

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
COUNTY ADMINISTRATIVE CENTER
1112 Manatee Avenue West
Bradenton, Florida
August 23, 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
Vanessa Baugh (entered during meeting)
Betsy Benac
Stephen R. Jonsson

Also present were:

Margaret Tusing, Public Hearing Section Manager
Sarah Schenk, Assistant County Attorney
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

 Chairman Trace called the meeting to order at 9:00 a.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

1. The Invocation was delivered by Pastor Spencer Robinson, Bayside Community Church, followed by the Pledge of Allegiance. 

AGENDA

Agenda Update Memorandum 

BC20180823DOC001

BC20180823DOC002

- Add-On Item 12, Port Authority Agenda and supporting materials – 1:30 p.m.
- Item 4, Mandarin Development, Inc. v. Manatee County, Case 2015-CA-2563 – Revised Settlement Agreement submitted
- Item 10, PDMU-06-16(P)(R7), University Groves – Additional public comment letters and revised Stipulation 3.O submitted
- Item 11, Annexation Request from the City of Palmetto – Revised Request for Legal Services response (correcting property address) and public comment letters submitted
- Item 14, Florida Department of Environmental Protection Grant Agreement for Red Tide – Add-On to the Consent Agenda

2. **Time Certain**

Item 8, PA-17-08/Ordinance 18-04, Comprehensive Plan Process Improvements (County-Initiated Text and Map Amendment) – 9:00 a.m., immediately followed by Item 11, Annexation Request from the City of Palmetto

ADVERTISED PUBLIC HEARING (Presentation Scheduled)

8. **ORDINANCE/COMPREHENSIVE PLAN**

 A duly advertised public hearing was held to consider adoption of proposed Plan Amendment PA-17-08/Ordinance 18-04, Process Improvements (County-Initiated Text and Map Amendment). Staff recommended approval.

Margaret Tusing, Planning Section Manager, stated the County-initiated text and map amendment will affect the goals, objectives and policies within various chapters of the

Comprehensive Plan. The request is for adoption of the Comprehensive Plan amendment, which was recommended/approved for transmittal to the State agencies by the Planning Commission (5/10/18), and County Commission (6/7/18). State agency comments were received (attached to staff report) and no issues or concerns were raised by the Florida Department of Economic Opportunity (FDEO) or Tampa Bay Regional Planning Council. The County-initiated text and map amendments have two objectives. The first objective is to clarify the function of the Comprehensive Plan versus the Land Development Code (LDC). The Comprehensive Plan is the broad policy direction of the County, and the LDC is the implementation through regulations of the Comprehensive Plan. The second objective is to provide opportunities for compact development, affordable housing options, and services near residential communities. She submitted and reviewed minor language changes made by staff since the transmittal hearings: pages 11 and 12 of the staff report and pages 41 and 50 of Exhibit D (inadvertently stated as Exhibit E). The final adoption package will be sent back to FDEO to be deemed complete, and if approved, the anticipated effective date of the Comprehensive Plan amendment will be October 1, 2018. The LDC Process Improvements (LDCT-17-05/Ordinance 18-03) are scheduled to be heard by the Planning Commission on September 13, 2018, and by the County Commission on October 4 and November 1, 2018.

(Note: Public hearings for LDCT-17-05/Ordinance 18-03, LDC Process Improvements, are scheduled to be heard by the County Commission on 12/6/18, and 1/10/19)

 Discussion proceeded about the number of public meetings held regarding this matter, and is the County Commission required to adopt Item 3, listed under the definition for “Available” (residential subdivisions and sewer systems, Exhibit C, pages 1-2).

 Lisa Barrett, Planning Manager, reported there have been approximately five public hearings.

 Sarah Schenk, Assistant County Attorney, stated language in the Comprehensive Plan should be consistent with language in Section 2-31-2 of the Manatee County Code of Ordinances, Mandatory Connection to the Sanitary Sewer System, and the definition of “Available” set forth in Section 381.065(2)(a), Florida Statutes (see also Section 2-31-5 of the Manatee County Code of Ordinances, Connection Required; Extensions and Oversizing; Connection Criteria).

 Pat Tyjeski, S&ME Consultants, explained that with the Comprehensive Plan process improvements, the special approval requirement for a mandatory sanitary sewer connection is being removed, and this matter will be further addressed during the LDC process improvements.

 Diana Shoemaker, Manatee Habitat for Humanity, commended staff and the Board for focusing on housing needs and supported the ordinance. She suggested the County continue to research creative housing sources for funding and incentives.

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

 Discussion took place on an update of Federal standards for affordable housing, addressing homelessness, and lack of affordable housing.

 Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, the technical support documents and finding the request to be consistent with the Community Planning Act, as codified in applicable portions of Chapter 163, Part II, Florida Statutes, and the Manatee County Comprehensive Plan, Commissioner Whitmore moved to adopt PA-17-08/Ordinance 18-04, as recommended by the

Planning Commission. The motion was seconded by Commissioner Smith and carried 6-0, with Commissioner Baugh absent.

