

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING  
COUNTY ADMINISTRATIVE CENTER  
1112 Manatee Avenue West  
Bradenton, Florida  
March 1, 2018**

Meeting video link: <https://www.youtube.com/channel/UCUlgjuGhS-qV966RU2Z7AtA>

Present were:

Priscilla Whisenant Trace, Chairman  
Robin DiSabatino, First Vice-Chairman  
Carol Whitmore, Second Vice-Chairman  
Charles B. Smith, Third Vice-Chairman  
Betsy Benac  
Vanessa Baugh  
Stephen R. Jonsson

Also present were:

Nicole Knapp, Planning Section Manager  
William Clague, Assistant County Attorney  
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

Chairman Trace called the meeting to order at 9:05 a.m.

1. **INVOCATION AND PLEDGE OF ALLEGIANCE**

Took place at the Special Port Authority meeting, which occurred at 8:46 a.m.

**AGENDA**

BC20180301DOC001

Agenda Update Memorandum 

BC20180301DOC002


- Item 3, Ordinance 18-07, Impact fees – Ordinance 18-07, which was omitted from the agenda
- Item 5, PDR-17-07(Z)(P) McClure Properties/Braden River Shores – Additional public comment emails
- Item 7, Daniel L. Kays v. Manatee County Board of County Commissioners – Proposal for settlement added to consent agenda

**COMMISSIONER REQUESTS**

There were no pulled items by Commissioners.

**CONSENT AGENDA**

**Citizen Comments** (Consent Agenda Items)

 There being no citizen comments, Chairman Trace closed citizen comments.

2. **BUILDING AND DEVELOPMENT SERVICES/STREET WAIVER REQUEST**

Approved the street numbering waiver request by ZNS Engineering, allowing named streets to be utilized in the proposed Braden River Shores Residential Subdivision, contingent upon approval of Zoning Ordinance PDR 17-07(Z)(P)

BC20180301DOC003

7. **COUNTY ATTORNEY/LAWSUIT/PROPOSAL FOR SETTLEMENT**

Approved a proposal of settlement for \$75,000 to plaintiff in the matter of Daniel L. Kays v. Manatee County, Case 2017-CA-0757

BC20180301DOC004

**MOTION – CONSENT AGENDA**

A motion was made by Commissioner DiSabatino, seconded by Commissioner Jonsson, and carried 7-0, to approve the Consent Agenda.

**BC MB 2018/1**


**BUILDING AND DEVELOPMENT SERVICES/INTRODUCTION**


 John Barnott, Building and Development Services Director, introduced Kara Koenig, Environmental Planner, Environmental Services Division.


**ADVERTISED PUBLIC HEARINGS** (Presentations Upon Request)


3. **ORDINANCE/LAND DEVELOPMENT CODE**

A duly advertised public hearing was held to consider adoption of proposed Ordinance 18-07, Impact Fees. The Planning Commission recommended approval. This is the first of two required public hearings; the second public hearing is scheduled for March 20, 2018. No action was necessary.

 John Osborne, Infrastructure and Strategic Planning Official, reviewed the summary/background as found in the staff report (page two).


 Discussion took place about how this item will affect the multimodal transportation benefit districts, clearing up misconceptions regarding the impact fee study and the collection of impact fees at 100 percent, roadway capacity, mobility fees, Manatee County Impact Fees versus surrounding counties (exhibit displayed), difference between the collection of impact fees per district for a 1,701–2,000 square-foot home (exhibit displayed), when will a new impact fee study take place, balance of impact fee funds, economic impact should be considered when thinking of increasing impact fees to 100 percent, need to prepare for a future recession, the impact fees could be higher if a impact fee study was conducted today, table on page 3 of the staff report, and could halt this and wait for the mobility fee study.


 Upon question, Dan Schlandt, Deputy County Administrator, relayed the history of impact fees during the recession.


 William Clague, Assistant County Attorney, stated the five-year timeframe for the impact fee study is a guideline, not a legal requirement.


Mr. Schlandt stated there are numerous impact fee funds, and in conjunction with new revenues these funds have been allocated to the Capital Improvement Program (CIP).

**Public Comment**


 Al Horrigan, representing River Place Property Owners Association, was opposed to capping impact fees at 90 percent. He relayed his professional work experience in government, development, and homebuilding and those who profit from growth should pay for its impacts. He submitted the 1985 Utah Comprehensive Plan.


