

BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS

SEPTEMBER 9, 2008

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Duffy, Commissioner Moore, Commissioner Cummings, and Commissioner Loftus. Also in attendance were Assistant County Attorney Browne, County Administrator Baltz, and Deputy Clerk Manley. The following members were absent: None.

The meeting was called to order at 2:00 PM, followed by the Pledge of Allegiance.

Changes to the Agenda:

Change #1: Agenda Item 13 (PA-08-01-04-LS), Agenda Item 14 (PA-08-01-16-LS), Agenda Item 15 (PA-08-01-17-LS), and Agenda Item 16 (PA-08-01-19-LS) were withdrawn at Applicant's Request.

Change #2: Requested by: Growth Management Department - Agenda Item 10 - PA-08-01-11-LS - There is a change to the Ordinance that staff will review with the Board of County Commissioners.

Change #3: On the record only: **Chairman D'Aprile** requested that Agenda Item 26 (SV-08-03-09) be moved up to follow Agenda Item 11.

Planner III Jie Shao announced that all citizens who wish to receive rate notification of the issuance of the Notice of Intent for all Large Scale Plan Amendments should clearly print their names, address, and petition number of interest on the form she placed on the table near the staff podium.

Commissioner Cummings pointed out there had not been a vote to approve Changes to the Agenda.

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

- A. **PLANNING AND ZONING AGENDA** (Proofs of Publication were in order for all petitions.)
1. Revisions to U.S. 41 Zoning District - Overlay (Boundary only) - Legislative - Commission District IV and V - An ordinance amending Charlotte County Code, Section 3-9-52, U.S. 41 Zoning District Overlay, extending the existing U.S. 41 Zoning District Overlay boundary to include property located at 525 Bowman Terrace, and properties located south of Brinson Avenue, northeast of Tamiami Trail (U.S. 41), east of Sunrise waterway and west of Elkcam Waterway, in the Port Charlotte area; Commission District IV and V; applicant: the Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Open 1st public hearing and set 2nd public hearing for September 16, 2008 - Planning and Zoning Board: Recommendation will be made on August 11, 2008

Ms. Shao advised this is the first of two public hearings and said staff requests the Board to set the second public hearing for adoption on September 16, 2008 at 9:00 AM.

COMMISSIONER MOORE MOVED TO APPROVE SETTING THE SECOND PUBLIC HEARING FOR ADOPTION ON SEPTEMBER 16, 2008 AT 9:00 AM, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

Ms. Shao noted staff request for an expansion of the boundary of the US 41 Zoning District Overlay; provided a history of the Overlay Code; indicated changes already made since the Overlay Code adoption on November 9, 2004; commented on the purpose of the revision request; presented slides depicting the area being considered; and stated that the Growth Management Department recommends approval of the petition.

Attorney Robert Berntsson spoke on behalf of the owners of the Royal Palm Retirement Center and in support of the proposed change by staff.

Attorney Geri Waksler represented Southwest Florida Commercial Properties, LLC, and spoke in support of the proposed change by staff.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Commissioner Moore inquired as to why the small lot across the road from the gold-colored section on the Proposed US 41 Zoning District Overlay Boundary slide is by itself. Ms. Shao explained in detail and said staff looked at the ownership and type of use on that piece of property.

2. Z-08-05-28 - Quasi-Judicial - Commission District I - An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agriculture Estate (AE) to Excavation and Mining (EM), for property located at 31790 and 32030 Bermont Road, in the Punta Gorda area, containing 148.91 acres more or less; Commission District I; Petition No. Z-08-05-28; applicant: Bermont Road Partnership. Recommendation - Growth Management Department: Approval - Planning and Zoning Board: Approval

Deputy Clerk Manley administered the oath to prospective witnesses.

(Chairman D'Aprile polled the Board for ex parte disclosures. Commissioners Loftus and Duffy acknowledged ex parte communications and will furnish the appropriate paperwork to the Clerk. Chairman D'Aprile, Commissioner Moore and Commissioner Cummings had none.)

