

**ABBREVIATED MINUTES
PLANNING COMMISSION MEETING
JUNE 17, 2009**

The Planning Commission met in the City of Bradenton Council Chamber, 101 Old Main Street, Bradenton, Florida on June 17, 2009 at 2:00 p.m.

Present:

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

City Staff: Tim Polk- Planning Director; Thomas Cookingham-Assistant Director; Ruth Seewer-Development Review Manager; Karen Aihara-Executive Assistant; Arlan Cummings-Public Works; Dennis Bonneau-Fire Inspector

Absent:

Planning Commission Members: Lucienne Gaufillet, Brady Cohenour (alternate), O.M. Griffith (alternate)

REGULAR MEETING

Meeting was called to order by the Planning Commission Chairman, Mr. Yearick at 2:00 p.m.

- All items considered today will be heard at the July 15, 2009 City Council meeting.
- The Pledge of Allegiance was recited.
- Approval of Minutes – Ms. Barcus requested that during the Regular Meeting of May 20th minutes are amended to reflect that the Planning Commission recognized the Public Works Department during Public Works Month and to congratulate them on their fine work in the City of Bradenton. Ms. Barcus made a motion to approve the May 20, 2009 minutes with the corrections as amended, second by Mr. Thompson. Motion carried unanimously, 6-0.
- Mr. Yearick, Chairman reminded the audience of speaker protocol and requested that each speaker to state their name, address, and association for the record.
- Ms. Aihara swore in all those wishing to speak before the Commission.
- Mr. Yearick, Chairman announced that Ms. Gaufillet has resigned from the Planning Commission effective immediately.

NEW BUSINESS

VA.09.0056 was withdrawn from today's business.

SU.09.0062 WARD 3 NEIGHBORHOOD 1.01 RS

Request of Robert Woodring, agent for the Arthritis Foundation, owner, for a Special Use to allow a lounge on the property located at 406 12th Street West (zoned C-1A).

AB.09.0015 WARD 3 NEIGHBORHOOD 1.01 RS

Request of Robert Woodring, agent for the Arthritis Foundation, owner, for a 4-COP alcoholic beverage license and outdoor seating for a lounge on the property located at 406 12th Street West (zoned C-1A).

Ms. Seewer read the requests.

Robert Woodring, 427 12 St. West, owner of Lost Kangaroo Pub and Lawrence Nemzek, general contractor, 11614 Summit Rock Ct., Parrish representing the Lost Kangaroo introduced the requests to move the Lost Kangaroo across the street on Old Main Street to a better facility and environment for his employees, patrons, and the City. The new location will provide outdoor seating and a more enjoyable and spacious atmosphere.

Commission Questions: Ms. Barcus commended the Lost Kangaroo on the increased size of the ladies' room facilities. Mr. Taylor commented on the good looking plan and questioned the size of the outdoor tables. Mr. Woodring stated that the outdoor tables have not been purchased yet, but they plan to purchase two foot by two foot tables, because the Lost Kangaroo does not serve food and will need room for pedestrian traffic. Mr. Yearick asked about any proposed historical building recognition on the site. Mr. Nemzek stated that there are no plans to change any architecture. Mr. Buskirk commented that there is an existing Salvation Army plaque at the corner. Mr. Woodring stated that the plaque would remain at corner.

Public Hearing: The Chair opened the public hearing for all those wishing to speak.

In Favor: No one appeared.

Opposed: Jeff Smith, 1317 3rd Ave. West, lives two blocks from the Arden building. Mr. Smith expressed the following concerns: 1) the rear door of the building has a clear view of his house and he questioned rear door access during evening hours of operation; 2) the width of the new sidewalk location is 9 feet wide at narrowest to 11 feet at deepest spot; 3) concern over peanut shells littering the street; 4) city trash can is located in front of the building and City should not be liable to clean up the trash each morning.

The public hearing was closed.

Public Works: Mr. Cummings stated that the Lost Kangaroo will be responsible for maintaining the sidewalk and peanut shells on a daily basis. Public trash may need to be relocated. Sidewalk and brickwork should be cleaned weekly.

Applicant's Rebuttal: Mr. Woodring stated that the larger 3.5 foot round tables will not be moved to the new location. Peanuts are cleaned up daily, but some end up in gutter by rain or patrons. Additional trash can is set out each night by front door for customer use. Back door will be designated as an emergency exit, otherwise locked, doormen on duty during evening hours.

Fire: Fire Inspector Bonneau confirmed that a four foot wide path will be reserved as a pedestrian walkway.

Staff Recommendations: Ms Seewer read the staff recommendation for APPROVAL of SU.09.0062 with the following stipulations:

1. The sidewalks will be maintained and cleaned as needed, not less than once per week.
2. Hours of operation will be the same as those mandated by the State of Florida in accordance with the Alcoholic Beverage License.

