

MINUTES  
PLANNING COMMISSION MEETING  
JUNE 18, 2008

The City of Bradenton Planning Commission met on Wednesday, June 18, 2008 at 2:00 p.m. in the City Hall Council Chambers.

**ATTENDANCE**

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

Diane Barcus	Chair <i>Lucienne Gaufillet</i>	Vice-Chair Allen Yearick	Allen Prewitt
Carlos Escalante	Adam Buskirk	Joseph Thompson	
Alternate Brady Cohenour	Alternate O.M. Griffith	Alternate Vacancy	Alternate Vacancy

**City Staff:**

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

**PRELIMINARIES**

Meeting called to order by Chairperson Lucienne Gaufillet at 2:00 p.m.

- 1) Pledge of Allegiance was recited.
- 2) Mr. Prewitt moved, with a second by Mr. Thompson, to approve the Minutes of May 21, 2008. Motion carried unanimously.
- 3) The Chair advised that with the exception of variance requests, all items being considered at this meeting would be heard by City Council at its regularly scheduled meeting on Wednesday, July 16, 2008 at 8:30 a.m. unless otherwise announced.
- 4) Ms. Kahl swore in all those wishing to speak before the Commission.
- 5) The Chair pointed out that the Planning Commission generally met on Wednesdays, but

in July it would meet on Monday, July 14, 2008 with the workshop at 1:00 p.m. and the meeting at 2:00 p.m.

## **OLD BUSINESS**

### **MA.08.0022 WARD 4 NEIGHBORHOOD 20.03 RS**

Request of Stephen Thompson, Esq., agent for Camlin Home Corporation, owner, for approval of a Major Amendment to a Planned Development project known as "Bella Sole" to increase the lots from 18 to 37 for property located at 4001 5<sup>th</sup> Avenue NE (Zoned PDP)

Ms. Seewer read the request advising that it had been continued from May 21, 2008. She stated that the public hearing before City Council had been tentatively scheduled on June 25, 2008 but would not take place on that date. Ms. Seewer said a letter had been received from Mr. Thompson requesting a continuance to the July 14, 2008 Planning Commission meeting at 2:00 p.m. which would change the tentative City Council meeting to August 13.

Mr. Thompson requested the continuance noting that there were issues in the Staff Report dealing with setbacks and compatibility that they wanted to resolve before bringing the application to the Planning Commission.

### **Public Hearing:**

The Chair stated that the public hearing, which was opened last month, would remain open. Ms. Gaufillet said that those individuals who signed up could come forward and put their comments on the record now or they could come back for the July 14 public hearing and do it then. The Chair called forward those individuals wishing to speak, and the following appeared:

Claire Donovan, 408 36<sup>th</sup> Street NE, said she was comfortable to wait for the next public hearing.

Susan David, 3615 5<sup>th</sup> Avenue NE, stated she was willing to wait until the next meeting also. She asked if she could receive updated Staff Reports relating to Bella Sole.

The Chair responded that everything was public record, and if Ms. David would contact Ms. Seewer or Ms. Kahl, they would be more than happy to share those documents with her.

Charles E. Hindelang, 330 36<sup>th</sup> Street, NE, commented that this was the second day he had to take off work and it might be convenient to state the meeting could be another day, but it cost money for those who work.

The Chair stated that if Mr. Hindelang could not attend the July 14 meeting, he could submit his comments with regard to the application in writing or e-mail.

Ms. Seewer noted that Mr. Hindelang had sent an e-mail.

Mr. Hindelang said he would be present in any event. He just wanted to point out that it was inconsiderate and expensive.

There were no further individuals wishing to speak.

Ms. Barcus moved, with a second by Mr. Thompson, to continue the public hearing until Monday, July 14, 2008. Motion carried unanimously.

## **NEW BUSINESS**

**RV.08.0023 WARD 4 NEIGHBORHOOD 1.01 RS**

Request of Jamie Ebling, Esquire, agent for B&G Uptown, LLC, owner, for Right-of-Way Vacation of 8<sup>th</sup> Street West from the south side of 3<sup>rd</sup> Avenue West, south approximately 159 feet (Zoned C-1/UCBD)

Ms. Seewer read the request.