Ms. Shao provided a slide presentation of Petition Z-08-05-28 on behalf of applicant; explained the purpose of the re-zoning; noted it is consistent with the County's Comprehensive Plan; mentioned the potential impacts to ground water must be assessed as part of the excavation permitting process; explained clear understanding that the applicant could apply for an excavation permit if the Board approves the rezoning; pointed out potential environmental impacts were considered, but indicated the appropriate place to discuss environmental issues is in the excavation permitting process; and that the Planning and Zoning Board and Growth Management Department recommend adoption of the rezoning to EM.

Attorney Geri Waksler spoke on behalf of Bermont Road Partnership in support of the petition; indicated the applicant is only seeking rezoning of 149 of the 890 acres they own; reported that a conceptual site plan has been provided based on preliminary investigation of the site; commented on the requirements and future steps; provided extensive detail; and advised Gary Banham and Shane Johnson will speak further on excavation impact issues.

Gary Banham with Southwest Engineering Design, said based on preliminary discussions, hydraulic barriers would be installed, explained their usefulness, how barriers work, how they affect the water table, and provided additional detailed information.

Shane Johnson of Passaralo Environmental Consultants, discussed documented existing site conditions, provided a slide presentation, gave examples of wetland systems adjacent to excavation areas, and stated he found no adverse affects.

Attorney Waksler acknowledged excavation has been the subject of debate over the last few years; explained the Board was only being asked to determine whether the criteria is met for rezoning of this proposed excavation site; noted staff support; and requested approval for rezoning.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-062 AND APPROVE PETITION #Z-08-05-28, SECONDED BY COMMISSIONER MOORE.

Commissioner Moore asked if the future intent is not to mine, why are they changing the zoning now, and whether they can change the zoning back in the future. Jeff Ruggieri, Director, Growth Management advised they are simply going for the use here and noted it is subject to the same conditions as all other rezoning. Commissioner Moore opined the procedure just seems to be backward.

Motion Carried 5:0.

3. PA-08-01-15-LS - Legislative - Countywide - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment adding a Public School Facilities Element to the 1997-2010 Comprehensive Plan and amending the text of the Capital Improvements Element and the Intergovernmental Coordination Element of the 1997-2010 Comprehensive Plan to meet the requirements of Senate Bill 360 regarding school concurrency; Petition No. PA-08-01-15-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Steven Ellis gave a detailed presentation, explained discrepancies and changes, and stated they would now meet the DCA requirements.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-063 AND APPROVE PETITION #PA-08-01-15-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

4. PA-06-11-66-LS - Legislative - Commission District I - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Public Lands & Facilities and Low Density Residential to Low Intensity Industrial and to add an annotation to the Future Land Use Map to declare a maximum Floor Area Ratio to which the desired project will be developed, for property located at 25505 Old Landfill Road, in the Port Charlotte Area, containing 73.26± acres; Commission District I; Petition No. PA-06-11-66-LS; Applicant: Land Resources Management, Inc. Recommendation - Growth Management Department: Approval

Steven Ellis gave a detailed presentation, noted the process to date, and said corrections have now been made to meet DCA requirements.

Attorney Warren Ross spoke on behalf of the applicant, stated the DCA objection has been addressed, and requested approval.

Sheila Jerrom of Loveland Courtyard Association spoke on behalf of and in opposition of the petition, noted their reasons, and requested denial of the petition.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

Attorney Ross explained this is a land use amendment, not a rezoning, stated the developers intent, and requested adoption approval.

Commissioner Cummings asked if this would be required to be developed as a Planned Development (PD), expressed concerns that industrial land use would be next to multi-family, and stated that is what the County is trying to clean up.

Mr. Ellis explained the applicant has plans to include a 50' buffer which is double the requirement. **Commissioner Cummings** opined 50' does not offer much assurance to compatibility and further made his point. Mr. Ellis pointed out this was the site of a former landfill and opined any use other than that is better.

Commissioner Duffy commented that this site could not be used for residential since the site is a former landfill, advised she drove around the area, and opined it is no where near anything. **Commissioner Cummings** disagreed and pointed out the location on the map.

