street, and everyone thought it was fine until it was moved in and it stuck out farther than the other ones and that was when it all came to light. She advised that they had a permit to move it in for that size and it fell back onto the issue that it did not matter how far it was from the street; it was a 50 foot lot.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and the following appeared:

(Ms. Kahl swore in Janice C. Lessard, 2810 17<sup>th</sup> Street Lane West.)

Ms. Lessard advised that she lived in Bradenton Tropical Palms since 1998. She said she was a shareholder. She stated that Mr. Gessler purchased the mobile home and then went up north. Ms. Lessard said that Mr. Gessler never actually saw the mobile home. She explained that now Mr. Gessler, who was an elderly gentleman in his 90's, was expecting to come to Bradenton to move into his purchased mobile home. In the meantime, Ms. Lessard commented that there had been a change in management as well as there being only two Board of Directors on the premises. She said that the other seven Members of the Board only came down in winter. Ms. Lessard remarked that of those two, both had spoken to the manager and said that it was wrong because it was oversized by three feet being 43 feet instead of 40 and queried what needed to be done. Ms. Lessard related that these were the turn of events, and the hardship was for Mr. Gessler who paid for this mobile home and was expecting to move in. She opined that this was tough for a 90 year old. She asked the Commission Members to please consider the predicament they were in and whether there was anything that could be done to rectify the situation with the Commission's help.

There being no further individuals wishing to speak in favor, the Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair closed the Public Hearing.

**Public Works -**

Mr. Cummings said that staff met on this request quite a bit in the early stages trying to decide whether this was a buildable lot. He stated that it could be remedied given the proper setback requirements and calling it a building envelope to know that future mobile homes would fit if the minimum setbacks could be set to meet the life safety issues which the Fire Marshal would require, the minimum setbacks that the Zoning Department would require and to make sure it would not infringe onto sidewalk areas in front of the houses. Mr. Cummings suggested that an envelope be created so that these houses could be moved in and could fit. He made inquiry as to what was going to be vacated because he did not know of any recording that specified that was a lot.

Ms. Seewer responded that a plat was turned in by Bradenton Tropical Palms which showed the lot numbers and sizes, and it had the recording documentation on it.

Ms. Scofero stated that the lots changed because it became a co-op. She said that the plat was from the previous owners and did not now apply.

Ms. Seewer replied that just because someone else bought it did not make it go away unless it was asked that it go away, and that was what Bradenton Tropical Palms needed to do. She stated the lots needed to be vacated to provide separation.

Mr. Prewitt asked whether Planning still approved this for hardship after hearing everything.

Ms. Seewer stated that a hardship was not actually put in the recommendation.

Mr. Prewitt asked if approval was recommended.

Ms. Seewer responded in the affirmative while encouraging Bradenton Tropical Palms to apply for a plat vacation.

**Fire Department -**

Fire Marshal Langston discussed the addresses of the lots.

Ms. Seewer responded to the Fire Marshal's remarks that the plat had to be vacated.

Ms. Scofero remarked that she would do everything in her power to get the plat vacated and get the issue resolved. She said she did not want to have to appear before the Planning Commission every time a new home came into the community.

Mr. Prewitt moved to approve VA.07.0042 for the Variance reduction for front yard setback from five feet to two feet for this one case.

Mr. Thompson said he thought a stipulation was to be added that they have the plat vacated.

Mr. Prewitt stated that after talking with staff he felt confident that they will. He added that he felt there was a gentleman here who would be adversely affected through no fault of his own and he felt the management company would come back and work with staff because no one wanted this to happen over and over again.

Mr. Thompson stated that in that case he seconded the motion.

Voting in favor: Prewitt, Thompson and Yearick. Voting against: Gauffillet and Barcus. Motion carried 3-2.

**VA.07.0039 WARD 2 NEIGHBORHOOD 5.01 RS**

Request of Professional Engineering, agent for Bradenton Investment, owner, for a Variance for driveway access points for property located at 2925 Manatee Avenue West (Zoned C-2)

**SU.07.0038 WARD 2 NEIGHBORHOOD 5.02 RS**

Request of Professional Engineering, agent for Bradenton Investment, owner, for Special Use for remodeling the BP Station and Convenience Store for property located at 2925 Manatee Avenue West (Zoned C-2)

Ms. Seewer read the requests together stating that they related to the same project, but separate action would have to be taken on each.