BC20180823DOC003

3. **CITIZENS' COMMENTS** (Future Agenda Item)

P25 Public Safety Radio System

 Dickie Green remarked on Motorola Solutions (formerly Airbus DS Communications) monopolizing the communications market in the U.S., which will jeopardize the country's security and infrastructure.

 Gary Adams explained residents oppose the Kinnan Park tower site just as the County Commission was against Vertex Development LLC telecommunications tower within the River Club Golf Course Development (12/3/09). He suggested the Board request periodic updates from staff on this matter.

There being no further citizen comments, Chairman Trace closed citizen comments.
(Note: Action regarding the P25 Public Safety Radio System is scheduled for 9/25/18)

BC20180823DOC004

REGULAR

11. **BUILDING AND DEVELOPMENT SERVICES/ANNEXATIONS/CITY OF PALMETTO**

 John Barnott, Building and Development Services Director, reported the County Administrator received three annexation requests from the City of Palmetto (aerials displayed): 1705 7th Avenue West; 1119 19th Avenue East and 1150 19th Avenue East; and 4315 Pompano Lane (the County has no utility infrastructure in this area). The Request for Legal Services (RLS) was completed on 1705 7th Avenue West instead of 4315 Pompano Lane, but the County Attorney's opinion is still valid (see agenda update memorandum). The first and second annexation requests meet the criteria of Florida Statutes (F.S.) Section 171.044. Mr. Barnott recommended the annexation request for 4315 Pompano Lane be heard by the Joint Planning Commission (JPC), because the property is not "contiguous to a municipality and reasonably compact", and the annexation would create a municipal enclave. The JPC was established through an Interlocal Agreement as outlined in The Accord, and the JPC should have heard the annexation request.

 William Clague, Assistant County Attorney, explicated the area to be annexed has to touch an existing city boundary, or be separated by some parallel feature that runs parallel with the boundary and the property. The property in question is like an island, and F.S. specifically prohibits from relying on The Accord, annexation of a road, access to the property, nor reliance on an existing sewer line.

(Enter Commissioner Baugh, who attended a scheduled Port Manatee event)

There was discussion as to why Dr. Keith Lassen (property owner of 4315 Pompano Lane) sought the annexation, The Accord, and the annexation possibly affecting neighbors.

Mr. Clague noted The Accord consists of three, individual Interlocal Agreements, and the County Attorney's office has opined that the Interlocal Agreements are expressions of intent and cannot be legally enforced in court. The Accord has worked as a cooperative approach between the County and the Cities in regards to the JPC and the dispute resolution process. The Accord does not conflict with F.S., but the County has the right to challenge annexations that do not conform to Section 171.044, F.S. There are also avenues for third parties to challenge annexations, and the County Commission must decide on whether or not to become involved in this matter.

 Mr. Barnott elaborated that the property in question was rezoned in anticipation of being annexed, which increased the density. There will probably be only one home on the lot; however, the rezone decreased the setbacks.

Discussion continued as to whether or not the areas circled on the aerial map by Mr. Barnott are connected to the City of Palmetto (City) sewer system, deferring this item because of the bigger issue (other residents may have to be annexed into the City), installation of the sewer system would be at the City's expense, discussion is needed on how to handle annexations, the property owner previously met with Commissioner Smith, and revisiting The Accord in the future.

Mr. Clague explained the County Commission could direct staff to send a Letter of Objection to the City to reflect that the annexation does not meet Section 171.044, F.S., and should be referred to the JPC pursuant to The Accord. He advised the County Commission against seeking details regarding the property owner obtaining a building permit or seeking a permit for septic, because these types of considerations are outside of the jurisdiction of the County Commission. The County Commission should focus on how to communicate to the City about this matter.

Allen Tusing, City of Palmetto Director of Public Works, reported the property has not been rezoned, but it was reviewed by the Planning and Zoning Board, which only makes recommendations. The property would not be rezoned unless an annexation occurred. The City does not allow septic tanks, and everyone must connect to the sanitary sewer system. More property would be necessary in order to install a septic system, and the house is under construction.

 Scott Rudacille, attorney for the City, stated the project has been permitted by the County and is under construction. In regards to the annexation, the remaining issue pertains to the connection to the sanitary sewer system. The property would have to be given City zoning if it is annexed, and the City would assign the most logical zoning for the property. The Accord does not apply to property that has already been developed, but only to vacant land. The City Commission has consistently expressed no intentions to involuntarily annex properties.

 Mr. Tusing confirmed the City does not aggressively pursue involuntary annexations.

Mayor Shirley Groover Bryant, City of Palmetto, reiterated that forced annexations are not common practice for the City and noted this issue is not one that should be addressed by the City since the property is within County limits (documentation submitted).