Commissioner Loftus asked if the applicant would give a firm commitment of the location of the building as well as the 50' buffering. Mr. Ross said they would be happy to have the annotation include a requirement that it come back only as a PD.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-064 WITH AN ANNOTATION TO INCLUDE A REQUIREMENT THAT IT COME BACK AS A PD, AND APPROVE PETITION #PA-06-11-66-LS, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings said he would be interested in seeing this annotation which seems to be a new idea, opined the correct way to do this would be to have the land use be brought hand and hand with the PD, and asked for assurance from the Assistant County Attorney. Attorney Browne provided his understanding and explained it is frequently done this way. Mr. Ruggieri also provided detail related to this procedure.

Chairman D'Aprile said he is unable to support the motion and gave his reasons. **Commissioner Cummings** stated it will cause monitoring problems in the future, described a better way to do it, and expressed his opposition.

Motion Carried 3:2. Chairman D'Aprile and Commissioner Cummings opposing.

5. PA-07-11-80-LS - Legislative - Countywide - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to revise the text of Policy 2.2.28 of the Future Land Use Element of the 1997-2010 Comprehensive Plan regarding Mixed Use Future Land Use Map designations; Petition No. PA-07-11-80-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Roxanne Reed provided a detailed presentation, noted DCA only asked for sufficient shelter, and requested Board Approval.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

Commissioner Cummings asked for clarification of the changes to the base density calculations. Ms. Reed referred to page 2 of the packet material, provided a detailed explanation, and confirmed density would be transferred, not created.

COMMISSIONER DUFFY MOVED TO ENACT ORDINANCE #2008-065 AND APPROVE PETITION #PA-07-11-80-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

6. PA-07-12-95-LS - Legislative - Countywide - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to amend the text of Policy 2.2.18 and Policy 2.5.26 of the Future Land Use Element of the 1997-2010 Comprehensive Plan, to remove excavations as a permitted use in the Agriculture and Limited Development Future Land Use Map designations and to create a new designation called Mineral Resource Extraction; Petition No. PA-07-12-95-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Jeff Ruggieri provided a detailed presentation, noted the proposed creation of a new Future Land Use designation called Mineral Resource Extraction, and recommended approval.

Attorney Waksler spoke against adoption, said we need to let an excavation go through with the new changes before making additional changes, and recommended they adopt later if needed.

Attorney Berntsson agreed with Attorney Waksler; believes this is an overkill for a small area of the County; and urged the Board to not adopt this petition.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Commissioner Moore asked for Mr. Ruggieri's comments. Mr. Ruggieri said this FLU category is the direct result of the mining activity which happened about a year ago, remarked that the Board expressed a desire to control or review mines across the County, explained this allows the Board that discretion so there will not be a conflict with residential, and noted it will give the Board legislative power to site mines.

Commissioner Loftus expressed concern that this eliminates the mining needed in West County. **Commissioner Duffy** asked for clarification of the class, questioned the time frame, asked for detail related to quality of life, and opined quality of life determinations are dangerously broad. Mr. Ruggieri provided the class information and time frame detail, explained quality of life is determined on an individual basis, and agreed with the broadness.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-066 AND APPROVE PETITION #PA-07-12-95-LS, SECONDED BY COMMISSIONER CUMMINGS.

Commissioner Duffy asked if the land use and rezoning can be concurrent. Mr. Ruggieri advised State Law prohibits that on a large scale. Mr. Baltz asked Mr. Ruggieri to clarify the Mineral Resource Extraction (MRE) designation as related to Group 3 excavations, asked if it is still possible for reservoirs to be built with the appropriate process, and noted there would be no waiver for a public water supply. Commissioner Loftus expressed concern if another water district wanted to put a reservoir in West County. Commissioner Moore and Commissioner Cummings agreed that was very unlikely since a totally different type of plant would have to be developed to treat surface water versus ground water. Mr. Baltz wanted to be clear that they were not exempting entities who are wanting to develop water supplies, and noted they can still be done, but must go through the proper process.

Motion Carried 3:2. Commissioner Duffy and Commissioner Loftus opposing.

7. PA-08-01-03-LS - Legislative - Commission District II - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to amend the Burnt Store Area Planning Overlay District by the addition of a policy allowing Recreational Vehicles (RV) as a permitted use in the Village Residential and Limited Development Future Land Use Map designations; Commission District II; Petition No. PA-08-01-03-LS; Applicant: South Charlotte Properties, LLC. Recommendation - Growth Management Department: Approval

Ms. Shao provided a detailed presentation and recommended adoption of the petition.

