

ABBREVIATED MINUTES  
 PLANNING COMMISSION MEETING  
 JULY 16, 2007

The City of Bradenton Planning Commission met on Wednesday, July 16, 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	Seth Kohn	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, August 15, 2007 at 8:30 a.m. unless otherwise announced.
- 2) Pledge of Allegiance at 2:01 p.m.
- 3) Mr. Barnhill moved, with a second by Mr. Thompson, to approve the Minutes of June 20, 2007. Motion carried unanimously.
- 4) Ms. Kahl swore in all those wishing to speak before the Commission.

**NEW BUSINESS**

**LU.07.0038 WARD 4 NEIGHBORHOOD 1.01 RS**

Request of ZNS Engineering, L.C., agent for Enterprise Associates of Sarasota, owner, to change the Land Use Atlas designation from C-1/UCBD to PDP/UCBD for property located at 301 7<sup>th</sup> Street W (Zoned C-1/UCBD)

**RV.07.0016 WARD 4 NEIGHBORHOOD 1.01 RS**

Request of ZNS Engineering, L.C., agent for Enterprise Associates of Sarasota, owner, for Right-of-Way Vacation for property located at 301 7<sup>th</sup> Street West (Zoned C-1/UCBD)

**PR.07.0034 WARD 4 NEIGHBORHOOD 1.01 RS**

Request of ZNS Engineering, L.C., agent for Enterprise Associates of Sarasota, owner, for preliminary approval of a Planned Development Project for a master planned, mixed use, urban in-fill redevelopment project known as Metro Marquee at property located at 301 7<sup>th</sup> Street W (Zoned C-1/UCBD)

Ms. Seewer read the three requests stating that they all pertain to the same development.

Tom McCollum, Director of Planning, ZNS Engineering, presented an overview of the three requests advising that the proposed project, known as "Metro Marquee", was a large, urban, multi-use project which included 9,700 square feet of retail space, a 30,000 square foot grocery, 46,000 square feet of office space, a 3,700 square foot restaurant, and two residential towers, one of which was 13 stories above a five story deck and the other was 16 stories above a five story deck. He said that the residential units included 117 condominium units and 21 workforce housing units.

Javier Suarez, ADP Group, presented the proposed renderings and walked through the project with the Commission.

J. Geoffrey Pflugner, Esquire, of Icard'Merrill, advised that the railroad did not want to cooperate in the vacation of the street; therefore, the request to vacate the public portion of the street would be withdrawn. He said that the Property Appraiser's map was not consistent with the platting area. Mr. Pflugner pointed out where the plat line actually stopped stating that the area north to 3<sup>rd</sup> Avenue West had been drawn by the Property Appraiser; but, the next drawing showed the plat stopped at the north boundary of Lot 1 approximately 140' south of the south right-of-way line for Manatee Avenue as shown on a survey of the north boundary of the Cherry plat drawn by ZNS. He remarked that everything north of that line was not platted and, therefore, not subject to vacation. He showed the area that would have been vacated had the vacation been processed. Mr. Pflugner noted that in the 1960's the area was filled in, and was area either occupied by the project as it was today, or was basically vacant ground, all of which, through a Quit Claim Deed was given to Thomas E. Carver or his predecessors or to the City of Bradenton by the Board of Trustees.

William Merrill, Esquire, stated that the road would be redone within the right-of-way.

Questions of the Commission Members were answered.

**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 -**

Seth Kohn, P.E. said that he was okay with the project based upon a meeting Friday with the applicant and the redevelopment of the throughway from north to south.

## **Fire Department -**

Fire Marshal Langston stated that he no issues.

The Chair asked whether the buildings would be sprinkled, and Mr. Langston replied affirmatively.

## **Staff Report-**

Mr. Polk stated that this was a cutting edge project which promoted many of the things in the Master Plan for Downtown by Design, such as, mixed use, new urbanism, smart growth, increased densities in downtown making it a residential address. Mr. Polk said there were many meetings with the applicant and a lot of give and take, and staff supported this catalytic project.