Brenda Boyd May, 2200 Manatee Avenue, and Gregg Guinta, 217 22<sup>nd</sup> Street West, presented the request.

Mr. Guinta said the purpose of the right-of-way vacation was to connect the two pieces of property consistent with the master plan to develop an attractive property in downtown.

Ms. Barcus asked what their intentions were for this property.

Mr. Guinta responded that they visited the Indigo Hotel in Sarasota, and they wanted to develop the property with an attractive and exciting development to the downtown area complimentary to the property being developed across the street by Bradenton Riverfront Partners. Mr. Guinta noted that they have been partnering with the City to bring something attractive to that property.

Ms. Barcus stated that she understood that a hotel was the concept, but she queried whether they were developing the property for themselves or developing it as a package to sell. She asked about a time frame when something would happen.

Ms. May said she was born and raised in Bradenton and if there was something positive going on in Bradenton, she wanted to be a part of it. She commented that she did not feel there was a certain plan, but they just wanted to be part of something that would be in keeping with what everyone was trying to accomplish.

Ms. Barcus expressed concern about the time frame.

Ms. May commented that it was market driven.

The Chair noted that the Commission Members had expressed concern at the workshop that traditionally a right-of-way vacation without a plan was not something for which the City felt comfortable. She queried what the short term plan was to secure the property and protect their investment in the event that the vacation was granted.

Mr. Guinta replied that cars drove on the property so they would do whatever was necessary to protect the property to keep it in good standing. He commented that this was market driven; but, he was committed to Bradenton and looked to be part of the City. Mr. Guinta commented that time frames were difficult to narrow down. He pointed out that they had committed financial resources to demolish the buildings to eliminate an attractive nuisance, and they looked to secure the property as quickly as they could as they had done with demolition of the buildings.

The Chair asked Mr. Guinta what his feelings were about fencing the property.

Mr. Guinta responded that they would be receptive to that because they wanted to make sure the property was protected and would remain attractive consistent with the mission of the City to develop the downtown area. He said they would do anything necessary to secure the property.

**Public Hearing:**

The Chair opened the public hearing for those wishing to speak in favor or against the project and

the following appeared:

Audrey Kelley, 1715 2<sup>nd</sup> Avenue East, said she owned a home on 2<sup>nd</sup> Avenue, and it sounded like the people who had just spoken wanted to put a hotel where the condos were going to be.

Ms. Seewer explained that this was 8<sup>th</sup> Street West, not 8<sup>th</sup> Street East, which was downtown behind the post office.

There being no further individuals wishing to speak, the Chair closed the public hearing.

**Public Works** -

Mr. Cummings said he had no objections but wanted the property secured, and easements granted for the full 8<sup>th</sup> Street right-of-way plus whatever portion of 3<sup>rd</sup> Avenue they obtained. Mr. Cummings commented that as long as there were full easements, it would be acceptable.

**Fire Department** -

Inspector Bonneau concurred that the property be secured, and the Fire Department had appropriate access for any emergency. Inspector Bonneau said if a gate were constructed, it should be at least 16 feet.

**Staff Report-**

Mr. Polk commented that staff agreed with City Council that there be a schematic site plan in relation to any vacations. He said this case was a little different because the applicants were trying to get some kind of comfort for future development as they may be partnering with some of the players in that area, such as, Riverfront Partners or Metro Marquee group out of Sarasota. Mr. Polk noted that between now and when the request went to City Council, he wanted to meet with the applicants regarding staff concerns. He stated that although staff recommended approval, he wanted to stress that what was in Downtown by Design, policy directives from the City Council as well as Planning staff be adhered to.