Commissioner Cummings asked if RV's are included in the density. Ms. Shao answered affirmatively. Attorney Waksler spoke on behalf of the applicant, provided clear and detailed information, and requested approval of the petition.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-067 AND APPROVE PETITION #PA-08-01-03-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

8. PA-07-11-83-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential to Commercial Center, for property located at 8399, 8389, and 8379 Cypress Road, in the Englewood Area, containing 15.76± acres; Commission District III; Petition No. PA-07-11-83-LS; Applicant: Jerry and Kristina Paul. Recommendation - Growth Management Department: Approval

Martina Kuche provided a detailed presentation which paralleled visual slides, advised road level of service would not be impacted, and requested Board approval.

Attorney Berntsson represented the applicant, advised this is the adoption phase, noted it was before the Board in the past, discussed density and location, said DCA comments were addressed; and requested approval.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-068 AND APPROVE PETITION #PA-07-11-83-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

9. PA-08-01-08-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential to Commercial Center and Medium Density Residential, and to add an annotation to the Future Land Use Map to declare a

maximum density and maximum Floor Area Ratio to which the desired project will be developed, for property located north of Redwood Road, south and east of Rotonda Boulevard, west of Gasparilla Road (C.R. 771), in the Rotonda area, containing 34.12± acres; Commission District III; Petition No. PA-08-01-08-LS; Applicant: Rotonda HG LLC. Recommendation - Growth Management Department: Approval

Martina Kuche provided a detailed presentation which paralleled the packet information, said this is the adoption round and noted it has already been before the Board, mentioned it is consistent with goals of the comprehensive plan, and requested approval.

Attorney Berntsson spoke on behalf of the applicant; provided a brief background; opined this is an ideal location for commercial development; noted a net reduction in density; stated DCA had no concerns; and requested approval.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-069 AND APPROVE PETITION #PA-08-01-08-LS, SECONDED BY COMMISSIONER MOORE.

Commissioner Cummings mentioned the TDU ordinance prohibits it going from commercial. Attorney Berntsson agreed.

Motion Carried 5:0.

10. PA-08-01-11-LS - Legislative - Commission District IV - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Public Lands and Facilities to Commercial Corridor, for property located north of Buick Ave, southwest of Bowman Terrace, and east of, but not bordering, Longley Drive; containing 12.42 ± acres, in the Murdock Area; Commission District IV; Petition No. PA-08-01-11-LS; Applicant: SW Florida Commercial Group, LLC. Recommendation - Growth Management Department: Approval

Tom Scott provided a detailed presentation which paralleled visual slides and the packet materials, noted this same property had been presented today for inclusion in the US 41 overlay; and advised approval is recommended.

Attorney Waksler spoke in support and on behalf of the applicant and requested approval.

Commissioner Duffy asked if this was the property the County donated to Special Training and Rehabilitation (STAR). Attorney Waksler confirmed it was and explained the timeline of events related to the property.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Commissioner Moore asked if there is an issue related to limiting the square footage. Mr. Scott explained it had been addressed in the annotation which is now part of the motion.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-070 AND APPROVE PETITION #PA-08-01-11-LS, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

11. PA-08-01-09-LS - Legislative - Commission District II - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Commercial Center, Low Density Residential and Agriculture to High Intensity Industrial and Preservation, and to add an annotation to the Future Land Use Map to declare a maximum Floor Area Ratio to which the desired project will be developed, for property located at the northwest portion of the interchange of I-75 and Tuckers Grade, in the Punta Gorda area, containing 500.77± acres; Commission Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan District II; Petition No. PA-08-01-09-LS; Applicant: Realmark Tuckers Grade, LLC. Recommendation - Growth Management Department: Denial

Jeffrey Crimer gave a detailed presentation which paralleled visual slides and the packet information; handed out an addendum to the report; clarified the addendum for the Board; discussed the purpose of the change in land use, commented on DCA objections; and explained staff now recommends approval since the cumulative traffic report has been received.