 Discussion proceeded about the City's willingness to pay for the sewer line to be extended if the property was annexed (Dr. Lassen has agreed to pay for the line extension), the withdrawn Snead Island annexation request, septic tanks are not allowed, memorandum by Lisa Barrett (submitted by Mayor Bryant), permits for septic systems are issued by the Department of Health, and rights for platted lots.

Mr. Rudacille elucidated there was not a request to annex all of Snead Island, but rather an Interlocal Service Boundary Agreement that dealt with Snead Island and other areas.

Mr. Clague confirmed the Snead Island annexation request was withdrawn and was not heard by the County Commission.

Brief discussion took place about having water and sewer plans in place prior to building a residence.

Mr. Barnott reported Dr. Lassen's building permit reflects plans to connect to the City's sanitary sewer system.

Chairman Trace announced additional public comment was sent via email to all Commissioners and the Deputy Clerk.

Public Comment

 Emmons Patzer, Snead Island resident, submitted a letter (4/16/85) regarding the proposed annexation of Snead Island. He voiced opposition of forced annexations. (Note: Kathy Hindman, Lynn Barnett, and Maggie Harris relinquished their time to Mr. Patzer)

 Henry "Hank" Vaccaro, adjacent property owner, stated he offered to purchase Dr. Lassen's property at an increased price. He displayed photographs of Dr. Lassen's property and voiced concern with extensive runoff (stormwater, pesticide, and septic tank fields) from the property, the unfinished home construction, and trash and debris.

 Robert Blenker, adjacent property owner, voiced concern with water quality. He indicated he would accept an offer from the City of a sanitary sewer system connection without the threat of annexation. The focus should be on the overall water quality issues, and a septic system does exist on Dr. Lassen's property.

 R. David Brown, adjacent property owner (behind Dr. Lassen's property), opposed the annexation and noted area residents would like to preserve the quiet, pristine residential area.

 Sue Revell, Snead Island resident, opposed the annexation and stated the application for annexation is in hindsight and an attempt to correct a gross error in pre-construction planning.

 Mark Conner, Snead Island resident, inquired why the City does not offer Dr. Lassen access to the sanitary sewer system at Dr. Lassen's expense without annexation. The annexation is an unwanted change for Snead Island, and the County has the responsibility of helping residents find a solution.

 Larry Looper, Snead Island resident, disputed reports of pollution and dead fish. He opposed Dr. Lassen's reasons for seeking the annexation, and there will never be a sanitary sewer system on Snead Island without the approval of the homeowners.

 Belinda Sparkman Strickland, Snead Island resident, expressed concern with the annexation process.

 Keith Thomas, Snead Island resident, commented on how the annexation process has affected residents.

 Ruth Vaccaro stated the photographs previously presented by her husband were taken this morning. She commented on Dr. Lassen's neglect of his property and the City's force main seepage and odor. Additional information about sanitary sewer system would be

necessary to address safety and process concerns prior to sanitary sewer hookups for the entire island.

 Erin Craft, Snead Island resident, has not had issues with her septic system and voiced concern with the uncertainty of how the annexation will affect residents.

 Mr. Tusing clarified misstatements from residents including the City has not drilled a water well (all City wells were abandoned in 1966), water is run frequently to provide Snead Island with good water quality, and chloramine injection treatments are not currently being utilized, but there are future plans.

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

Mr. Barnott made known that a vote is not required, and staff does not have an issue with the proposed annexations for 1705 7th Avenue West, and 1119 19th Avenue East and 1150 19th Avenue East, because they are contiguous and do not create an enclave. Staff recommends that a Letter of Objection be sent to the City regarding 4315 Pompano Lane.

 Discussion proceeded about the sanitary septic system that was installed and covered at 4315 Pompano Lane, expiration date for the building permit, Code Enforcement issues, why is Dr. Lassen having to annex if he is voluntarily seeking to hook up to the sanitary sewer system, and single-family lots in the County that are connected to the City's sanitary sewer system and vice-versa (see aerial map with areas circled by Mr. Barnott).

Mr. Clague acknowledged the County has been providing wastewater service to the City of Anna Maria for many years, and it is not uncommon to have the service not match the boundaries of the municipality. Annexations do not have to necessarily match utility lines.

 Mayor Bryant reported the developers for two subdivisions circled by Mr. Barnott agreed to voluntarily annex when they became contiguous, if the City provided them sanitary sewer. She pointed out: the proposed chloramine Injection treatments will ensure the water quality for Snead Island residents, and enclaves create inconsistent and ineffective overlaps in services.

 Mr. Barnott reported a building permit is valid for 180 days once it is issued, and since it has been more than a year the permit has expired. It is up to the Building Official on whether or not the applicant would have to reapply.