Ms. Seewer stated that staff recommended approval based upon General Standards and Regulations requirements pursuant to Section 202G of the Land Use and Development Regulations in that the vacation would not be detrimental to the health, safety, welfare and convenience of the public since 8<sup>th</sup> Street did not go all the way through to 3<sup>rd</sup> Avenue and the applicants owned the property on each side and dead-ended within their property. Ms. Seewer said the recommendation for approval was conditioned on the stipulation that the area proposed for vacation be designated as an access and utility easement with utility relocation as necessary which would be determined by Public Works.

Mr. Buskirk asked what the plan would be in securing the site.

Mr. Guinta stated that he would like to work with Mr. Polk and Ms. Seewer in that regard. He said he wanted it secured but done attractively. He said they were opened to suggestions and were committed to securing the property as appropriate.

Mr. Buskirk asked whether that would be done with a fence.

Mr. Guinta replied that they wanted to eliminate any entrance and egress that made an attractive nuisance. He noted that a fence across the front seemed unappealing, but something would be needed that prevented access to that road. He commented that he had not solidified a security plan but could do that collaboratively.

Ms. Barcus noted that the approval made reference to utility relocation as necessary, and she queried whether that included moving the fire hydrant on 3<sup>rd</sup> Avenue.

Mr. Cummings stated that it should not be included at this time. He noted that without having seen plans for ingress and egress that call could not be made and that was why staff requested that the entire area be secured with an easement. Mr. Cummings said staff's major concern was 8<sup>th</sup> Street itself, and he posed questions as to whether there would still be a road running down there, whether it would stop, or whether the road would cease and desist which he favored noting if it continued to look like a public road, people would call Public Works. He said the road should come up, the curb should come up, and it was fine if the applicants wanted to fence it or sod it. He opined that sodding and landscaping would look nice and perhaps that was what was needed in the interim. He questioned how they would keep people from trespassing on the property.

Ms. Barcus commented that Mr. Guinta had made a remark about a barricade, but if that were allowed, there would be no way to access the fire hydrant.

Mr. Guinta stated that a barricade related to the road and as it related to the easement would be subject to a final development plan.

Ms. Barcus asked whether he was amenable to removing the curb and road that was there.

Mr. Guinta answered that if they did not have to do it immediately given the financial environment, would be great. He said if they could prevent use of the road immediately and work with the City about the future, would be great, too. Mr. Guinta commented that they would work with the City to make it not look like a road.

The Chair understood their having put money into the property, but she also understood they were asking the Commission to approve something that in most situations it would not. Ms. Gauffillet said that there was probably a middle ground involving a little more than security. She stated that for the City to have fewer problems, she felt the entire property should be fenced. Ms. Gauffillet noted that just cutting off a road so there was not a dumping situation was not taking away the burden of the Police Department having to police the property and deal with any vagrants or other undesirables who might be doing different things on the property which would create a different attractive nuisance. Ms. Gauffillet remarked that if cars could not get back there, people on foot could get back there and if there was no lighting, it would be a great place to do unsavory things that the City would not want to see. Ms. Gauffillet stated she wanted to see the entire boundary fenced – chain linked on the south, west and east sides with a 16 foot gate for fire safety and Public Works access at the terminus of 8<sup>th</sup> Street West, and some sort of decorative fence along 3<sup>rd</sup> Avenue. She opined that would give the applicants a comfort level and greater marketability of the site. She said she was sure the City wanted to see the entire area developed as one comprehensive project but without this vacation there would be two projects to sell. She commented she did not think that worked for anyone; but in return, the applicants needed to help the City ease the strain on its resources as well. The Chair asked for consensus of the Commission. She said she did not see a need for relocation of any services as long as the fire hydrant was in the triangular piece along 3<sup>rd</sup> Avenue.

Mr. Cummings stated that staff would be glad to work with the applicants on that issue.

Inspector Bonneau concurred.

Mr. Prewitt commented that the applicant probably spent some time acquiring the parcels, and he knew the market was very soft, and they would be sitting on the property for another 12 or 24

months. He mused what it would cost to enclose the entire property and questioned whether it would be overkill to put in a fence and whether it was necessary.

The Chair mused whether the cost would be greater or lesser in 24 months of continuously cleaning the site, or the one time upfront expense of installing the fence thereby eliminating the need to continuously remove debris and chase people out plus any destruction that might be done.