Attorney Waksler spoke on behalf of applicant in support of the petition, described the site location and proposed uses, and requested the Board adopt the industrial land use for this site.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER DUFFY MOVED TO ENACT ORDINANCE #2008-071 AND APPROVE PETITION #PA-08-01-09-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

RECESS: 4:00 PM - 4:10 PM

26. SV-08-03-09 - Legislative - Commission District I - Martin L. Rietveld has applied for a Street Vacation to vacate Plaza Parkway and 2 alleys in Harbour Heights, Section 5 Subdivision, as recorded in Plat Book 3, Pages 81A-81B, in the Public Records of Charlotte County, Florida. The area is more specifically described as, All of Plaza Parkway, a 150 foot wide right-of-way, along with all of the 25 foot wide alley lying in Block 37, together with the 15 foot wide alley lying in Block 36, less and except the west 57.5 feet of said alley located between lots 17 and 18 of Block 36 and lots 19 and 20 of Block 36. The site, consisting of 2.02 acres, more or less, is located Section 15, Township 40, Range 23, in Commission District I. Recommendation - Building Construction Services Department: Denial - Planning and Zoning Board: Denial

Barbara Jeffries provided a detailed presentation which paralleled visual slides and explained why staff recommended denial.

Attorney Waksler spoke in detail on behalf of the applicant and in support of approval; indicated she is here to discuss the street vacation only and not past matters involving the applicant; discussed parkway improvements made by the applicant, provided a detailed timeline related to the petition, and requested approval.

Joe Fleming sincerely thanked the Commissioners for their efforts in working for the County, spoke in opposition to Petition SV-08-03-09, and recommended denial to allow future meetings with the Harbor Heights Civic Association (HHCA) to discuss drainage and other issues.

Maggie Scott spoke in opposition of the petition, stated the applicant has not been a good neighbor, and recommended denial.

John DiPinto, President of the HHCA agreed with Mr. Fleming's comments, indicated his desire to meet with the applicant to discuss the vacation, opined vacating is not the way to solve this problem; and requested denial of petition.

Douglas Lee spoke in favor of the vacation, announced he has known Mr. Rietveld professionally and personally since 2001, opined everything he has done has been done with pride and integrity, noted the applicant's desire to improve the area and move forward commercially, read a letter from SOS Marine supporting the petition, indicated drainage issues were a separate matter, and urged the Board to approve the vacation.

Matt Rietveld, brother of applicant, spoke in support of approving the vacation petition, provided a handout of a support letter he read from DB Sound Systems LLC, said the drainage issue should be handled separately from this petition, and opined the need for economic development in Harbour Heights.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

Attorney Waksler stated her representation is strictly for the vacation, said any possible drainage violations are a separate matter, explained the applicant has purchased all the surrounding property, noted all conditions have been met for the street vacation, and respectfully requested approval.

Commissioner Moore asked why the drainage ditch was installed in the manner it was and asked about the permitting. Ms. Jeffries opined Mr. Rietveld just wanted to move it from his property and did it himself, said she visited the area and advised the condition, explained they were uncertain of where the drainage went in, and introduced Steve Reager, Right of Way Supervisor, to provide further detail. Mr. Reager stated there were two plans, described each, and noted Mr. Rietveld chose the plan that was not part of the permit building plan. Ms. Jeffries described the events in detail. **Commissioner Moore** opined if he voted to vacate the streets, he would be awarding bad behavior related to permitting procedures.

Commissioner Duffy asked if the County would have to pay to pave the street if the vacation was not granted. Ms. Jeffries explained the County would be responsible for whatever amenity they expected to be there, advised it may not be a street, said paving was not being considered in the near future, and noted it would remain as a grass area. **Commissioner Duffy** asked if the storm water issue had any bearing on the street vacation. Assistant County Attorney Browne said it does in the legislative sense since Board policy has always included some public good prior to vacation approval and illegal drainage is not a public good.

Chairman D'Aprile mentioned he spoke to Mr. Rietveld related to his drainage decision, said his actions cost the homeowners thousands of dollars for dredging, indicated he is unable to support the vacation until the drainage issues are addressed, recommended the parties meet as Mr. Fleming requested, and agreed with the need for economic development done right.

Commissioner Loftus indicated he would like to see this continued until the applicant and Harbour Heights Association meet to work out the drainage issues. **Chairman D'Aprile** agreed with a continuance, opined it could be rectified with communication, and received Board consensus to continue.