Ms. Seewer read the staff recommendation for APPROVAL of AB.09.0015 alcoholic beverage license and advised Planning Commission will need two motions for these two separate petitions.

Ms. Barcus asked Mr. Woodring to elaborate on his comment that changes had been made since the plan that was provided to City of Bradenton. Mr. Woodring stated that the plan has not

changed significantly, but have added two stalls in the bathroom, a uni-sex handicapped bathroom, the office and storage has increased, and the bar area increased five feet, but no change in configuration.

Planning Commission Action: APPROVAL

Ms. Barcus moved, with a second by Mr. Buskirk, for APPROVAL of SU. 09.0062 with the two stipulations as recommended by Staff. Motion carried, 6-0.

Ms. Barcus moved, with a second by Mr. Prewitt, to APPROVAL of AB.09.0015 as recommended by Staff. Motion carried, 6-0.

SA.09.0014 WARD 5 NEIGHBORHOOD 7.02B RS

Request of David Bishop of Ugarte & Associates, agent for United Community Center and the City of Bradenton, owner, for a Special Use Amendment to increase the size of the Norma Lloyd Park and to provide for certain park amenities for the property located at 1024 24th Street East (zoned R-1C).

Ms. Seewer read the request.

David Bishop, Ugarte and Associates, representing the United Community Center and the City of Bradenton, introduced Patrick Carnegie, United Community Center; Charlie Ugarte, Bob Goss, Ron Allen and Jason Barts, NDC; Jeb Mulock, ZNS. Application is to enlarge the park and discuss Phase 2 amenities and how they have been adjusted for the project. Mr. Bishop displayed proposed site plan and explained the changes to the Norma Lloyd Park amenities.

Commission Questions: Ms. Barcus asked what happened to the proposed volleyball court and swimming pool? Mr. Bishop understood that they were planned, but currently it is designated as "open space" and outside of the Phase II boundaries, a wish list. Mr. Allen, NDC, stated that the community center is expected to start in August 2009 with completion in Spring of 2010.

Public Hearing: No one appeared in favor or opposed. Public hearing was closed.

Public Works: No objections.

Fire: No objections.

Staff Acknowledgement: Mr. Polk stated that this project has been a labor of love and wanted to acknowledge the City of Bradenton, Central CRA, and Manatee County. Funding has been allocated from Manatee County, FRDAP, CDBG, and 13th Avenue Community Center. Kudos to Patrick Carnegie, Sherod Halliburton, and everyone who has worked on this for the past seven years. More work to be done, this will be a masterful park in Bradenton's east side that is coming to fruition. Ms. Seewer commented that the park was named after Ms. Norma Lloyd, who was very instrumental in team sports and was one of the neighborhood youth advocates. The Planning Commission was also instrumental in vacating several streets within the new park boundaries.

Staff Recommendation: APPROVAL of SA.09.0014 with the following stipulations:

1. Landscape material proposed for installation will meet or exceed minimum size requirements as specified in the Land Use Regulations.
2. The area proposed for the United Community Center and construction of the facility is approved in its entirety.

3. The remainder of Phase 2 is approved subject to purchase of the State owned land identified on the aerial provided by the City of Bradenton and identified as Exhibit "H".

Commission Comments: Ms. Barcus stated that the east side of Bradenton has been long overdue to get a park that is equivalent to Bray Park. G. T. Bray was also very involved with youth activities as Norma Lloyd has been and Ms. Barcus thinks it is wonderful.

Planning Commission Action: APPROVED

Mr. Thompson moved, with a second by Mr. Prewitt, to approve SA.09.0014 with the three staff stipulations as noted. Motion carried, 6-0.

SU.08.0059 WARD 2 NEIGHBORHOOD 12.02 RS & TC

Request of William Robinson of Blalock Walters Held & Johnson, agent for Episcopal Day Private School, owner, for a Special Use to allow a drive-through restaurant for the property located at 3816 Manatee Avenue West (zoned C-3).

Ms. Seewer read the request. Mr. Taylor cited a conflict of interest and requested to recuse himself due to his employer's dealings with St. Stephens School. Mr. Prewitt disclosed that he spoke to Mr. Robinson about this project, but has no financial benefit from this project, and is not recusing himself.

Will Robinson, attorney for St. Stephens School, 802 11st Street West, introduced Bob Lombardo, Lombardo, Skipper & Foley; Jan Pullen and board members of St. Stephens School; and Steve Airington, Wilson Construction. Mr. Robinson confirmed that the history and staff report seem to be correct, gave an overview of the project and requested approval of special use permit.