Mr. Prewitt moved, with a second by Mr. Buskirk, to approve RV.08.0023 with a fence around the entire perimeter.

The Chair asked for a clarification whether Mr. Prewitt's motion included the original stipulation advanced by staff.

Mr. Prewitt replied affirmatively.

The Chair asked whether the motion was for a six foot high fence with a 16 foot gate at the terminus of 8<sup>th</sup> Street and attractive fencing, not chain link, along 3<sup>rd</sup> Avenue.

Messrs. Prewitt and Buskirk replied affirmatively.

Ms. Barcus noted that requiring a six foot high fence around the entire perimeter of the property, especially on 3<sup>rd</sup> Avenue would probably come close to the amount of money that it would require to remove that section of 8<sup>th</sup> Street that would be vacated. Ms. Barcus said a six foot high chain link fence with the decorative fence along 3<sup>rd</sup> Avenue would not keep the trash from blowing in and would not keep the people out and camping in there among the trees. She opined that the only thing it would do was keep legitimate people out and legitimate was not the problem the City wanted to help them eliminate. Ms. Barcus commented that the vacated street would keep the cars from parking there during the day, but a lot of that parking was probably County and Post Office employees. She opined that a fence would not solve the problem.

Ms. Seewer said everyone's concern seemed to be that the property was not going to be properly secured or utilized as a road. She stated if a fence were put up, the City could not permit it without a stipulation. She suggested a stipulation that they may put a decorative fence on 3<sup>rd</sup> Avenue and chain link fence on 8<sup>th</sup> Street with a 16 foot gate or provide other security methods based on the approval of the Planning and Community Development Director.

Mr. Buskirk asked whether the City could require fencing along 3<sup>rd</sup> Avenue and the other three sides may be fenced at their discretion.

Ms. Seewer stated that could be done.

Mr. Buskirk stated that to fence four sides was onerous. He said the Commission was being helpful by suggesting a stipulation because if the applicants had a problem and wanted to get a fence later, they would be in a tough position.

Mr. Guinta stated that securing the roadway was a priority. He noted that if the property were fenced, he would have to look in behind the fence to see if there was anyone there. Mr. Guinta said the broader property's visibility was terrific from a security standpoint. He said the issue had been relative to the road with people creeping down the end. He remarked that putting an attractive barrier at the other end was financially softer for them. Mr. Guinta commented that their demand was not for a fence around the property. He said they did not have a huge desire to enclose it for security purposes because the issue was the road.

Ms. Seewer suggested that the stipulation could be that the vacated road would be adequately barricaded to prevent vehicular traffic and removed within 12 to 18 months.

Mr. Cummings asked what that would do for his utility access if it were adequately barricaded.

Ms. Seewer stated that it could be adequately barricaded based on Public Works and Planning's discretion.

Inspector Bonneau asked that the Fire Department be included.

Mr. Prewitt said he would like to withdraw his motion because it had changed so much.

The Chair stated it would have to be voted down. The Chair called for the vote. The motion failed 4-1. Voting in favor: Prewitt. Voting against: Buskirk, Thompson, Barcus and Gauffillet.

Ms. Seewer reviewed the proposed stipulations as follows:

1. That the area proposed for vacation be designated as an access and utility easement with utility relocation as necessary and approved by the City of Bradenton Public Works Department, Fire Department and Planning and Community Development.
2. A fence and 16' gate will be installed at the south property line along the 8<sup>th</sup> Street right-of-way and may be installed around the perimeter of the property.

Mr. Thompson moved, with a second by Mr. Prewitt, to accept Staff's recommendation and recommend RV.08.0023 for approval based upon General Standards and Regulations requirements pursuant to Section 202G of the Land Use and Development Regulations with the following stipulations:

1. That the area proposed for vacation be designated as an access and utility easement with utility relocation as necessary and approved by the City of Bradenton Public Works Department, Fire Department and Planning and Community Development.
2. A fence and 16' gate will be installed at the south property line along the 8<sup>th</sup> Street right-of-way and may be installed around the perimeter of the property.