COMMISSIONER LOFTUS MOVED TO DELAY LEGISLATIVE PETITION SV-08-03-09 UNTIL THE DECEMBER, 2008 LAND USE MEETING. (MARTIN L. RIETVELD HAS APPLIED FOR A STREET VACATION TO VACATE PLAZA PARKWAY AND 2 ALLEYS IN HARBOUR HEIGHTS), SECONDED BY COMMISSIONER DUFFY.

Commissioner Moore asked if that would give sufficient time. The Commissioners discussed timing. Commissioner Cummings opined they should delay until the two parties have met and then schedule the Land Use hearing, said the County is not obligated to grant the vacation, mentioned that area is not currently being used to its potential; opined those parkways could be a nice community amenity in the future and could increase the value of the parcels on either side, noted if the vacation was granted it should be for a public good, and suggested the need for more public benefit prior to approval.

Motion Carried 5:0.

Mr. Fleming commented on the parties that need to communicate, recommended pushing it out a minimum of at least 60 days; and opined no objection to the vacation once the drainage is taken care of.

12. PA-07-11-85-LS - Legislative - Commission District II - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Agriculture and Low Density Residential to Commercial Center and Preservation, and to add an annotation to the Future Land Use Map to declare a maximum commercial square footage to which the desired project will be developed, for property located north of Green Gulf Boulevard, south of Notre Dame Boulevard, and west of Tamiami Trail (US 41), in the Punta Gorda area, containing 89.83± acres; Commission District II, Petition No. PA-07-11-85-LS, Applicant: Eighty-One Hundred, LLC. Recommendation - Growth Management Department: Denial

Jeffrey Crimer said this is the adoption hearing for the amendment, described the property which paralleled visual slides, provided information related to the addendum; advised DCA had no objections; and noted they now recommended approval of the adoption since reviewing the traffic study.

Commissioner Duffy asked why DCA gets the impression that it is in the Burnt Store area. Mr. Crimer explained.

Attorney Waksler spoke on behalf of the applicant in support of the petition; explained the intent of development; commented on the advantages; said DCA concerns have been met and staff recommends approval, addressed the setting aside of lands for the Tuckers Grade Extension, and requested adoption of the Large Scale Plan Amendment.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.

Commissioner Loftus stated he likes the idea. **Chairman D'Aprile** asked for confirmation that staff is now in favor of approval. Mr. Crimer said approval is recommended for the land use amendment and noted they are not here to discuss the alignment.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-072 AND APPROVE PETITION #PA-07-11-85-LS, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings commented his appreciation for the applicants willingness to address earlier concerns, suggested staff move forward quickly on whatever alignment is made for that corridor because it could rapidly develop, and expressed the need for traffic engineers to review it carefully.

Motion Carried 5:0.

17. PA-06-06-38-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Commercial Center to High Density Residential, for property located at 1531 Placida Road, in

the Englewood area, containing 4.97± acres; Commission District III; Petition No. PA-06-06-38-LS; applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Matt Trepal said this is the adoption hearing for the amendment, described the property which paralleled visual slides, advised DCA had no objections; and noted they recommended approval.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-073 AND APPROVE PETITION #PA-06-06-38-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

18. PA-07-11-74-LS - Legislative - Commission District IV - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Public Lands and Facilities to Parks and Recreation, for property located at 2300 El Jobean Road, in the Port Charlotte area, containing 80.282± acres; Commission District IV; Petition No. PA-07-11-74-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Matt Trepal said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

Commissioner Moore asked for additional detail related to the designation change.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-074 AND APPROVE PETITION #PA-07-11-74-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

19. PA-07-11-75-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential to Parks and Recreation, for property located at 3406 Indiana Road, in the Rotonda area, containing 20.1± acres; Commission District III; Petition No. PA-07-11-75-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Matt Trepal said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Commissioner Duffy asked for confirmation that it is a park, questioned how it became a park since it was zoned low density residential, and asked why the zoning had not been changed before it was made a park. Commissioner Loftus explained it was originally owned by the Rotonda Association and was donated to the County back in approximately 1996. Mr. Trepal provided exact location details.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-075 AND APPROVE PETITION #PA-07-11-75-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