 Matt Bower inquired why the Board made the request to cap impact fees at 90 percent, how capping the impact fees at 90 percent would affect projects, how mobility fees will affect impact fees, and that staff present a more accurate comparison of impact fees with surrounding counties.


 Ernest “Sandy” Marshall, Federation of Manatee County Community Associations, Inc., was opposed to the capping of impact fees at 90 percent and submitted comments reiterating such.


 Bill Smock stated impact fees are taxation on new homeowners and those relocating here are a burden on the County, because they do not pay impact fees. He pointed out District 2


does not have growth so capping impact fees does not help aging infrastructure in this part of the County.


 Jon Mast, Manasota Building Industry Association, supported the capping of impact fees at 90 percent. He noted for every one hundred homes built, \$28 million in wages and business income is created and \$11 million in state, local, and federal taxes.

 Carlos Beruff, developer, pointed out developers contribute to growth by building gated communities so that the County does not have to maintain the roads.

 Mark Butler, Tara resident, commented on the lack of funds for the building of Tara Bridge.

 Alan Jones, Jones Potato Farm, supported Ordinance 18-07 and commented on the importance of public/private partnerships.

 Glen Gibellina submitted documentation and was opposed to Ordinance 18-07, because it would burden the developers of affordable housing.

 Suzanna Young stated new growth should pay for itself and impact fees are necessary.

There being no additional public comment, Chairman Trace closed public comment.

Discussion took place pertaining to the restrictive nature on how impact fees are utilized, transfer tax, mobility fees, public/private partnerships can build roads for less cost, the way impact fees are set up now hinders District 2, costs of building roads today versus in 2015

Sia Mollanazar, Public Works Director, explained the cost of building roads has inflated since 2015.


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**CITIZEN COMMENTS** (Future Agenda Items)


There being no citizen comments, Chairman Trace closed citizen comments.

**RECESS/RECONVENE:** 10:54 a.m. – 11:00 a.m. All Commissioners and Sarah Schenk, Assistant County Attorney, were present.

4. **ORDINANCE/ZONING**


 A duly advertised public hearing was held to consider adoption of proposed Zoning Ordinance PDR-17-21(Z)(G), Manatee Palms. The Planning Commission recommended approval with stipulations.

No ex-parte communications were disclosed.

 Tia Boyd, Building and Development Services, read and submitted new Stipulation A.3 (proffered by the applicant), and a revised recommended motion.

 Discussion proceeded about how the County should consider reducing parking ratio requirements for smaller units in future projects.


There being no public comment, Chairman Trace closed public comment.

 Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Commissioner Baugh moved to approve Manatee County Ordinance PDR-17-21(Z)(G); Approve a rezone and General Development Plan with Stipulations A.1-A.3 (A.3 as presented at the hearing), B.1-B.2 and C.1; Grant Special Approval for: (1) a project in the Residential/Office/Retail Future Land Use Category exceeding a gross density of 6 dwelling units per acre and a net density of 9 dwelling units per acre; and (2) a project in an entranceway; Adopt the Findings for Specific Approvals; and Grant Specific Approval for an alternative to Land Development Code Section 1005.3 (reduced parking for a multifamily residential use) and Land Development Code Section 402.7.D.1 (a decreased roadway buffer), as recommended by staff. The motion was seconded by Commissioner Jonsson and carried 7-0.


BC20180301DOC006


**ADVERTISED PUBLIC HEARINGS** (Presentations Scheduled)


5. **ORDINANCE/ZONING**


 A duly advertised public hearing was held (continued from 2/1/18) to consider adoption of proposed Zoning Ordinance PDR-17-07(Z)(P), McClure Properties/Braden River Shores. The Planning Commission recommended approval with stipulations.


No ex-parte communications were disclosed.

 Caleb Grimes, attorney representing the applicant, reviewed the history of the site and spoke of historic flooding in the area.

 Rachel Layton, planner for the applicant, utilized a slide presentation to review the site location, development trend, future land use map (RES-3 future land use category, density, and special approval requests), zoning map, subdivision map, and the preliminary site plan.