Motion carried unanimously.

#### **VA.08.0046 WARD 2 NEIGHBORHOOD 4.06 RS**

Request of Dan van der Kooy, agent for Bradenton Christian School Inc, owner, for approval of a Variance for a 28 square foot ground sign with 14 square feet of LED electronic display for property located at 3304 43<sup>rd</sup> Street West (Zoned R1B)

Ms. Seewer read the request.

Mr. van der Kooy, Superintendent of Bradenton Christian School, 3309 45<sup>th</sup> Street West, and Dave Windham, general contractor on the project, 112 29<sup>th</sup> Street West, presented the request.

Mr. Windham pointed out that the present sign was on the north driveway. He advised that they would put the new sign to the south side of the south driveway in an area which would be less intrusive to 43<sup>rd</sup> Street. Mr. Windham explained that they were pulling it off the roadway another 10 to 15 feet and further back to the west thereby making it not quite as visible from 43<sup>rd</sup> Street.

Ms. Barcus asked whether it would be almost back under the trees.

Mr. Windham replied affirmatively.

Mr. Buskirk noted that this request required a variance because they were in a residential area. He said the Commission did not like to give variances because there were rules so Mr. Windham needed to convince the group.

Mr. Windham replied that they currently had a 5 x 8 sign attractive sign which was right up against the adjacent roadway. He said they were going to move it back off the roadway to be less intrusive to the 43<sup>rd</sup> Street area. Mr. Windham remarked that they did not want something that would be a distraction to traffic. He commented that they were a school and wanted to be a good neighbor. He noted that because of the Code change, they could not even put up the sign they have and since infrastructure was so expensive to put in, they wanted to prepare for a new sign while they were in the process of updating the school.

Ms. Seewer commented that she did not have a problem with the size of the sign because of the length of the roadway they occupied, but she questioned the photo just presented noting that the size measured out to be 70 square feet.

Mr. Windham requested that Bob Dring from Florida Sign Company respond to the questions.

Mr. Dring, 1101 29<sup>th</sup> Avenue West, answered questions about the calculations of the sign.

Mr. Windham commented that they were not asking for more than they already had, but they wanted to enjoy the same type of things that were available to the public schools.

Mr. Buskirk remarked that the ones at the public schools would not be seen in the future because the Code changed.

Mr. Windham noted that one just went up at Manatee High at the end of 33<sup>rd</sup> on 9<sup>th</sup> Avenue. He opined that it was a beautiful sign which was there for a short time and then recently moved one block to the east, and a new one just went up at Miller Elementary. Mr. Windham remarked that they were just trying to be in the same ballgame as the public schools.

The Chair said she did not enjoy variances as a general rule because what was the point of having a Code or any kind of rules if they were not followed.

Mr. Windham queried whether there was any way they could have a digital type sign which they would not have to change three or four times a week. He said that was what they were really asking for – a digital sign that could be changed on a computer from the inside. He asked if someone could explain why that could not be done.

The Chair stated that the Code did not allow an LED sign in any way, shape or form in a residential zoning district.

Mr. Windham commented that he did not understand the reason behind that rule.

Ms. Seewer advised that the lighting was disruptive to residential properties.

Mr. Prewitt commented that he knew the area. He noted that the houses to the east had fences and the backs of the yards had lots of foliage so while there were rules, this would be a silly rule in this case because there was not a house that would look into this light. He said the LED light

would be going north/south while the houses would be opposite.

**Public Hearing:**

The Chair opened the public hearing for those wishing to speak in favor or against, and the following appeared:

Marietta Smith, 4212 36<sup>th</sup> Avenue Drive West, advised that she was wearing two hats: one as a resident in Cortez Villas and the second as a Director of Cortez Villas Condo Association I which housed 24 unit owners, four buildings on the southeast corner. She commented that the Association prepared the following questions because they did not know what LED lighting meant: (1) whether LED light was blinking, flashing or scrolling, (2) how bright as far as how many lumens, (3) hours of operation, and (4) whether any trees would be removed. Ms. Smith stated that, as a resident, she enjoyed the fact that there was a Christian school on the corner. She said she was a former principal and elementary school teacher from a Catholic elementary school in New York, and she loved to see the children, the buses coming in and out, and the drummers drumming.