Mr. Lombardo showed Driveway Circulation Plan (Exhibit F) and discussed current observed drive-through usage and stacking criteria. Proposed raised median will guide traffic flow and prevent blockage of east/west traffic.

Mr. Robinson discussed his agreement with staff report, except for two stipulations: Stipulation #1 removal of five parking spaces at east side of building, because this is an in-fill development, vital to the establishment, with easement rights; and Stipulation #5 relocation of FPL transformer. Mr. Robinson requested approval of special use permit omitting these two stipulations.

Commission Questions/Comments: Questions were answered regarding removal of the five parking spaces, signage on the dumpster, historical use of building, and stacking lane.

Current transformer location - Mr. Cummings stated that he spoke with Waste Pro and they requested a relocation of the transformer. Commission discussion of on-site speed limits, speed calming devices around location, and easements. Transformer relocation site has not been identified, Mr. Robinson reiterated that the transformer is appropriately located and does not wish to relocate it. Mr. Lombardo showed Exhibit F to clarify traffic patterns around the transformer in its current location. Cost of moving transformer estimate over \$10,000. Painted striping on pavement north of building to guide traffic. No food is served at location, only frozen drinks.

Public Hearing: The Chair opened the public hearing for all those wishing to speak.

In Favor: Ron Allen, NDC, 1001 3rd Avenue West, Suite 600 appeared to support project and restated that this project is an in-fill project and the Planning Commission should consider its approval and the reasonableness of the stipulations.

Opposed: Patricia Petruff, 1111 3rd Avenue, Suite 300 appeared to represent Salmar, LLC owner of Smitty's property. Her clients object to the issuance of the special use permit. Ms. Petruff distributed a seven page document addressed to Allen Yearick, dated June 17, 2009 outlining their objections (Exhibit M). Mr. Yearick asked why this document was not submitted prior to the meeting. Ms. Petruff apologized and stated that this is a standard practice to provide information at a meeting. Ms. Petruff highlighted the objections, including non-conforming use, expansion of non-conforming use without bringing into code compliance, site is too small for intended use, pickup window is causing problems, parking spaces in travel lane, car stacking signage, inappropriate landscaping, insufficient parking, loading zone, and storm water pond. Ms. Petruff requested that the application be denied. Ms. Petruff submitted a CD of powerpoint presentation and traffic pictures (Exhibit O).

Reginald Mesimer, 5338 62nd Avenue, St. Petersburg, traffic engineer presented ingress/egress easements (Exhibit P) addressing vehicles other than passenger cars, i.e. fire trucks, small semi trucks, and refuse truck turning movements. Exhibits showed that turning movements would be difficult with little room for error.

Greg Smith, owner of Smitty's Pub and Grill, 3812 Manatee West stated that business has never been more difficult in the last 20 years. Nearly every day there is a head-on collision; easement is blocked 2-3 times a day for up to 40 minutes. Fifteen years ago, a County study determined that the property was too small for a drive-through and it is much worse today. The school has increased its size with a full sports complex that dumps 200-300 cars into the easement and traffic lane. Mr. Smith requests that it is not approved.

FPL: Stephen Norton, representative of Florida Power and Light, spoke neither for nor against the project. Mr. Norton stated that the FPL cost to move the transformer, without customer service to Smoothie King and Smitty's businesses, is estimated to be about \$13,000.

Video Presentation: Ms. Petruff presented the CD presentation of vehicle traffic around Smoothie King (Exhibit O). Photos were taken in the last three to five months. Video presentations did not run, but pictures showed traffic situations around Smoothie King.

Public Works: Mr. Cummings had a meeting with Waste Pro this week and they stated there are no current problems with Smitty's or Smoothie King's waste pick up. Meeting identified that pickups were occurring on alternate days, Waste Pro agreed to reschedule future pickups on same day of week, before the start of business hours.

Mr. Cummings did not agree with Stipulations #1 and #2. He did not agree with the relocation of the dumpster and states that the parking spaces have always been there. The three-way stop should slow down the traffic and recommendation that it stays that way.

Staff Response: Ms. Seewer and Mr. Cookingham recommended the stipulations because Stipulation #1- the back of the drive spaces are in the drive aisle. In 1994 plan, Schlotsky's Deli had 33 parking spaces; today there are 12 parking spaces, 21 removed by owner. City is trying to make a workable traffic pattern with a third lane to avoid opposing traffic with the stacking lane. Currently, cars are stacking in the one-way easement.

Commission Comments: Removal of the five parking spaces would have minimal effect. The transformer move would have greatest impact and relieve bottleneck situation. Dumpster relocation would relieve congestion, but no space available. Applicant has onus to prove the east-west travel lane can be made as safe as reasonable.