Ms. Seewer stated that this was an important project for the City. She said the issues were minimal, such as, a little more landscaping and different plant materials because the ones chosen were not native and would need a lot of watering. She remarked that the right-of-way issue still needed to be looked into because years ago there was discussion about a pedestrian walkway all the way down the 5<sup>th</sup> Street right-of-way to Riverfront Park, and she knew there had been negotiations with Mr. Carver in that regard. Ms. Seewer said she did not know whether anything was formally done, but she wanted to check all the records to find out if it could be taken off the County's plat maps if it was indeed not platted right-of-way. Ms. Seewer said that it would not make any difference in the actual design of the project as long as Public Works was willing to let the little loading and unloading area be in the right-of-way but not on the pavement. She eliminated the first stipulation because it dealt with the vacation of 5<sup>th</sup> Street and was now a moot point. She recommended approval with stipulations 1 through 7 as follows:

1. Upgrade the landscaping as recommended by the Architectural Review Board subject to approval of the Director of Planning and Community Development. Such upgrades should include low-maintenance foliage and xeriscape techniques.
2. The developer will be responsible for improvements (including paving, curbing, and drainage) to 5th Street West from the south property line of the subject property to Manatee Avenue West.
3. Provide design detail showing the one-way to two-way conversion of 5th Street West and include proposed street signage.
4. Any improvements necessary to provide the site with adequate sewer, water and traffic movement will be provided by the developer.
5. Provide 18 additional trees to the site, or pay the equivalent of \$165.00 per tree to the City's tree re-nourishment fund.
6. Prior to the City Council meeting, provide fence and landscape buffer details for the south property line.
7. Ensure long-term affordability and prevent investor "flipping" of the workforce housing units by structuring sales contracts for those units so that their future sales prices remain within the City's designated workforce housing pricing range for a period of no less than 15 years.

The Chair applauded the seventh stipulation noting that she had never seen that come through any document before the Planning Commission. Ms. Barcus stated that it was high time.

Ms. Seewer advised that this was the first project to come through to take advantage of the increased density for affordable housing. She opined that the City would be seeing more of this as Downtown Urban Central Business district and the Urban Village both provided for density increases for workforce housing.

The Chair commented that in the second stipulation where the developer would be responsible for improvements including paving, curbing, and drainage to 5<sup>th</sup> Street West from the south property line to the subject property line to Manatee Avenue West, she requested that sidewalk be included.

Ms. Barcus expressed concern about where pedestrians would walk if they were out for a stroll and trucks were coming down and backing in.

Mr. Merrill noted that 7<sup>th</sup> and 3<sup>rd</sup> would be the more pedestrian friendly streets; however, the proposed stipulation change would be acceptable provided there were enough room although he did not anticipate a problem.

Ms. Gaufillet moved, with a second by Mr. Thompson, to approve LU.07.0038. Motion carried unanimously.

Ms. Gaufillet moved, with a second by Mr. Thompson, to approve PR.07.0034 with the following stipulations and amending Stipulation 2 to include sidewalk:

1. Upgrade the landscaping as recommended by the Architectural Review Board subject to approval of the Director of Planning and Community Development. Such upgrades should include low-maintenance foliage and xeriscape techniques.
2. The developer will be responsible for improvements (including paving, curbing, drainage and sidewalk) to 5th Street West from the south property line of the subject property to Manatee Avenue West.
3. Provide design detail showing the one-way to two-way conversion of 5th Street West and include proposed street signage.
4. Any improvements necessary to provide the site with adequate sewer, water and traffic movement will be provided by the developer.
5. Provide 18 additional trees to the site, or pay the equivalent of \$165.00 per tree to the City's tree re-nourishment fund.
6. Prior to the City Council meeting, provide fence and landscape buffer details for the south property line.
7. Ensure long-term affordability and prevent investor "flipping" of the workforce housing units by structuring sales contracts for those units so that their future sales prices remain within the City's designated workforce housing pricing range for a period of no less than 15 years.

Motion carried unanimously.

The Chair stated that the Right-of-Way application had been withdrawn.

Mr. Barnhill left the meeting.

#### **SU.07.0037 WARD 2 NEIGHBORHOOD 12.02 RS**

Request of Thomas Owen, owner, to build a dock and platform for property located at 215 21<sup>st</sup> Street West (Zoned R-1B)

Ms. Seewer read the request.

Thomas E. Owen, 7803 2<sup>nd</sup> Avenue, NW, stated that Riverview Boulevard ran east and west with the Manatee River. He explained that the front of the house on the lot at 215 21<sup>st</sup> Street West was on 21<sup>st</sup> Street and the back of the house and a 50 foot partial was on Riverview Boulevard. Mr. Owen said that his family had owned the property for 25 years. He advised that there was a lot next door, 2001 Riverview Boulevard, and a lot to the other side, 2105 Riverview Boulevard, both with existing docks. He noted that every property on Riverview Boulevard from 26<sup>th</sup> Street down to 20<sup>th</sup> had a dock. Mr. Owen advised that he had received approval through the EPA and the Army Corps of Engineers to build a dock with the City's permission to use the property which the City owned as had been done by everyone on Riverview Boulevard in the past. Mr. Owen presented a rough sketch showing the two existing docks on the east and west sides and the proposal for the

new dock. He said the existing dock on the left went out 50 feet; the existing dock on the right went out 30 feet. He remarked that he wanted to go out 40 feet and split the difference and keep the contour of the property and the river. Mr. Owen explained that it would have a 5x30 walkway going out with a 14x10 tee at the end.