Richard LaBrecque, 3409 45<sup>th</sup> Street West, had a prepared statement which he gave to the Chair. Mr. LaBrecque advised that he lived in Village West and while he and his neighbors had no complaint about the sign, they did want to use this forum to complain about baseballs hitting roofs and coming in his and his neighbor's yard during baseball season.

The Chair advised that Mr. LaBrecque should limit his comments to the sign issue. She stated that this was not the forum for his complaint and directed Mr. LaBrecque to present his complaints to City Council. The Chair advised that the next City Council meeting was June 25 at 6 p.m.

Jim Crum, 702 Clusterwood Drive, Yalaha, Florida, Dektronics factory representative, in reference to a previous speaker, explained what LED's were and how they worked. He said the signs were set up for schools. He stated that there was no jurisdiction over state schools but private schools had to come before the appropriate boards. He advised that they were used in almost every county in the State of Florida and in 70 countries. Mr. Crum remarked that they were beneficial in many ways and not offensive whatsoever. He said they did not flash, and they met the guidelines of the Department of Transportation. Mr. Crum commented that he would be happy to answer any questions of the Commission.

There being no further individuals wishing to speak, the Chair closed the public hearing.

**Public Works -**

Mr. Cummings stated that he had no comments other than an inquiry as to the hours of operation.

**Fire Department -**

Inspector Bonneau had no comments.

**Staff Report-**

Ms. Seewer stated that staff recommended denial based on lack of a sufficient hardship and that LED signs were not permitted in residential zones. She commented that the last speaker was correct in that public schools did not need building permits because the City had no jurisdiction in public schools. Ms. Seewer noted there were criteria in the Land Use Regulations which stated: "Strict application of the provisions of these LURs would deprive the applicant of a reasonable use of his property, cause him unnecessary hardship, or deprive him or her of rights commonly enjoyed by other property owners in the same Land Use Atlas District". Ms. Seewer remarked that it did not exactly apply as a hardship because signage with changeable copy was allowed; however, it denied rights commonly enjoyed by public schools.

Ms. Seewer recommended that the Planning Commission approve the sign for 40 square feet regardless of the LED because once the signs were taken down, there would have to be a variance. She advised that when the application came in, it did not show a sign of 40 square feet; however, they were removing one 40 square foot sign and one 32 square foot sign. She noted that the photos of the proposed new sign had just been presented.

Mr. Windham explained that they just received the packets. He said they were not asking for any more sign than they already had. He commented that the current sign was five foot by eight foot on each side and was back lit which would not meet the current Code criteria. Mr. Windham remarked that it seemed like a hardship that Bradenton Christian School could not have what other schools throughout the area enjoyed. Mr. Windham remarked that if it were all black and white in a book, no board was needed. He opined that a board was needed for flexibility, human interest and understanding to see that the black and white rules were not always applied in every instance.

Mr. Buskirk said he understood the applicant's desire to have something that was digital, and it seemed like the neighbors to the south who might be the most affected by this did not have an issue with it. He remarked that he felt something should be worked out with the applicant because it was not quite as cut and dry and the definition of hardship could be determined as the unfair advantage that the public schools had.

Ms. Barcus commented that it had been alluded to throughout the discussion that Bradenton Christian was a good neighbor and wanted to be a good neighbor, but she did not see this as being a good neighbor issue. She noted that if it were a public school, it would be allowed as long as the sign stayed at 40 square feet. Ms. Barcus remarked that she had a problem with signs that scroll. She said she did not have a problem with a sign which changed periodically, but she was very adamant that if the Board went forward, it not exceed the 40 square feet and that there be a prohibition on a scroll. Ms. Barcus stated that she considered it a hardship that the public schools were allowed to have them and the private schools were not.