Fire: Memo (Exhibit N) was distributed that Inspector Bonneau met with Kurt Lathrop, Deputy Fire Marshal, West Manatee Fire and Rescue and stated that Mr. Lathrop had no objections to the stipulations as presented by City of Bradenton. Inspector Bonneau expressed concerns that negotiating around the building and the transformer with the fire truck will be a problem.

Mr. Yearick asked if sharing a dumpster would be possible. Ms. Petruff agreed that Salmar would be willing to look into the possibility of a relocation of the dumpster and agreed that a dedicated lane without the parking and dumpster would be best for drive-through. Ms. Petruff stated that Salmar would withdraw their objection to the drive-through, if Smoothie King had a dedicated travel lane on their own property.

Mr. Robinson stated that his client would try to find a different dumpster location between now and City Council meeting. Mr. Robinson reminded Ms. Petruff that this is an easement and St. Stephens has ownership of the property. This matter may need to be taken to another level if there are allegations of improper access and blockage of an easement. The decision today should not be whether or not easement rights are being violated. Mr. Robinson's clients disagreed with Ms. Petruff's comments regarding blockage of the easement. The parking spaces are vital to the school and current tenant. Mr. Robinson will be responding to Ms. Petruff's seven page letter (Exhibit M) before City Council.

Public hearing was closed.

Rebuttal: Mr. Robinson does not want the focus to be on the FPL transformer, his client is willing to agree to the Stipulation #5 to relocate the FPL transformer north of the drive aisle, which should alleviate all of the turning concerns. Objection to Stipulation #5 is withdrawn. The traffic has successfully and will continue to successfully navigate around that area. The infill standards are not perfect, but there is the ability to swing around and use the drive through safely and effectively. Consequences of the elimination of the parking spaces will be that more people will use the drive through or people will start parking on Smitty's property. Parking should remain as is and clients will respond to claims of easement blockage, if need be. Agree with staff recommendation of Approval, but keep the parking spaces on the east side.

Ms. Petruff stated for the record that since St. Stephens has agreed to relocate the FPL transformer that St. Stephens should also pay for all of the existing users of the existing transformer to pay to re-hook them up. Smitty's should not have a pay for reconnection. Mr. Robinson agreed to that.

Mr. Yearick asked if there is any interest in looking at a shared dumpster, relocation of dumpster, or parking space angle. Possibility of three parallel spaces without dumpster suggested. Mr. Buskirk clarified that the applicant agrees with Stipulations #2-#5 and does not agree with Stipulation #1.

Staff Recommendations: Mr. Polk acknowledged that Public Works does not agree, but stated that the staff was looking at the possibility of vehicular conflicts; people backing into the drive aisle while others are navigating the drive aisle, which are in evidence all over Manatee County. This situation is even more precarious than most. Ms. Seewer read the Staff Recommendation for APPROVAL with the following stipulations:

1. Remove the five parking spaces located on the east side of the building.
2. Re-align the dumpster so it is out of the cross-access easement and remove the improvements around the dumpster area that encroach into the easement.
3. The dumpster must be sprinkled.

4. A cross-access parking agreement must be provided by Episcopal Day Private School for the subject property for 14 parking spaces.
5. Relocate the FPL transformer to the north side of the 24 foot wide vehicular use area that runs east to west on the north side of the building at the cost of the Episcopal Day Private School as agreed during the June 17, 2009 Planning Commission meeting.

Ms. Seewer commented that the City of Bradenton does not allow speed bumps as a traffic calming device.

Planning Commission Action: APPROVAL

Discussion: Mr. Buskirk made an informal motion to discuss striking Stipulation #1 to keep parking spaces due to the in-fill development and keep Stipulations #2-5, and move the FPL transformer. Ms. Barcus suggested that the parties meet, make appropriate revisions, and come back to next month's Planning Commission. Mr. Prewitt supported a vote at today's meeting. Mr. Thompson commented that he was impressed that Public Works did not have a problem with the parking spaces.

Mr. Buskirk made a motion to APPROVE SU.08.0059, to strike Stipulation #1, and to approve Stipulations #2-#5. Mr. Prewitt seconded. Motion was approved, 4 for -1 against -1 abstained.

REPORT OF PLANNING & COMMUNITY DEVELOPMENT DIRECTOR

Mr. Polk gave an update of the current Planning & Community Development projects:

- Introduction of Bradley Weigle, new Building Official
- Land Use Regulations and Comprehensive Plan update
- Status of Pink Palace windows secured
- Economic Stimulus grants
- Neighborhood Stabilization Program grants
- FEMA properties

ADJOURNMENT

There being no further business to come before the Commission, meeting adjourned 4:30 p.m.

Allen Yearick, 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.