Joyce Polesma presented the project stating that the gas station was just being remodeled and updated. She said that the service bays would be removed and the storage area was being expanded, but there would be no additional square footage.

Responding to Mr. Yearick's inquiry, Ms. Polesma stated that there was seven entrances. She explained that two in the back were being condensed into one and one on the corner was being closed, and two on the side road on 30<sup>th</sup> were being closed off and one put in. Ms. Polesma noted that the one closer to Manatee Avenue on 30<sup>th</sup> would be left and the one between the laundermat

and BP Station would be left so that the gas trucks could get through otherwise there would not be enough room for them to swing around.

Responding to the Chair, Ms. Polesma said the one on 6<sup>th</sup> would remain because the dumpsters would be back there and there would have to be access for garbage trucks. She said the two would be reduced to one wide one.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and no one appeared. The Chair then opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair closed the Public Hearing.

**Public Works -**

Mr. Cummings stated that he had no objections as long as the stipulations were followed.

**Fire Department -**

Fire Marshal Langston stated that he had no objections.

**Staff Report-**

Ms. Seewer said that staff recommended approval of the Variance of the landscape buffer and the driveway access points based on the existing conditions of the site. She advised that the number of nonconforming driveways were being reduced so that was an acceptable condition. Ms. Seewer recommended approval of the Special Use with the following stipulations:

1. The site plan identified as City of Bradenton Exhibit "F" and dated September 5, 2007, is the approved plan.
2. Dumpsters abutting the building will be sprinkled.
3. All dumpsters will be buffered with solid fencing.
4. The dumpster at 30th Street will be heavily landscaped on the west side. Landscape materials will be approved by the Planning and Community Development Director.
5. All signage will meet the specifications of Section 550 of the Land Use Regulations.

Mr. Yearick moved, with a second by Mr. Prewitt, to approval VA.07.0039 (landscape buffer and access drive) with the hardship identified as the existing conditions of the site. Motion carried unanimously.

Mr. Yearick moved, with a second by Mr. Prewitt, to approve SU.07.0038 with the following stipulations:

1. The site plan identified as City of Bradenton Exhibit "F" and dated September 5, 2007, is the approved plan.
2. Dumpsters abutting the building will be sprinkled.
3. All dumpsters will be buffered with solid fencing.
4. The dumpster at 30th Street will be heavily landscaped on the west side. Landscape materials will be approved by the Planning and Community Development Director.
5. All signage will meet the specifications of Section 550 of the Land Use Regulations.

Motion carried unanimously.

**MA.07.0016 WARD 4 NEIGHBORHOOD 7.02A RS**

Request of Caleb J. Grimes, Esquire, agent for Thorwald III, LLC, for approval of a Planned Development Major Amendment application to allow single family docks within the Thorwald

project, location shift of the hammerhead turnaround, a revised entry wall/gate plan, and residential fire sprinklers for property located at 208 & 210 22nd Street Court NE and 327 Riverpoint Drive NE (Zoned PDP)

Ms. Seewer read the request.

Caleb Grimes, Esquire, 1023 Manatee Avenue West, presented the amendment advising that in May, 2006 approval was granted for fifteen residential lots on the River. He stated that State permits were received and approval was granted from SWFWMD and the Army Corps of Engineers for 13 slips for the site. Mr. Grimes noted that there were a couple of minor issues, one of which, was that the incorrect number of fire sprinkling system was used and, therefore, was changed to 13-D. Mr. Grimes advised that since there was an existing well on the site, it made sense to utilize it for irrigation; however, it was in the way of the originally designed hammerhead so a slight redesign of the hammerhead was requested. Mr. Grimes said they were in agreement with Mr. Cummings' stipulation that they work with him on the final design of the hammerhead. He said adjustments were made to the entryway and the road width which showed on the plan. Mr. Grimes noted that they would be coming to Public Works with regard to the waterline because the developers' engineers felt it should be updated and new lines put in for better flows coming down 22<sup>nd</sup> Court. He advised that they received a maintenance dredge permit for the area where they would put in the slips. Mr. Grimes responded to questions of the Commission.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and the following appeared:

Dr. Charles Johnston, 329 22<sup>nd</sup> Street Court NE, expressed concern regarding the environment noting there were a lot of birds, particularly sea birds, manatees, and mangroves at the site, but he felt better after being assured by Mr. Grimes that the mangroves would not be cut down, and the accesses to the docks would be narrow. Dr. Johnston stated his concerns about the placement of the docks blocking the access to the Manatee River were also allayed. He inquired when the docks would be built noting that in the past a dock had not been allowed until a house had been built on a lot.