Mr. Thompson asked whether this body could determine the hardship and whether they were at a severe disadvantage if the Commission approved it.

The Chair replied that the Commission could disagree with staff with the review that it felt what Ms. Seewer had read from the LURs would deprive the applicant. The Chair stated that was staff's opinion and recommendation, and the Commission was completely entitled to have a different opinion and recommendation.

Mr. Thompson stated that he recommended that they be allowed to have the LED sign as long as it did not exceed 40 square feet.

Mr. Prewitt pointed out that according to Webster's dictionary "hardship" was synonymous with difficulty or something that caused privation and privation was acting out of deprivation of something. Mr. Prewitt said Bradenton Christian did not have the competitive advantage of the public schools. He commented that a client of his several years ago made LED screens and his biggest source of sales was to schools all through the United States. He remarked that pretty much all the schools were using LED screens; therefore, he felt it was a hardship because the school was competing with the public schools. Additionally, Mr. Prewitt noted that as a private school, money had to be raised to pay for it because they did not get tax revenue, and he opined that they were hit with a double competitive disadvantage. Mr. Prewitt said he really felt this was a hardship, and he recommended allowing the sign as long as it did not exceed the 40 square feet.

Ms. Seewer commented that if the Planning Commission were inclined to approve the request, the 40 square feet would be okay, but she asked that the LED portion not exceed 16 square feet which

was half of the signage allowed by right which was 32 square feet. Ms. Seewer suggested that the sign be turned off at a certain time so that the residents were protected from the lighting.

Ms. Barcus requested that scrolling not be allowed.

Ms. Seewer stated that would be specified in the permit. She advised that scrolling was not allowed where the City had jurisdiction.

Mr. Prewitt moved to approve VA.08.0046 for a sign to be no greater than 40 square feet with no more than 16 square feet LED panel with the stipulation that the LED could be lit from the hours of 7:00 a.m. until 9:00 p.m. based on the hardship that the school would be deprived of rights commonly enjoyed by the public schools.

Ms. Seewer noted, for the record, that the City only allowed the message to change every 60 seconds.

Mr. Thompson seconded the motion.

Ms. Barcus said she had a problem with shut off at 9:00 P.M. because there were school activities going on later than that time.

Mr. Prewitt amended his motion to 10:00 p.m. Mr. Thompson accepted the amendment.

Amended motion carried 4-1. Voting in favor: Prewitt, Thompson, Buskirk and Barcus. Voting against: Gauffillet.

Ms. Gauffillet stated, for the record, that staff and City Council spent an enormous amount of time figuring out the City's sign ordinance and how to make this City a prettier place, and she did not feel that time or effort were wasted. She felt they did a great job, and it should be supported.

#### **VA.08.0047 WARD 4 NEIGHBORHOOD 7.03 RS**

Request of the Audrey Kelley, owner, for a Variance for an increase in fence height in a technical front yard for property located at 1715 2<sup>nd</sup> Avenue East (Zoned R1B)

Ms. Seewer read the request.

Audrey Kelley, 1020 136<sup>th</sup> Street NE, stated that she was present to show a hardship regarding why her fence should stay at six feet for the 20 feet on one side and 23 feet on the other side. Ms. Kelley stated that facing her house on the left hand side were neighbors where there had been drive-by shootings, etc. and that was one of the things that caused her to stop building the house in a timely manner. She said there were some pretty bad things that happened at that house, and she was pretty scared. Ms. Kelley displayed drawings and photos displaying her property as well as her neighbors on each side. She also presented a recent newspaper article showing an individual next door being a child molester as well as the mother just getting out of jail. Ms. Kelley showed where a door went into that particular residence, and she said she did not want to have to see it. She stated it was a hardship for her to look out and see these people. Ms. Kelley advised that they spent over \$300,000.00 on this house which improved the neighborhood. She stated that she had it sodded and landscaped, and it was a hardship that she could not get a Certificate of Occupancy until this was taken care of. She said it was scary, and at this point she just wanted to sell the house. Ms. Kelley said she needed the variance on the right hand side because the neighbors dump garbage from their lawn business, and she did not want to have to see it. In addition, Ms. Kelley noted it would be a hardship if she put her house up for sale. She advised that the lady across the street, Cynthia Gilliland, 1714 2<sup>nd</sup> Avenue East, received the notice from the

Planning Department and wrote a letter, which Ms. Kelley read, in strong support of Ms. Kelley's fence. Ms. Gilliland indicated that she wanted to be present in support, but she had to work.