 Discussion continued about septic tanks and environmental issues, the City is a beautiful place, and both parties should be working together to assist Snead Island residents.

Motion - Letter

 A motion was made by Commissioner Benac and seconded by Commissioner Smith to direct the County Attorney's office to provide a Letter of Opposition to the City of Palmetto regarding the voluntary annexation (4315 Pompano Lane, Palmetto).

 Mr. Clague recommended the Letter of Opposition include "and addressing any matters deemed necessary by the County Attorney's office to preserve the County's rights."

Motion - Amended

Ms. Benac amended the motion to include the language proffered by Mr. Clague, and Commissioner Smith agreed.

 Following discussion, the motion carried 7-0.

BC20180823DOC005

RECESS/RECONVENE: 11:18 a.m. – 11:25 a.m. All Commissioners were present except Commissioner Smith.

COMMISSIONERS' REQUESTS

No items were requested by Commissioners.

CONSENT AGENDA

Citizen Comments (Consent Agenda Items)

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

4. **ATTORNEY/SETTLEMENT AGREEMENT**

 Commissioner Baugh requested information regarding the cost for appeals during her briefing with the County Attorney's office.

 Christopher De Carlo, Assistant County Attorney, explained the cost for an appeal ranges between \$2,500-\$6,000 for the transcript and records. In addition, there is time that the County Attorney's office expends on the appeal, which ranges between 100-200 hours (preparation of appellate briefs, reply brief and/or oral argument). There are potential costs relative to the other party in the case, and it is hard to estimate costs due to the uncertainty on the amount of time that will be expended. These costs would only be recouped if the County is the prevailing party in the appeal.

(Enter Commissioner Smith)

Commissioner Baugh expressed concern that if the County loses the appeal, the County would have to pay for outside counsel and an increased settlement amount. She inquired if it would be in the County's best interest to appeal when the three Circuit Court judges have sided with the other party.

 Mr. De Carlo stated the fees and costs in these are governed by Florida Statutes, Chapter 73, Eminent Domain. He reviewed the settlement terms as outlined under Section II, Paragraphs 1-4 (pages two and three of the Settlement Agreement).

Commissioner Baugh asked if the County would have to pay more in fees if the County appealed the decision and lost.

Mr. De Carlo stated he cannot answer as to what the other side would claim in fees and costs relative to an appeal. The County's costs for an appeal includes the transcript (\$2,500-\$6,000) and attorney's time, which the court determines based on the prevailing rate for attorneys and their level of experience.

As to why the agenda memorandum was revised, Mr. De Carlo explained this item was originally placed on the agenda with the proposed Settlement Agreement, which had been agreed upon in principle and terms by the other side, and staff was simply awaiting a signed Settlement Agreement.

Following a question about the history of the case, Mr. De Carlo elucidated the Settlement

Agreement is related to Civil Case 2015-CA-2563 for Riva Trace Subdivision (41.2 acres), located in the University Park area between Honore Avenue and I-75. Mandarin Development, Inc. (developer) filed a complaint (6/2/15) challenging (a) the constitutionality of the County's Comprehensive Plan and the Land Development Code (LDC) regulations for wetland buffers; and (b) the conservation easement requirement in the LDC as applied to the subject property as invalid, which resulted in a "taking." Mr. De Carlo summarized the steps taken to litigate this case up to this point, as presented under the background discussion on the agenda memorandum. Outside counsel was retained and Lisa Barrett, Planning Manager, served as an expert witness. The Court has made a determination of a "taking" in the liability phase, which means the County will have to pay a sum of money at the conclusion of the case, and the bulk of the expenses will be spent on the expert witnesses. The County Attorney's office recommends approval of the proposed Settlement Agreement, because staff knows there is a finite cap on damages, and the maximum amount the County will pay relative to value of the taking is \$135,000. The amounts contained within the Settlement Agreement were statutorily awarded pursuant to F.S., Chapter 73, Eminent Domain. Regardless of whether or not the case is tried, at this point in time, the County is obligated to pay the fees and costs. The main benefit of the Settlement Agreement ensures control as to whether or not the County Commission wants to accept or reject the settlement as it relates to the damages portion. The right to appeal has been included in the Settlement Agreement, and it is fundamental to staff's recommendation to accept the Settlement Agreement.

 Commissioner DiSabatino inquired if the plaintiff/developer could use the approvals of Zoning Ordinance PDI-17-33(P), SRQ Tech Park, and Resolution R-18-128, releasing Conservation Easement, against the County Commission in an appeal.

William Clague, Assistant County Attorney, explained the aforementioned items would not be relevant in a decision to appeal this case. Since the final judgement on January 24, 2017, the standing advice from the County Attorney's office is that the County Commission cannot enforce the section of the LDC that requires blanket conservation easements. He confirmed that staff would not have recommended the Settlement Agreement if they were unable to preserve the County's right to appeal. The County Attorney's office feels strongly that the Circuit Court has made some decisions that do not follow the established case law for the rest of the State.