Mr. Griffith asked how far Mr. Owen's dock would be from the one on the west.

Mr. Owen replied that it was probably a good 75 feet if not more; but, it was not an area to put a big 40 foot boat there.

Mr. Griffith asked if Mr. Owen planned on doing any dredging.

Mr. Owen said he was not; it was just a simple dock.

Mr. Griffith asked about the depth at medium and low tide.

Mr. Owen advised that the depth at medium and low tide in front of one dock was four feet and the other dock was about eight to ten feet give or take two feet of muck.

Mr. Thompson confirmed that Mr. Owen stated he was not having electrical facilities on this dock.

Mr. Owen replied affirmatively to Mr. Thompson's statement.

Mr. Thompson asked whether other docks were lit at night.

Mr. Owen said he thought there was power on the dock to the west and a couple other docks may, but he was not certain. He commented that he was not interested in doing so.

The Chair inquired about the safety factor if Mr. Owen was not going to have some kind of lights.

Mr. Owen said if lighting was an issue for safety, he could put reflectors or lights for that reason but some people frown on lighting because of the manatees, snook, etc.

The Chair expressed concern having a five foot wide, 30 foot long dock and walking out at night, or with boats being able to see the dock.

Mr. Owen replied that he did not think other docks were lit, such as, the dock on the east, but he was not sure. He said if it were an issue, he would light it with solar power or battery operated lights.

The Chair said there were pros and cons to lighting. (1) Ms. Barcus noted that she did not want the fish disturbed. (2) Ms. Barcus expressed concern about safety with kids riding out on jet skis, or someone walking out on the dock at night and walking off the edge.

Mr. Owen stated that he believed some of the docks had gates on them so that people could not get on them at night.

The Chair asked if Mr. Owen's intention was to gate it.

Mr. Owen replied that he would do whatever the City wanted him to do.

**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 the following appeared:

Tim Milligan, 2015 Riverview Boulevard, stated that his address was a continuous piece of property to this property. He questioned the validity of the dock. He stated that according to City Code Section 500.13.c(i) docks shall maintain a minimum of an eight-foot setback from the side lines of property or the extension thereof into the water. He said when the property lines were extended out, the property did not extend to the seawall which was the process other docks had to go through. Mr. Milligan advised that in order to determine how far out the dock should go, if the Planning Commission decided that it be built, there should be a working knowledge of the channel. He presented a Federal chart of the area noting that the channel hugged the shore and had short shoals so if the Commission approved the dock, it should be no further out than 30 feet. Mr. Milligan remarked that there were some larger boats on the east side that would have a difficult time getting by a 40 foot dock. He noted this was a dock friendly neighborhood, but the problem with this particular dock would be that the egress and ingress to Colonel Cochran's (who, Mr. Milligan explained, had been present but had to leave) dock and upstream boats would be severely affected. Mr. Milligan commented that this was a water view, not a waterfront lot.

Noreen Roberts, 1925 Riverview Boulevard, opposed the dock being built. She said the lot had a water view but was not a waterfront piece of property. Ms. Roberts stated that they paid heavily for their properties and for someone to come along and put a dock in and impede their use of the waterway was not fair and was against the ordinances laid out by the City. She said her dock was upstream from the proposed dock. Ms. Roberts commented that she had seen a plan of the proposed dock which may not be final, but it seemed sketchy to her. She said it made her nervous that it might not be a substantial dock and could break loose and affect everyone else's property.

The Chair requested that the record reflect that J.E. Cochran, 2012 Riverview Boulevard, also opposed the proposed dock. There being no further individuals wishing to speak, the Chair closed the Public Hearing.

Responding to the Chair's invitation for rebuttal, Mr. Owen stated that as far as impeding the waterway, his intentions were to blend in with the docks that were there. He said if 10 foot was an issue, the dock could be 20 or 30 feet, or whatever it needed to be. He commented that he was not trying to impede anyone. Mr. Owen pointed out that several of the docks were not within the guidelines and if the lines were extended out, some of the docks would have to be moved. Mr. Owen remarked that his family had been on the River for 25 years while some of these people had only been here for five or 10 years if that. He said he was not just someone off the street coming in asking to build something with no right. Mr. Owen stated that the dock would be built to Code.