 There was discussion about the specific approval request for sidewalks (applicant is requesting due to environmental concerns), will the applicant provide adequate right-of-way for the future expansion of 26th Avenue East, stormwater, impact fees calculated at the 90 percent rate, area flooding and Sugarhouse Creek, project will not be annexed into the City of Bradenton and is not within the City of Bradenton boundaries, is the amount the payment in lieu of sidewalk construction at the County's estimated cost, and the project is not planned as an affordable housing project.

 Jeb Mulock, engineer of record representing the applicant, explained that the site is located on the Braden River, and it has allowed the applicant to develop the site on the south side and make stormwater connections through the right-of-way into the northern parcel and directly to Braden River. He displayed an exhibit as he highlighted the post-development drainage route.

 Rossina Leider, Building and Development Services, agreed with many of the comments provided by the applicant and clarified the northern portion of the site was zoned PDR (Planned Development Residential) with the adoption of the Land Development Code in 1989. She displayed a map and preliminary site plans (see slide presentation) to discuss density, amenities, and buffering.


Discussion took place about sidewalks on 26th Avenue East that extend to the west, and does

staff agree with applicant regarding stormwater.

 Clarke Davis, Transportation Planning Division Manager, stated 26th Avenue East is a two-lane designated thoroughfare with deep ditches on both sides. Sidewalks exist in sections on 26th Avenue East, but it is a relatively high volume road in need of continuous sidewalks. Sidewalks for 26th Avenue East have been included in half-cent infrastructure sales tax project list. The applicant will be constructing sidewalks to the logical terminus, and the County will pick up the balance. The County's plan to construct sidewalks on 26th Avenue East between 27th Street East and 45th Street East is not included in the current CIP project list.


Commissioner Benac sought confirmation that sidewalks will be constructed along the frontage of the project on 26th Avenue East with the exception of the area where the project is adjacent to wetlands.

Mr. Davis displayed an aerial map to point out the County's plan to build sidewalks on 26th Avenue East and the applicant's plan to build sidewalks along the frontage of the project.

 Thomas Gerstenberger, Stormwater Engineering Division Manager, reported staff has been working with the applicant to identify and provide for an unorthodox approach to discharge the entire project outside of the traditional existing drainage path directly to the north into the Braden River.


Discussion continued about swales on both sides of 26th Avenue East, the need for a turn lane near Mixon Fruit Farm (26th Avenue East and 27th Street East), concerned with students walking on 26th Street East and access to Mixon Fruit Farm, was a traffic impact statement completed for 26th Avenue East, and does PDR (Planned Development Residential) include farmworker housing.

Mr. Davis reported the intersection improvement for 26th Avenue East and 27th Street East is in the half-cent infrastructure sales tax project list, and this improvement would add left turn lanes and reconfiguration of the turn radius. The sidewalks and road improvements on 27th Street East are scheduled for the timeframe of FY 2019-2021.

 Sia Mollanazar, Deputy Director of Engineering Services, stated the sidewalks that were requested by the School Board have been built, and sidewalks for the remaining sections were placed on the half-cent infrastructure sales tax project list at the request of area residents.


Mr. Davis stated a traffic impact analysis was completed by the applicant and the p.m. peak hours total 377, with the majority of trips traveling on 26th Avenue East.


Ms. Leider clarified PDR does not allow farmworker housing, which is allowed in A (General Agriculture), A-1 (Suburban Agriculture), and VIL (Village Districts). Per the amended school report, residents of the project are not within the attendance zones for Wakeland Elementary and Johnson Middle School and will be bused to the designated schools.


 Discussion continued about the possibility of a boardwalk for the wetland, staff working with residents regarding flooding in the area, and whether or not the Board should recess for lunch prior to public comment.

Sarah Schenk, Assistant County Attorney, advised the Board to finish this quasi-judicial


hearing after lunch and postpone the work sessions, because they were not advertised.


 Ken Wilson, Sugar Creek Resort resident, expressed concern with the project's impact on traffic on 26th Avenue East (written comments were submitted). He also submitted comments from Peter Vellenga who was unable to attend the hearing.


 Sam Hurd, Sugar Creek Resort resident, expressed concern with safety hazards on 26th Avenue East.


 John Zalis, Sugar Creek Country Club resident, echoed comments from Mr. Hurd.


 Robert Raumauger, Sugar Creek Country Club resident, expressed similar concerns as previous speakers.

 Hayden Stone, Sugar Creek Villas resident, questioned if 120 feet of right-of-way would be needed for access.