 Sarah Schenk, Assistant County Attorney, stated the failure to appeal has ramifications to the LDC and the Comprehensive Plan, because the County Commission needs to know the period of time before any legal challenge can be filed.

Discussion proceeded on other options the County Commission regarding the statute of limitations, this is an intricate case, and not comfortable taking this before a jury since there is a determination.

Motion

A motion was made by Commissioner Jonsson and seconded by Commissioner Benac, to approve the Settlement Agreement and Mutual Release (as set forth in the revised attachment) presented by the County Attorney's Office, and authorized execution of same in the matter of Mandarin Development, Inc. v. Manatee County, Case 2015-CA-2563.

Chairman Trace pointed out an item was added to the Consent Agenda and asked if the County Commission should vote on the two items separately.

Ms. Schenk stated the vote for the Settlement Agreement (Item 4) must be done separately.

Commissioner Baugh expressed concern that she did not receive the information she requested from the County Attorney's office.

Mitchell O. Palmer, County Attorney, stated he was under the impression that the requested information was to be shared at the meeting. He apologized for the misunderstanding and for his staff not providing the information to Commissioner Baugh prior to the meeting.

Mr. Clague advised taking public comment on this item.

(Note: Chairman Trace opened citizen comments for Items 4 and 14 earlier in meeting)

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

(Depart Commissioner Baugh)

The motion carried 5-1, with Commissioner DiSabatino voting nay and Commissioner Baugh absent.

BC20180823DOC006

14. **FINANCIAL MANAGEMENT/GRANT AGREEMENT/RED TIDE MANAGEMENT**

A motion was made by Commissioner Benac, seconded by Commissioner Whitmore and carried 6-0, with Commissioner Baugh absent, to execute and authorize submission of the Florida Department of Environmental Protection (FDEP) Grant Agreement for Red Tide Management for and within Manatee County, which has been updated by FDEP.

(Note: The original agreement was subsequently updated following approval by the County Commission on 8/21/18, Item 53)

BC20180823DOC007

PUBLIC COMMENT

Chairman Trace opened public comment on Items 5-7, Advertised Public Hearings (Presentations Upon Request). There being no public comment, Chairman Trace closed public comment on Items 5-7.

ADVERTISED PUBLIC HEARINGS (Presentations Upon Request)

5. **ORDINANCE/ZONING**

A duly advertised public hearing was opened to consider adoption of proposed Zoning Ordinance PDMU-18-02(Z)(G), Darryl, David and Diane Cannon/DePizzo Irrevocable Trust/Ft. Hamer Senior Living. This item was continued by the Planning Commission to September 13, 2018; to be continued by the County Commission to October 4, 2018.

Commissioner Benac moved to continue the public hearing for PDMU-18-02(Z)(G) to October 4, 2018, and be re-advertised. The motion was seconded by Commissioner Jonsson and carried 6-0, with Commissioner Baugh absent.

BC20180823DOC008

6. **ORDINANCE/LAND DEVELOPMENT CODE**

A duly advertised public hearing was held to consider adoption of proposed Land Development Code Text Amendment LDCT-18-01/Ordinance 18-18, Ecoplexus, Inc. - Alternative Generation Facilities. The Planning Commission recommended adoption; the first of two public hearings was held on August 2, 2018.

 Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be consistent with the Manatee County Comprehensive Plan and in accordance with Section 341 of the LDC, Commissioner Benac moved to adopt Ordinance 18-18 (LDCT-18-01), amending the Manatee County LDC, as recommended by the Planning Commission. The motion was seconded by Commissioner Whitmore and carried 6-0, with

Commissioner Baugh absent.

BC20180823DOC009

RECESS/RECONVENE: 12:06 p.m. – 1:34 p.m. All Commissioners were present except Commissioner Smith. Prior to reconvening, the County Commission convened as the Manatee County Port Authority from 1:30 p.m. – 1:34 p.m.

7. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider adoption of proposed Zoning Ordinance PDMU-18-01(Z)(P), SMT Auto LLC/CarMax 6103 Bradenton. The Planning Commission recommended approval with stipulations.

No ex-parte communications were disclosed.

 Commissioner DiSabatino requested a brief presentation due to concern for the area residents.

 Fred Goodrich, Planning Division Manager, introduced the request.

Commissioner DiSabatino inquired if a neighborhood meeting was held and if the applicant was proposing ingress/egress from the site to 16th Street West.

 Keith Henderson, CarMax, confirmed a meeting was held with area residents and one individual who was curious about the project, but did not have any major concerns. Access from the site will be directly onto 14th Street West (U.S. 41). Landscaping will surround the perimeter of the site, including a masonry wall.