Mr. Griffith asked whether legally Mr. Owen had the right to build the dock.

Ms. Seewer advised that she got off the DEP Website how to determine those lines. She read the information and demonstrated how it was done. She noted that if there was less than 65 feet of shoreline, a dock could be put in but it had to be centered. Ms. Seewer commented additionally it stated that when apportioning riparian rights, the direction of the upland boundaries was largely ignored. Ms. Seewer showed on the overhead other docks which were not within the guidelines.

#### **Public Works -**

Mr. Kohn discussed the proper permitting procedures with the DEP and the Army Corps.

Ms. Seewer stated that she also received an e-mail from John Foley who had the same concerns as the other neighbors and suggested stipulations which she did not feel would be objectionable to

Mr. Owen, City staff or the Planning Commission. Ms. Seewer advised that those were presented in memo form at each Commissioner's place. She read the stipulations as follows:

1. The dock will be limited to 13x30 as opposed to 13x40 submitted. A length of 40 feet will put the boat in the channel.
2. No lifts or mooring are allowed on the sides.
3. No boat longer than 30 feet will be permitted.
4. The dock will be for the sole use of the occupants of the residence and not be rented out to a third party.

**Fire Department -**

Fire Marshal Langston stated that he no issues.

The additional suggested stipulations were discussed.

Ms. Gauffillet suggested that the first stipulation be a little cleaner by identifying the walkway portion as being five feet wide by a certain length with a 14x10 landing attached to the end.

Mr. Owen clarified that it be 5x20 with a 14x10 tee. He agreed to the stipulations.

**Staff Report-**

Ms. Seewer stated that staff recommended approval with the following two stipulations as well as the additional ones just discussed:

1. Dock will be centered within the shoreline frontage.
2. Water and electrical installation will require a City of Bradenton Right-of-Way Use Permit.

Mr. Thompson moved, with a second by Ms. Gauffillet, to approve SU.07.0037 with the following six stipulations:

1. Dock will be centered within the shoreline frontage.
2. Water and electrical installation will require a City of Bradenton Right-of-Way Use Permit.
3. The dock will be 5x20, with a 13x10 landing.
4. No lifts or mooring are allowed on the sides.
5. No boat longer than 30 feet will be permitted.
6. The dock will be for the sole use of the occupants of the residence and will not be rented to a third party.

Motion carried unanimously by a vote of 4-0.

**SU.07.0039 WARD 5 NEIGHBORHOOD 7.03 RS**

Request of Fawley Bryant Architects, Inc., agent, for Bradenton Centre LLC, owner, for a new 1,720 sq. ft. Starbucks Coffee Drive-thru Store and an approximately 7,400 sq. ft. four unit Retail-Office Building for property located at 102 and 120 Manatee Avenue East (Zoned C-1A)

Ms. Seewer read the request.

Rick Fawley presented an overview of the project advising that a series of older buildings, which were an eye sore, would be replaced. He advised that a 1,720 square foot Starbucks would be a stand alone, which was Starbucks' prototype, and would be located at the corner, and a 7,400 square foot building anchored by a FedEx-Kinko's store would be on the east side of the site.

Mike Ivco of Fawley Bryant presented the highlights of the project. He stated that the project would be an upgrade to the corner. He explained that the traffic pattern would have to be one way into the site from Manatee Avenue and back out at 2<sup>nd</sup> Street. Mr. Ivco stated that FDOT had agreed to an “in and out” along 301 and 41 for access to the site as well.

Mr. Fawley presented images of the proposed buildings and an aerial of the drive-thru. He said the architecture was a friendly, new urbanism.

Larry Lippert of HG&LL advised that he had two meetings and telephone conversation with FDOT regarding access to the site. He stated that it would be a bit disingenuous if he said that DOT was happy with the driveways but it was recognized that there had to be access which made sense. He advised that he had met with Public Works and the Planning Staff with regard to connection for utilities. He said that staff requested that a new hydrant be added along Manatee Avenue which he showed on the plan. Mr. Lippert stated that he would slightly improve the access on 2<sup>nd</sup> Street if that was possible with the radius.

Larry R. Washmuth, ASLA, of Stewart-Washmuth & Co., answered questions of the Commission Members regarding landscaping.

**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 -**

No comments.

**Fire Department -**

No comments.