There being no further individuals wishing to speak in favor, the Chair opened the Public Hearing for those wishing to speak in opposition, and the following appeared:

Jan Hoey, 333 22<sup>nd</sup> Street Court NE, said that his lot was the closest one not contiguous to the planned development. He stated that this area was an old Florida setting with a natural lagoon and most of the residents were not against responsible development, but they were concerned about the environment because of the mangroves. Mr. Hoey advised that it was an area where manatees reproduced. He commented that there were ten waterfront lots on a natural lagoon including the three in the development being discussed, and it was unclear to him how many of the 13 docks were on the lagoon and how many on the Manatee River. (It was pointed out on the map by the Commission.) Mr. Hoey remarked that would be six boat docks on the lagoon.

The Chair said she believed it would be seven but the applicant would answer the question during rebuttal.

Mr. Hoey said he would like it cleared up as to how many docks would be on the lagoon. He advised that currently there were seven docks on the lagoon so it would be more than double the number. He commented there were only three waterfront properties in this development and they wanted to build a total of 13 dock spaces which would be a marina. He said currently there was one dock or less for each house on the waterfront, and the proposal was for docks for nine boats

for three waterfront lots. He inquired about restriction on boat sizes and maintenance dredging.

Tim Wellman, 321 22<sup>nd</sup> Street Court NE, pointed out his property on the overhead which was across from the proposed development. He expressed concern about the following: lack of information, no restrictions on boat size, and a boardwalk being built on the lagoon. Mr. Wellman applauded the developer for creating a nice development but he questioned what would happen in the lagoon. He stated that the residents presently enjoyed a certain view, quiet and peacefulness, and he was concerned about the potential noise from larger boats. He questioned the maintenance dredging expressing concern for the man who lived on the little island. Mr. Wellman noted that gentleman had quite a bit of seawall much of which was in disrepair. He said that had been fine over the years; but, he expressed concern on behalf of that gentleman that if the area were dredged, the man would lose his house since it was relatively close to the seawall. Mr. Wellman said that man would not have the wherewithal to pay the massive costs to repair it. Mr. Wellman felt that when the maintenance dredging was done, it would cause a natural silting process which would encroach upon the property and cause problems. Mr. Wellman commented that being a boater himself he was for dredging concepts but one had to be responsible and his main concern was the type of boats allowed. He remarked that given the size of the docks, it was a commercial development, not a residential development. Mr. Wellman also expressed concern for the manatees in the lagoon noting that 13 vessels would cause an impact on the ecological environment.

Bruce Crinkley, 223 22<sup>nd</sup> Street Court NE, commented that every lineal foot was being used and he did not feel it was appropriate. He said it was a protected area with a fish nursery and he felt it would be incredible to fill it with docks and boats.

Read Heath, 327 22<sup>nd</sup> Street Court NE, advised that he lived directly across from the opening of the lagoon, and he was shocked at the number of docks that would be put on three waterfront pieces of property. He expressed concern about dredging creating silt and fill at his location. He said he would like to hear from the environmental people about how the silt would be contained. He preferred that the entire canal be dredged noting that the canal was shallow and narrow and in order to get boats in and out the left side of the bank had to be hugged.

There being no further individuals to speak, the Chair closed the Public Hearing.