20. PA-07-11-76-LS - Legislative - Commission District I - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Public Lands and Facilities to Parks and Recreation, for property located at 1505 Maracaibo Street, in the Port Charlotte area, containing 11.56± acres;

Commission District I; Petition No. PA-07-11-76-LS;
Applicant: Charlotte County Board of County Commissioners.
Recommendation - Growth Management Department: Approval

Matt Trepal said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-076 AND APPROVE PETITION #PA-07-11-76-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

21. PA-07-11-72-LS - Legislative - Commission District I - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Agriculture to Parks and Recreation, for property located at 35181 and 35301 Washington Loop Road, in the Punta Gorda area, Florida, containing 11.25± acres; Commission District I; Petition No. PA-07-11-72-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Steven Ellis said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-077 AND APPROVE PETITION #PA-07-11-72-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

22. PA-07-11-69-LS - Legislative - Commission District IV - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential to Parks and Recreation, for property located north of Gallagher Boulevard, southwest of Myakka River and east of Spire Street, in the Englewood area, Florida, containing 132.79± acres; Commission District IV; Petition No. PA-07-11-69-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Jeffrey Crimer said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

Commissioner Duffy asked if this park has a name. Mr. Crimer said it is called Oyster Creek Park and is planned for future development. **Commissioner Moore** said this is a magnificent piece of land. **Commissioner Loftus** commented that this is one of the 1992 General Development Corporation (GDC) settlement properties and noted discussions with Mr. Baltz to address refunding related MSBUs once funding comes available. Mr. Crimer explained this is Myakka River and confirmed it is not Oyster Creek Park.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-078 AND APPROVE PETITION #PA-07-11-69-LS, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

23. PA-07-11-71-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential to Parks and Recreation, for property located at 6831 San Casa Drive in the Englewood area, Florida, containing 135.93± acres; Commission District III; Petition No. PA-07-11-71-LS; applicant Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Jeffrey Crimer said this is the adoption hearing for the Oyster Creek Park amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO ENACT ORDINANCE #2008-079 AND APPROVE PETITION #PA-07-11-71-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

24. PA-07-11-77-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Amendment to change the Charlotte County Future Land Use Map from Public Lands and Facilities to Parks and Recreation, for property located north of Santa Cruz Waterway, south of Appleton Boulevard, east of Redondo Street and west of Calumet Boulevard, in the South Gulf Cove area, Florida, containing 18.79± acres; Commission District III; Petition No. PA-07-11-77-LS; Applicant: Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Jie Shao said this is the adoption hearing for the amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER LOFTUS MOVED TO ENACT ORDINANCE #2008-080 AND APPROVE PETITION #PA-07-11-77-LS, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

25. PA-07-11-78-LS - Legislative - Commission District III - Pursuant to Section 163.3184(3), Florida Statutes, adopt a Large Scale Plan Amendment to change the Charlotte County Future Land Use Map from Low Density Residential, High Density Residential, Commercial Center, Commercial Corridor, Low Intensity Industrial, and Preservation to Parks and Recreation, for the Cape Haze Pioneer Trail located north of Sawyer Circle, south of S McCall Road (S.R. 776), east of Pinedale Drive, and west of Gasparilla Road (C.R. 771), in the Englewood area, Florida, containing 72.41± acres; Commission District III; Petition No. PA-07-11-78-LS; applicant Charlotte County Board of County Commissioners. Recommendation - Growth Management Department: Approval

Jeffrey Crimer said this is the adoption hearing for the Cape Haze Pioneer Trail amendment, described the reason for the change, pointed out the property on visual slides, advised DCA had no objections, and noted approval is recommended.

Commissioner Moore asked why the trail did not go all the way through. Mr. Crimer explained the gap represented land designated for preservation. Commissioner Duffy asked if you can still walk through it. Mr. Crimer replied affirmatively and explained the trail does extend.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER DUFFY MOVED TO ENACT ORDINANCE #2008-081 AND APPROVE PETITION #PA-07-11-78-LS, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

Book 66, Page 1010
September 9, 2008

ADJOURNED: 5:45 PM

Signature on file in Commission Minutes
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

JL