 Andrew Fink, area resident, reported in the past he did pursue the sidewalks for 26th Avenue East and 27th Street East. He suggested a continuous sidewalk be built along 26th Avenue East to Mixon Fruit Farms.


 Ken Green, Elwood Park resident, stated the project should be denied due to flooding, traffic, and urban sprawl/overpopulation (exhibits were displayed).

 Jacqueline Rowe, Sugar Creek Resort resident, expressed concern with the unsafe conditions surrounding Sugar Creek Resort.


 James Cochrane, Sugar Creek Estates resident, requested sidewalks on the north side of 26th Avenue East.

There being no further public comment, Chairman Trace closed public comment.

Commissioner DiSabatino requested the applicant or staff provide photographs of 26th Avenue East.

 Ms. Schenk stated for the purposes of the record, the Board of County Commissioners' meeting will be in recess at 12:36 p.m., and will reconvene at 1:45 p.m. At that time, they will finish the public hearing on Agenda Item 5, Zoning Ordinance PDR-17-07(Z)(P), Braden River Shores, and proceed to Item 6, Local Development Agreement for Northeast Section (LDA-17-01).


**RECESS/RECONVENE:** 12:36 p.m. – 1:30 p.m. No Commissioners were present.

 Sarah Schenk, Assistant County Attorney, reconvened the meeting at 1:30 p.m., and announced the meeting will be in recess until 1:45 p.m.

**RECESS/RECONVENE:** 1:30 p.m. – 1:45 p.m. All Commissioners were present.

 Mr. Gerstenberger displayed photographs of 26th Avenue East (taken August 2017).


Discussion ensued about when the Robert G. Matzke Support Center on 26th Avenue East was built by the School District (2010), is adequate right-of-way available near Sugar Creek Resort and Mixon Fruit Farms in order to extend the sidewalk, what about a local development agreement, what about public/private participation agreement for improvements in the right-of-way, what type of improvements are planned for 39th Street East, future land use designation and density for the project, and is the applicant willing to work with the County and residents on a solution regarding the sidewalks.


 Upon question from Commissioner Benac, Mr. Cochrane reported there is a buried fresh water pipeline that takes a right at 45th Street East, leads under the ditch next to Sugar Creek Resort, and carries an approximate one-foot diameter pipeline from the water treatment plant to Lakewood Ranch for irrigation. On the right-hand side, outside the fence at Sugar Creek Resort and under the ditch, is a public reclaimed water pipeline, which runs along the backside of Mixon Fruit Farms.

Mr. Davis explained per the LDC, there are two reasons for someone to submit a local development agreement: (a) to address transportation concurrency and seek a longer duration for compliance of a Certificate of Level of Service; or (b) an alternate connection to the County's wastewater systems. The applicant did not approach the County to discuss the terms for a local development agreement nor do the stated reasons apply to this project. In regards to right-of-way improvements, staff would need to look at the capacity and upon request by the applicant, a reimbursement agreement or capital contribution could be negotiated and possibly considered by the Board.

He reported 39th Street East is a designated thoroughfare that is planned to be a two-lane road with 84-foot-wide right-of-way. Planned improvements for 39th Street East are not included on the half-cent infrastructure sales tax project list.

Ms. Leider stated the future land use category for the site is RES-3 (three dwelling units per acre), gross density is 2.974, and the net density is 3.26.


 Mr. Grimes rebutted on special versus specific approvals, design of the sidewalks (willing to work with staff), impact fees that will be generated from this project, right-of-way on 26th Avenue East (aerial map displayed), drainage, transportation, and the Federal Emergency Management Agency regulations.


 Discussion continued about moving up the sidewalks on the CIP project list, the improvements for 27th Street East and the intersection of 26th Avenue East have already been programmed, this is the opportunity to create complete streets for existing residents and accommodate growth, and language in the LDC about extending sidewalks off site if a certain distance from a school.

Mr. Davis addressed questions about programming funds for the CIP. He noted he is familiar with a provision of the LDC that addresses whether or not sidewalks are needed on both sides of a street within walking distance of a school.

Ms. Leider elucidated per the LDC, sidewalks must be constructed along the frontage of a project. In this particular case, the project has frontage on two sides of the street. If a project is within two miles of a school, sidewalks must be on both sides of the internal streets.