Discussion took place about the site being the former Pirates Cove site, the existing northern most building is Stan Thompson Auto Sales, both of the existing buildings will be torn down and replaced with a new building, and CarMax retails used vehicles.

Chairman Trace reopened public comment. 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 LDC, as conditioned herein, Commissioner Whitmore moved to approve Manatee County Zoning Ordinance PDMU-18-01(Z)(P); Approve a Preliminary Site Plan with Stipulations A.1-A.3, B.1, C.1; and D.1-D.2; and Grant Specific Approval for an exception to strict compliance with Land Development Code Section 701.3.A.4 (minimum required interior landscaping islands for vehicle use areas), as recommended by the Planning Commission. The motion was seconded by Commissioner Benac and carried 6-0, with Commissioner Smith abstaining.

(Note: Commissioner Smith entered during the motion and was advised to abstain from voting because he was not present for the testimony portion of the item) BC20180823DOC010

ADVERTISED PUBLIC HEARINGS (Presentations Scheduled)

9. **ORDINANCE/ZONING**

 A duly advertised public hearing was held to consider adoption of Zoning Ordinance PDMU-17-29(Z)(G), RHED PINE, Inc./Specialty Restaurants Corporation/Whiskey Joe's. The Planning Commissioner recommended approval with stipulations.

No ex-parte communications were disclosed.

 Caleb Grimes, attorney for the applicant, utilized a slide presentation to discuss the following: the site being located adjacent to the former Johnny Leverocks Restaurant property, which has been acquired by Florida Department of Transportation (FDOT) for the U.S. 301/I-75 interchange improvements; that .082 acres of the 1.77-acre site is zoned RSF-6 (residential single-family six dwelling unit per acre) with the remainder zoned PDMU (planned development mixed-use); the entire site being located in the R/O/R (residential/office/retail) future land use category; the request being for a General Development Plan to allow a 9,000-square-foot restaurant with outdoor amenities with the rezoning of the RSF-6 portion to PDMU; the proposed dead-end (terminus cul-de-sac) of 19th Street East due to the U.S. 301/I-75 interchange improvements; the concept plan; and buffering, parking and area traffic. The applicant has met with neighbors to address their concerns.

 James McKennon, General Manager for Specialty Restaurants, displayed photographs of the Whiskey Joe's in New Port Richey. He emphasized the family nature of the restaurants and that the equipment for performers is built into the restaurant's sound system in order to control the sound output. Mr. McKennon confirmed the applicant met with neighbors who spoke of speeding and traffic issues on 19th Street East and suggested speed bumps and no parking signs.

Mr. Grimes stated music will cease at 10:00 p.m. every night, and the Planning Commission recommended approval after vetting several concerns.

 Discussion took place about the zoning categories, FDOT will construct the cul-de-sac as part of interchange improvements, screening buffer between residential and the restaurant, the applicant will truck in sand, permit from FDOT for access, applicant utilized FDOT plans in the designing of the site, stormwater requirements, traffic route for patrons to access the restaurant, and the type of boats that will be utilizing the docks (existing and proposed).

Mr. Grimes confirmed sand will be trucked to the site and pointed out sand is the best medium for improving water filtration. There are some isolated mangroves in the riprap that will not be removed, and large boats are not expected to use the dock(s) due to the restaurants location on the Manatee River. The existing dock will be repaired and the proposed dock is depicted on the concept plan, but it is not guaranteed to be built.

 Dorothy Rainey, Senior Planner, utilized a slide presentation to highlight aerial photographs of the site, future land use and zoning maps, project details, surrounding uses, photographs of the site, adjacent parcels, shoreline, access to the site, positive and negative aspects, mitigating factors, and the special approval request.

 Karl Olsen, adjacent property owner (90 feet from the property line), stated his concerns were adequately addressed by the developer, and he is in support of the request.

There being no further 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 LDC, as conditioned herein, Commissioner Benac moved to adopt Manatee County Zoning Ordinance PDMU-17-29(Z)(G): Approve the General Development Plan with Stipulations A.1-A.3.; B.1-B.3; C.1-C.7 and D.1-D.4; Grant Special Approval for a project adjacent to a perennial lake or stream, as recommended by the

Planning Commission. The motion was seconded by Commissioner Baugh and carried 7-0.

BC20180823DOC011

10. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider adoption of Zoning Ordinance PDMU-06-16(P)(R7), University Groves. Staff recommended approval with stipulations.

 Commissioner Whitmore disclosed that she communicated with the adjacent property owner regarding the future traffic signal at University Parkway and Shade Avenue. Commissioner Benac disclosed that she rides her bicycle through this area.

Fred Goodrich, Planning Division Manager, introduced the request.

 Rossina Leider, Principal Planner, pointed out the agenda update memorandum reflects revised Stipulation 3.O and an additional public comment letter (8/22/18) from Ilyne McQueen.