**Public Hearing:**

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

**Public Works -**

Mr. Cummings stated that he had no objections.

**Fire Department -**

Inspector Bonneau stated that the Fire Department had no comment.

**Staff Report-**

Ms. Seewer stated that staff recommendation was for approval with the stipulation that the six foot fence height must not be located closer than 25 feet from the right-of-way with the hardship being the location of the existing house on the lot. Ms. Seewer answered questions of the Commission.

Mr. Prewitt moved, with a second by Mr. Thompson, to approve VA.08.0047 with the stipulation that the six foot fence height not be located closer than 25 feet from the right-of-way with the hardship being the location of the existing house on the lot. Motion carried unanimously.

(Ms. Barcus stated that she had an appointment, therefore, she left at 3:50 p.m.)

**PUBLIC COMMENTS**

**CP.08.0024 AMENDMENTS TO EAR BASED COMPREHENSIVE PLAN**

Ms. Seewer read the request.

Mr. Cookingham presented two new draft elements: the Recreation and Open Space Element and the Capital Improvements Element and reviewed them with the Commission Members. Questions of the Commission were answered. Mr. Cookingham requested that, as the Members reviewed the materials, to e-mail or call him with their questions or concerns.

The Chair asked whether the Capital Improvements Element was the appropriate element to contain information about impact fees.

Mr. Cookingham stated that this may be an appropriate element in the sense of referring the fact that park impact fees had to be spent in the proximate area of where they were collected. He said as they looked at the transportation concurrency management area or the transportation concurrency exception area, they would be looking at how monies normally paid in impact fees both for transportation and/or parks could be utilized within that area, and those could be spread a little differently than one would under a normal impact fee collection and distribution. Mr. Cookingham commented that he did not think they expressly stated that in the Capital Improvements Element, and he would look into it.

The Chair said she believed that parks impact fees had to be spent on parks projects and transportation had to be spent on transportation. Ms. Gauffillet commented that she was thinking in the private sector side when there was a developer who had received impact fee credits and paid all the impact fees and had a surplus of credits creating some value to another developer who was not as cash fluent.

Impact fees were discussed further.

Mr. Polk asked the Chair if she were advocating that the City have a policy on impact fees as a feature of the City's CIE Element.

The Chair stated that it did not necessarily have to be in the Capital Improvements Element, but she felt it was important to get the bones of how that system would work into the Comprehensive Plan.

Mr. Cookingham suggested that the Chair e-mail him with her ideas.

Mr. Polk directed that the DCA and the City's consultants be contacted as to how it should be done. He said the Chair had a good comment and was something that should be looked into.

Mr. Cookingham advised that a general milestone meeting would be held on June 24<sup>th</sup> at 6:00 p.m. in the Auditorium. He stated that two public notices would be in the newspaper and would also be on the website.

There were no individuals present to speak, and the Chair stated that the public hearing would be kept open.

Ms. Seewer advised that the Comp Plan would come before the Planning Commission on July 14, then to City Council on July 16 for transmittal to the Department of Community Affairs where it would be reviewed and returned to the City for adoption in October.

#### **Planning Commission Comments**

The Chair commented that Mr. Buskirk had made a request about attendance. The Chair requested Ms. Kahl to send an e-mail before each Planning Commission meeting asking whether each Member would be in attendance.

#### **Adjournment**

There being no further business to come before the Commission, Mr. Prewitt moved, with a second by Mr. Buskirk, to adjourn the meeting at 4:10 p.m. Motion carried unanimously.

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Lucienne Gaufillet  
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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