Mr. Grimes appeared in rebuttal noting that Dr. Johnston raised environmental questions, and he wanted to make it clear that the mangroves would be retained. He added that the permit allowed for minimal trimming of the limbs where they were actually over the permitted docks and where the walkways went through. Mr. Grimes remarked that as part of the permitting process, they were required to do bathometry studies, identify the location of the channel, and go through the Army Corps to assure there was no hindrance of navigation. Mr. Grimes stated that SWFWMD required that each and every environmental issue that was raised be addressed, and there were stipulations in the permits to make sure there were no problems. He noted that that was why the City had instructed the developer to get the permits before the issue of docks was addressed. Mr. Grimes commented that he was not sure where three waterfront lots came from because in looking at the plats they were all along the lagoon as well as lots around the point itself. He explained that the permits were for the nine lots along the lagoon and four out on the outside of the riverside. Mr. Grimes stated that someone raised the question about boat size. He noted that they would be limited just as the gentleman was on his dock, that is, there was no limitation on size other than practicalities. Mr. Grimes advised that this was a residential endeavor, not a commercial endeavor. He remarked that as far as dredging, the dredging permit outlined the limitations of the area to be dredged which was the area of the development and cleaning out the silt. Mr. Grimes said they were not allowed to go near the island so that area would not be dredged. He commented that one gentleman asked about dredging the rest of the area to remove silt for their boating needs. He

explained that was not allowed in the permit; however, if it was something they would like, he would get permission to include the rest of the area when they did their dredging. He said he talked with the consultant, Ms. Bagley, and she felt confident that would be allowed because there was quite a bit of silt in the area and maintenance dredging to get silting out was allowed. He requested that the Planning Commission recommend approval of the project to the City Council. Mr. Grimes answered questions of the Planning Commission.

#### **Public Works** -

Mr. Cummings expressed concern about the hammerhead turnaround. He said he previously approved it through Public Works along with the Fire Marshal, and he was not in favor of any deviation; however, he looked forward to seeing eight new sets of construction plans to re-review the project and maybe it could be hashed out.

#### **Fire Department** -

Fire Marshal Langston stated that he had no concerns other than what was discussed and the developers were going to meet with him on the hammerhead.

#### **Staff Report-**

Ms. Seewer stated that staff recommended approval. She noted that all dock permits were in hand and the City would be receiving a copy of the dredge permit for its records. Ms. Seewer advised that three of the changes were very minor and there was an additional stipulation that would take care of the hammerhead turn. She noted that the redesign caused a little bit of an issue so the final design would be left up to the Fire Department and Public Works to make sure that everyone could access it safely so there would be no problems with it in the future. Ms. Seewer advised that she had renumbered the stipulations because the Planning Commission had stipulations and the City Council recommended approval of only 4, 7, 8, and 9 so she cleaned that up by putting the original stipulations that were imposed by the City Council and then added some others. Ms. Seewer read the stipulations as follows into the record:

1. The utilities and roadway will be installed according to Public Works specifications and will be privately owned and maintained by an established homeowners association.
2. The fence or wall will be installed prior to commencement of any vertical construction.
3. The wetland buffer shall be designed in accordance with the Environmental Resource Permit to be issued by Southwest Water Management District for this project.
4. ~~R-13~~ 13-D residential fire sprinkler systems will be required in all residences due to the design of the hammerhead at the cul-de-sac and the lack of sufficient water flows.
5. Infrastructure upgrades may be required.
6. A construction fence will be installed prior to land clearing and horizontal construction.
7. The hammerhead cul-de-sac design will be coordinated with Public Works and the Fire Department at the time of the construction drawings.
8. Cross access easements will be provided between the buildings for both private and emergency access to all docks and slips.
9. The boat ramp must be connected to the roadway.
10. Driveway locations for lots 13, 14 and 15 will not impede the turning radius or length of the hammerhead.

Ms. Seewer informed the Commission for the record that an e-mail had been received by Marie F. Calhoun, 206 22<sup>nd</sup> St NE, expressing concern about whether City taxpayers would pay for the dredging and whether there were plans to secure the boats during a hurricane or storm.

Mr. Thompson moved, with a second by Ms. Gauffillet, to approve MA.07.0016 with the following ten stipulations:

1. The utilities and roadway will be installed according to Public Works specifications and will be privately owned and maintained by an established homeowners association.
2. The fence or wall will be installed prior to commencement of any vertical construction.
3. The wetland buffer shall be designed in accordance with the Environmental Resource Permit to be issued by Southwest Water Management District for this project.
4. 13-D residential fire sprinkler systems will be required in all residences due to the design of the hammerhead at the cul-de-sac and the lack of sufficient water flows.
5. Infrastructure upgrades may be required.
6. A construction fence will be installed prior to land clearing and horizontal construction.
7. The hammerhead cul-de-sac design will be coordinated with Public Works and the Fire Department at the time of the construction drawings.
8. Cross access easements will be provided between the buildings for both private and emergency access to all docks and slips.
9. The boat ramp must be connected to the roadway.
10. Driveway locations for lots 13, 14 and 15 will not impede the turning radius or length of the hammerhead.