 Katie LaBarr, representing the applicant, submitted a letter of support for revised Stipulation 3.O from Carl Meyer, Serenata Sarasota Condominium Association, Inc. While utilizing a slide presentation, she reviewed (a) the 142.15-acre project site located west of Tuttle Avenue, east of U.S. 301, and north of University Parkway within the MU (mixed-use, 33.7 acres) and RES-6 (residential-6 dwelling units per acre, 108.45± acres) future land use categories; (b) that the entire property is zoned PDMU (planned development mixed-use); (c) the project history; (d) entitlements; (e) the development trends along the University Parkway corridor and how the demand is stronger for residential development instead of commercial development; (f) the preliminary site plan to highlight what has been approved and completed to date; (g) the option plan to discuss the proposed changes; (h) transportation improvements; and (i) the land use equivalency matrix.

Commissioner Whitmore disclosed that her husband was involved with the building of University Health Park. She inquired about the construction timeframe for the traffic signal at University Parkway and Shade Avenue.

Ms. LaBarr reported the traffic signal may be constructed during the first quarter of 2019.

Discussion took place about transformation of the area (connectivity and landscaping) sidewalks will be provided along Shade Avenue to connect to existing sidewalks as well as one side of internal roads, and both sides of Broadway Avenue, residents expressed concern with increased density and traffic, will Broadway Avenue and Tuttle Avenue (near LakeRidge Falls) require a multi-way stop, roundabout or traffic signal, number of trips are not proposed to increase, vested trip rights through the Certificate of Level Service, and sand hill crane crossings.

 Ms. Leider remarked that there are no additional specific approvals being requested. The design standards (setbacks and height), roadway connections, pedestrian connections, conservation and buffers (including revised Stipulation 3.O) have been maintained. The density calculations and land use equivalency matrix were carefully reviewed during steps to finalize the request.

 Clarke Davis, Transportation Planning Division Manager, stated theoretically, it is possible to install a traffic signal at Broadway Avenue and Tuttle Avenue. The traffic signal on Lockwood Ridge Road north of University Parkway near the Walmart Super Center is an

example of a closely spaced traffic signal because it is 800-900 feet from University Parkway. Broadway Avenue is approximately 1,000 feet away from University Parkway. Regarding the intersection of Broadway Avenue, Tuttle Avenue is external to the project site (Broadway Avenue is a collector roadway and Tuttle Avenue is a major arterial/collector) and the applicant has met and/or is in the process of meeting all required offsite improvements. The signalization request cannot be a condition of the development approval, but it can be brought to the attention of Public Works staff as a concern from the County Commission.

Discussion continued about whether or not Sarasota County will be responsible for maintaining the traffic signal at University Parkway and Shade Avenue, addressing the possible traffic signal on Broadway Avenue and Tuttle Avenue later in the meeting, traffic improvements for The Oasis at University complex, distance between Kentucky Street and Shade Avenue, will Tuttle Avenue be expanded to four lanes in the future, and the possibility of additional traffic signals should be addressed once traffic has been established in the area.

Mr. Davis explained under the terms of the Interlocal Agreement between Manatee and Sarasota Counties regarding maintenance and access control for University Parkway, Sarasota County maintains the traffic signals. Both counties reviewed University Parkway as a right-of-way use permit and construction should begin in October 2018. The distance between Kentucky Street and Shade Avenue is 2,000 feet, and staff does not anticipate a traffic signal at this location. The widening of Tuttle Avenue is not in the five-year Capital Improvement Plan, but it is in the Long Range Transportation Plan, which depicts Tuttle Avenue as a four-lane road.

Public Comment

 Stuart Nagourney, resident of University Groves Estate Reserve, voiced concern with setbacks and the equivalency exchange of commercial and residential units.

 Faith Gentile, resident of Soleil (University Groves), voiced concern with traffic at Broadway Avenue and Tuttle Avenue and the lack of a pedestrian crosswalk on Broadway Avenue. She suggested 27th Street East (Circus Road) as a second means of access since it intersects with Tallevast Road.

 Steven Solomon, resident of Oak Grove Park, reported his property floods due to Pearce Drain not functioning properly.

 Tonda Cochran, resident of University Groves, expressed concerned with area traffic and requested a traffic signal at Broadway Avenue and Tuttle Avenue, and signage instructing construction vehicles to utilize the University Parkway and Shade Avenue intersection for access. In the new development area, the intersection of Broadway Avenue and Shade Avenue has poor sight lines and she suggested stop signs (three) at Broadway Avenue where it intersects.

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

Commissioner DiSabatino requested staff look into Ms. Cochran's request for the stop signs.

 Mr. Davis displayed an aerial map to point out the suggested stop sign locations and noted the boulevard entrances at Soleil, and Broadway Avenue and Shade Avenue may pose a problem. Staff will investigate further in order to address Ms. Cochran's concerns.