**Staff Report-**

Ms. Seewer stated that staff tried to get a building closer to the road for the new urbanism look but could not because of the stacking lane that was needed for the drive-thru for Starbucks, but she still thought this would improve the walkability of the area. She pointed out that the School Board, Manatee Hospital, and Bradenton Herald were all at that intersection, and it was the feeling that people would be walking over for drinks and snacks. Ms. Seewer advised that the present buildings were there for a long time, in poor condition and needed to come down. She commented that everyone was ready for a change on that corner, and this was the change staff wanted to see. Ms. Seewer said that staff did have a problem with the requested signage. She pointed out that 32 square feet per side would be allowed, one along Manatee Avenue and one along 301/41 since both routes were arterials, so if combined, a total of 64 square feet would be allowed. She advised that the pole sign could be no higher than 25 square feet. Ms. Seewer recommended approval with the following four stipulations:

1. Utility upgrades may be required to serve the site. Such upgrades, if necessary, will be the responsibility of the developer.
2. The Starbucks sign can not exceed 64 square feet, with a maximum height of 25 feet.
3. The pylon sign for the east building can not exceed 48 square feet.
4. Landscaping will be installed as per the plan submitted and identified as Exhibit F.

Ms. Gauffillet moved, with a second by Mr. Griffith, to approve SU.07.0039 with the following stipulations:

1. Utility upgrades may be required to serve the site. Such upgrades, if necessary, will be the responsibility of the developer.
2. The Starbucks sign can not exceed 64 square feet, with a maximum height of 25 feet.
3. The pylon sign for the east building can not exceed 48 square feet.
4. Landscaping will be installed as per the plan submitted and identified as Exhibit F.

Motion carried unanimously by a vote of 4-0.

#### **RV.07.0017 WARD 4 NEIGHBORHOOD 7.02B RS**

Request of the City of Bradenton, owner, for Rights-of-Way Vacation for property within the boundaries of Norma Lloyd Park located at 1024 24<sup>th</sup> Street East (Zoned R-1C)

Ms. Seewer read the request and made the presentation on behalf of the City. She explained that the City was in the process of deeding some land to United Community Centers which operated the 13<sup>th</sup> Avenue Youth Center and found that when the City went to deed it over, part of the platted right-of-way streets had not been included. She pointed out the platted streets on the overhead projector showing that they all fall within the boundaries of the Norma Lloyd Park. Ms. Seewer noted that the Park would remain a park as the City had received State funding for improvements and once accomplished, the Park could not be converted to private property again. Ms. Seewer recommended approval.

Questions of the Commission Members were answered.

#### **Public Hearing:**

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

Scott Rudacille, attorney with Kirk-Pinkerton, P.A., representing United Community Centers, expressed support for the City's request for vacation.

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

Ineda Edwards, 2218 9<sup>th</sup> Avenue East, pointed out her property and asked what the City was trying to do.

Ms. Seewer explained that 23<sup>rd</sup> Street was not being vacated, only south. She said these were not constructed streets; they were only platted. She advised that all the streets were within City owned property.

Ms. Edwards asked that when the streets were vacated, if half would go to the property owner.

Ms. Gauffillet responded that would be the case in most circumstances but in this situation both sides belonged to the City.

Ms. Kahl swore in Joe Houston, 1005 24<sup>th</sup> Street, who stated that there was an easement between his house and his neighbor, and he asked whether that was what the City was giving away.

The Chair advised that no easements were being given away. Ms. Barcus noted that this vacation would not affect Mr. Houston at all.

Elizabeth Efferson, 1001 24<sup>th</sup> Street East, stated she had the same question Mr. Houston had about the vacation affecting the vacant property around her property. She had thought the

property was being given away.

No one else appeared so the Chair closed the Public Hearing.

**Public Works** -

No comments.

**Fire Department** -

No comments.

**Staff Report-**

Mr. Polk advised that Norma Lloyd Park was slated to be a regional park working with the United Community Centers, the County and State. He stated that there was roughly \$400,000.00 grant money from the State for park improvements. Mr. Polk said a commitment was made to the residents of Washington Park to build a state of the art park that may be even better than G.T. Bray Park.

Ms. Gauffillet moved, with a second by Mr. Thompson, to approve RV.07.0017. Motion carried unanimously by a vote of 4-0.

**Adjournment**

Mr. Thompson moved, with a second by Ms. Gauffillet, to adjourn the meeting at 4:05 p.m. Motion carried unanimously.

---

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> .
--------------------------------------------------------------------------------------------------------------------