Motion carried unanimously.

**RV.07.0018 WARD 4 NEIGHBORHOOD 7.02A RS**

Request of Lynn Townsend & Assoc., LLC., agent for Manatee Developers, owner, for approval for Right-of-Way Vacation of part of an alley for property located at 2335 Manatee Avenue East (Zoned C-3)

**PR.07.0036 WARD 4 NEIGHBORHOOD 7.02A RS**

Request of Lynn Townsend & Assoc., LLC., agent for Manatee Developers, owner, for approval of a Planned Development Project (PDP) for a Professional Park of seven professional office buildings totally approximately 25,200 square feet for property located at 2335 Manatee Avenue East (Zoned C-3)

Ms. Seewer read the requests together stating that they pertained to the same project but would need separate actions. Ms. Seewer further advised that the request for the right-of-way vacation was subject to approval of the Special Use.

Walter Smith of Lynn Townsend & Associates, 1922 53<sup>rd</sup> Avenue East, agent for Manatee Developers, presented the request to the Commission and answered questions of the Commission Members.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor of either part of the application, and no one appeared. The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair closed the Public Hearing.

**Public Works -**

Mr. Cummings said that he met quite extensively with the engineer, and staff felt it was a very good project. He commented that it was nice to see that corner get used.

**Fire Department -**

Fire Marshal Langston stated that he had no objections.

**Staff Report-**

Ms. Seewer stated that staff's recommendation for the right-of-way vacation was for approval and its recommendation of the Planned Development Project was for approval with the following

stipulations:

1. Concerns of Public Works and Fire Department regarding emergency access and utilities will be addressed on the site improvement construction plans.
2. All trees scheduled for preservation will be adequately barricaded.
3. If any species listed in Rule 39-27.003 through 39.27-005 of the Florida Administrative Code are observed frequenting the site for nesting or breeding purposes, appropriate mitigation and/or protection measures will be taken, with immediate notification provided to the PCD.
4. The architectural design and features of the proposed buildings shall approved by the Planning and Community Development Director prior to construction.
5. The Final PDP must address all Stipulations and other Staff and DRC recommendations and concerns included in this report as determined by the Planning and Community Development Director.
6. Any deviation from the approved requirements, as determined by the Planning and Community Development Director, may require a PDP amendment.

Mr. Prewitt moved, with a second by Mr. Yearick, to approve RV.07.0018. Motion carried unanimously.

Mr. Prewitt moved, with a second by Mr. Thompson, to approve PR.07.0036 with the following stipulations:

1. Concerns of Public Works and Fire Department regarding emergency access and utilities will be addressed on the site improvement construction plans.
2. All trees scheduled for preservation will be adequately barricaded.
3. If any species listed in Rule 39-27.003 through 39.27-005 of the Florida Administrative Code are observed frequenting the site for nesting or breeding purposes, appropriate mitigation and/or protection measures will be taken, with immediate notification provided to the PCD.
4. The architectural design and features of the proposed buildings shall approved by the Planning and Community Development Director prior to construction.
5. The Final PDP must address all Stipulations and other Staff and DRC recommendations and concerns included in this report as determined by the Planning and Community Development Director.
6. Any deviation from the approved requirements, as determined by the Planning and Community Development Director, may require a PDP amendment.

Motion carried unanimously.

(Mr. Prewitt apologized that he had to leave for another meeting. He left at 4:50 p.m.)

**PR.07.0037 WARD 3 NEIGHBORHOOD 6.01 RS**

Request of Lynn Townsend & Associates, LLC, agent for Dugan Construction, owner, for approval of a Planned Development Project (PDP) for six single family residential homes for property located at 1108 19th Street West (Zoned R-3A)

Ms. Seewer read the request.