Discussion proceeded regarding 27th Street East (Circus Road) being restricted to an emergency access only for Soleil West, staff meeting with Mr. Solomon, 27th Street East (Circus Road) is a local road, flooding in this area from August 2017 storm event, planning on how to handle runoff from storm events, 50 percent reduction runoff requirement, and p.m. peak trip generation.

 Thomas Gerstenberger, Stormwater Engineering Division Manager, confirmed the access point to the north from Soleil West onto Circus Road (27th Street East) was restricted as emergency access only with a gate. It was stipulated for 27th Street East (Circus Road) to be paved from the Soleil West access point to Tallevast Road. He displayed the staff report aerial map to point out the University Groves project, which drains northward to Pearce Drain and utilizes existing stormwater facilities that have already been permitted and constructed in conjunction with the remainder of the University Groves development. The stormwater system for University Groves has been designed to provide 50 percent reduction in the level rate of discharge into Pearce Drain. He relayed the drainage system on the aerial map and Pearce Drain are routinely maintained. Work is ongoing regarding the Pearce Drain Watershed Study and should be finalized next year.

 Ms. LaBarr stated Condition 3.P in the development order requires a 20-foot landscape buffer along the southern border of Broadway Avenue that will be installed with future development.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County LDC, as conditioned herein, Commissioner DiSabatino moved to adopt Manatee County Zoning Ordinance PDMU-06-16(P)(R7); amending and restating Ordinance PDMU-06-16(P)(R7); Approve a Preliminary Site Plan with Stipulations 1.A-1.F, 2.A-2.H, 3.A-3.V (revised Stipulation 3.O), 4.A-4.O, 5-A-5-C, and 6.A-6.F; for a project that was previously granted Special Approval for: (1) containing multiple Future Land Use Categories (FLUCs); (2) Mixed-use (MU) in the RES-6 FLUC; (3) greater than 30,000 square feet of nonresidential building area in the RES-6 FLUC; (4) exceeding a gross and net density of 4.5 du/acre and 6 du/acre, respectively within the RES-6 FLUC; (5) located in the MU FLUC; and (6) within an Entranceway; and for a project that was previously granted Specific Approval of an alternative to Sections 402.11.D.3, 401.3.E.11, 1005.3, 700.3.I, and 401.3.E.9 of the LDC, as recommended by staff. The motion was seconded by Commissioner Benac and carried 7-0.

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TRAFFIC CONTROL

Motion – Traffic Signal

 A motion was made by Commissioner DiSabatino, for staff to look at a traffic signal at the intersection of Tuttle Avenue and Broadway Avenue and include a pedestrian crosswalk with flashers. The motion was seconded by Commissioner Benac.

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

The motion carried 7-0.

Motion – Stop Signs

 A motion was made by Commissioner DiSabatino, for staff to look into stop signs at the intersection of Broadway Avenue and Shade Avenue (southbound corner on Shade Avenue and northwest corner on Shade Avenue). The motion was seconded by Commissioner Benac.

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

The motion carried 7-0.

Commissioner DiSabatino inquired about the construction vehicles as referenced by Ms. Cochran.

Ms. Cochran explained construction vehicles enter her subdivision from Tuttle Avenue through 80th Drive East to University Estates to the construction site.

There was discussion regarding signage prohibiting construction traffic.

Mr. Gerstenberger stated he can address construction traffic with the applicant during the final site plan submittal process.

TOWERS

Motion

Commissioner Whitmore moved for a future agenda item to discuss an ordinance for any type of cell tower to proceed through the public hearing process. The motion was seconded by Commissioner Benac.

There was no public comment.

The motion was clarified and discussion ensued.

Sarah Schenk, Assistant County Attorney, advised that staff will bring back information regarding all types of towers including radio, cell and school towers.

Commissioner Baugh urged Commissioners read the Requests for Legal Services regarding the P25 Public Safety Radio System. BC20180823DOC013

Motion - Restated

 A motion was made by Commissioner Whitmore that in the future, all communication towers, or radio towers or any kind of towers come before the County Commission for a public hearing process.

Commissioner Benac, seconder, clarified the motion: I move that Public Safety towers go through the same permitting process that a cell tower would have go through.

Commissioner Whitmore agreed with the clarification.

Commissioner Benac stated the intent of the motion is for staff to bring this back as a LDC amendment.

The motion as clarified carried 7-0.

COMMISSIONERS' COMMENTS

Commissioner Whitmore 

- Received email from Snead Island resident regarding Dr. Lassen's character

BC20180823DOC014

Commissioner DiSabatino 

- Commented that the seated County Commission that deliberated on the Vertex Development LLC telecommunications tower within the River Club Golf Course Development was able to deny the tower based on the possibility of decreased property values

Discussion ensued.

ADJOURN

 There being no further business, Chairman Trace adjourned the meeting at 3:46 p.m.

Minutes Approved: November 27, 2018