Mr. Gerstenberger explained staff has been directed not to ask for sidewalks off site from project boundaries.


 Mr. Grimes reiterated the applicant's willingness to address the sidewalk concern.

 Ms. Schenk read revised Stipulation C.5:

In the event, the Applicant's request for Specific Approval is granted by the Board of County Commissioners to not construct the sidewalk along both the north and south shoulders of 26th Avenue East from 39th Street East to the east project boundary, then the Applicant shall enter into a Sidewalk Agreement to provide for a payment to the County as a payment-in-lieu of the construction of said sidewalk in an amount to be calculated in the agreement. Alternatively, the applicant may construct the sidewalk at the time with an alternative design and location as coordinated with county staff. Should the Applicant fail or refuse to make the aforesaid payment-in-lieu, nothing in this ordinance shall be construed as affecting the County's right to require construction of said sidewalk and to pursue any and all legal and equitable remedies against the applicant.


Mr. Grimes requested a further revision: Alternatively, the applicant may construct the sidewalk at the time with an alternative design and location as coordinated with County staff, which could include a waiver of sidewalk on one side of the street.

Ms. Schenk concurred with the revision.


 Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Commissioner Jonsson moved to approve Manatee County Zoning Ordinance PDR-17-07(Z)(P); Approve a Preliminary Site Plan with Stipulations A.1-4, B.1-9, C.1-5 (C.5 revised at hearing by staff and applicant), D.1, E.1-2; Grant Special Approval for a project: (1) exceeding a gross density of 2 dwelling units per acre in the RES-3 Future Land Use Category; (2) exceeding a net residential density of 3 dwelling units per acre in the RES-3 Future Land Use Category; (3) adjacent to a perennial stream; (4) partially within the Coastal High Hazard Area Overlay District; (5) within the Coastal Evacuation Area Overlay District; and (6) structures located within the 25-year floodplain; Adopt the Findings for Specific Approval; and Grant Specific Approval of an alternative to Land Development Code Section 1001.6.A.1.a requiring new developments to construct 5-foot sidewalks along both sides of all new or existing major thoroughfares; as recommended by the Planning Commission. The motion was seconded by Commissioner Smith. Following a brief discussion, the motion carried 7-0.

BC20180301DOC007

6. **PUBLIC WORKS/LOCAL DEVELOPMENT AGREEMENT**


 A duly advertised public hearing was held to consider approval of LDA-17-01, Northeast Sector. This is the first of two public hearings; the second public hearing is scheduled for March 6, 2018. No action was necessary.


No ex-parte communications were disclosed.


 Clarke Davis, Transportation Planning Division Manager, displayed the Northeast Quadrant Exhibit B map (attached to a draft copy of the agreement) to point out Lorraine Road to the west, S.R. 70 to the south, S.R. 64 to the north, and the future Bourneside Boulevard to the east. The solid yellow lines are roads that have been built and/or under



construction currently and not subject to the agreement: (a) a portion of Bourneside; (b) a portion of Uihlein Road (aka 172nd Street East); and (c) Post Road (where it exists and connects across from Greenbrook Subdivision at S.R. 70). The dashed lines are roads that are being proposed to be constructed under the terms of the agreement, and the agreement has a traffic impact analysis supporting it. The applicant has planned for different projects within the Northeast Sector area with non-residential components (retail and office uses shown as orange on Exhibit B) and residential (shown as peach on Exhibit B). The applicant proposed the agreement in order to establish the terms under which the 15 different projects shall provide proportionate fair-share mitigation to satisfy the transportation concurrency requirement. He further elaborated on the broad terms of the agreement as outlined on the agenda memorandum (see background discussion).

 Discussion took place about the great planning on behalf of Schroeder Manatee Ranch.

 Caleb Grimes, representing the applicant, remarked on: (a) the proposed road improvements for 44th Avenue East, Uihlein Road, Bourneside Boulevard, Rangeland Parkway, and Post Road; and (b) impact fee credits.

 Discussion continued about this being a unique situation, because it is not a Development of Regional Impact, and in the future will there be a master plan.

There being no public comment, Chairman Trace closed public comment. BC20180301DOC008

**ADJOURN**

There being no further business, Chairman Trace adjourned the meeting at 2:52 p.m.

Minutes Approved: \_\_\_\_\_