Walter Smith of Lynn Townsend & Associates, 1922 53<sup>rd</sup> Avenue East, agent for Dugan Construction, owner, presented the request to the Commission stating the PDP offered flexibility in the design so that the potential of the site could be maximized and affordable housing could be provided. He answered questions of the Commission Members.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and no one appeared. The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. There being no further individuals wishing to speak, the Chair closed the Public Hearing.

**Public Works-**

Mr. Cummings stated that he had no objections.

**Fire Department-**

Fire Marshal Langston stated that he had no objections.

**Staff Report-**

Mr. Polk commented that in keeping with the concept of cottage type development he wanted an additional stipulation that the structures have a four sided design. He noted that the way the footprints were set on the site plan, it begged for that design.

Ms. Seewer advised that staff recommended approval with the following stipulations including the stipulation suggested by Mr. Polk:

1. Adjust buildings to provide additional three feet for larger vehicles – 18 feet minimum length on the short side of the driveway.
2. Provide a minimum of three facades to avoid repetition of design.
3. A Fire hydrant may be required. This will be assessed by the Fire Marshal during the Civil Engineering review.
4. The 16' private road will be constructed to City standards.
5. Structures to have four-sided architectural design to be approved by the Director of Planning and Community Development.

Ms. Gauffillet moved, with a second by Mr. Yearick, to accept Staff Recommendation and approve PR.07.0037 with the following five stipulations:

1. Adjust buildings to provide additional three feet for larger vehicles – 18 feet minimum length on the short side of the driveway.
2. Provide a minimum of three facades to avoid repetition of design.
3. A Fire hydrant may be required. This will be assessed by the Fire Marshal during the Civil Engineering review.
4. The 16' private road will be constructed to City standards.
5. Structures to have four-sided architectural design to be approved by the Director of Planning and Community Development.

Motion carried unanimously by a vote of 4-0.

**CP.07.0021 WARD 2 NEIGHBORHOOD 5.03/5.04 RS**

Request of ZNS Engineering, L.C., agent for Ken Griffith, President, Griffith-Cline Funeral Home, owner, for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from County ROR to City Commercial for property located at 3904 Cortez Road West

**LU.07.0039 WARD 2 NEIGHBORHOOD 5.03/5.04 RS**

Request of ZNS Engineering, L.C., agent for Ken Griffith, President, Griffith-Cline Funeral Home, owner, to change the Land Use Atlas designation from County GC, RDO to City C-3 for property located at 3904 Cortez Road West

Ms. Seewer read the requests together stating that they pertained to the same project but would require separate motions.

Jennifer Coda Salisbury of ZNS Engineering, LC, 602 3<sup>rd</sup> Street East, agent for Ken Griffith, President, Griffith-Cline Funeral Home, owner, presented the requests to the Commission and answered questions.

**Public Hearing:**

The Chair opened the Public Hearing for those wishing to speak in favor, and no one appeared. The Chair opened the Public Hearing for those wishing to speak in opposition, and no one appeared. The Chair closed the Public Hearing.

**Staff Report-**

Ms. Seewer stated that staff recommended approval. She advised that the Future Land Use designation was consistent with that of Manatee County although the County had a little residential in there because certain commercial businesses were allowed in residential districts. She advised that the City did not so the City elected to designate the entire property as Commercial.

Ms. Gaufllet inquired why the City went with a straight zoning district as opposed to a planned development.

Ms. Seewer responded that the district was already developed. She remarked that if it had been vacant property, the City would have likely designated it as PDP.

Mr. Thompson moved, with a second by Mr. Yearick, to accept Staff recommendation and approve CP.07.0021 Ward 2 Neighborhood 5.03/5.04. Motion carried unanimously by a vote of 4-0.

Mr. Thompson moved, with a second by Mr. Yearick, to accept Staff recommendation and approve LU.07.0039 Ward 2 Neighborhood 5.03/5.04. Motion carried unanimously by a vote of 4-0.

**Adjournment**

Mr. Yearick moved, with a second by Mr. Thompson, to adjourn the meeting at 5:22 p.m. Motion carried unanimously.

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Diane Barcus  
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.**

Note: This is not a verbatim record. A recorded CD is available upon request for a \$10.00 <i>service charge</i> .
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