

**BOARD OF COUNTY COMMISSIONERS**

**October 20, 2009**

A meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida.

Members present were: Chairman Duffy, Commissioner Cummings, Commissioner Starr, Commissioner Loftus, Commissioner Skidmore, County Administrator Baltz, Assistant County Attorney Browne, Minutes Supervisor Manley, and Minutes Secretary Carleton. The following members were absent: None.

The Meeting was called to order at **9:00 A.M.** followed by the Pledge of Allegiance.

CHANGES TO THE AGENDA: None.

A. PLANNING AND ZONING PUBLIC HEARING (Proofs of publication were in order for all petitions.)

(1) RECOMMENDED ACTION: Approve an ordinance adopting petition Z-09-07-09. BUDGETED ACTION: None

**(Chairman Duffy polled the Board for ex parte disclosures and there was none. Minutes Supervisor Manley administered the oath to prospective witnesses.)**

Jie Shao presented rezoning petition Z-09-07-09 for petitioners, Rotonda HG LLC, which paralleled visual slides, and based upon packet material and staff report dated August 25, 2009; advised staff and the Planning and Zoning Board recommend approval with conditions 'a' through 't'.

Attorney Rob Berntsson spoke on behalf of petitioners in support of approval of Ordinance and adoption of Petition Z-09-07-09; clarified the property location; and responded to **Chairman Duffy's** inquiry on school concurrency.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2009-044, SECONDED BY COMMISSIONER LOFTUS.**

*Commissioner Cummings* commented on approving older-type development layouts rather than newer, more effective layouts with better design standards.

**ATTORNEY BROWNE CLARIFIED THE MOTION INCLUDES STAFF RECOMMENDED CONDITIONS "a" through "t." COMMISSIONERS SKIDMORE AND STARR REPLIED AFFIRMATIVELY.**

*Commissioner Loftus* stated he hopes final design will show parking in the rear. Ms. Shao pointed out that condition "b" on the commercial portion county staff reserves the right to place additional conditions upon the proposal for final site plan approval. *Chairman Duffy* stated she hopes the latest design techniques that are appropriate are being used.

**MOTION CARRIED 5:0.**

(2) **RECOMMENDED ACTION:** Approve a Preliminary Plat for Punta Gorda Crossing, Petition PP-09-02-02. **BUDGETED ACTION:** None

**(Chairman Duffy polled the Board for ex parte disclosures. All Commissioners advised there had been no additional ex parte since the last meeting with petitioners.)**

*Steve Ellis* presented for Petitioner, Punta Gorda of Charlotte County, LLC, Petition PP-09-02-02 for approval of a Preliminary Plat for a commercial subdivision called Punta Gorda Crossings; gave a visual presentation per packet material and staff report dated February 3, 2009; indicated staff recommends approval with the fifteen conditions noted; and advised that the Planning & Zoning Board recommended approval with conditions on April 13, 2009.

*Attorney Charlie Bailey* spoke on behalf of petitioner in support of approval of Preliminary Plat for Punta Gorda Crossing, Petition PP-09-02-02.

*Jim Sanders* spoke in support of the development moving forward based upon what was presented at this meeting.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER LOFTUS MOVED TO APPROVE THE PRELIMINARY PLAT FOR PUNTA GORDA CROSSING, PETITION PP-09-02-02, WITH THE 15 CONDITIONS, SECONDED BY COMMISSIONER SKIDMORE.**

**Commissioner Cummings** asked if any conditions were different than the last two times the Commissioners looked at the proposal; and requested clarification that no written changes were made with the issue that resulted in the denial of this proposal, that only verbal conversation had occurred. Mr. Ellis commented on modification of condition 4; and explained that condition 5 reads exactly as before. Commissioners discussed the need for condition 5 modifications to be in writing.

Attorney Browne commented on prior meetings at which the preliminary plat was considered; and indicated conditions discussed regarding access must be in writing before final plat approval. **Commissioner Skidmore** indicated the Board should move the item forward and allow the parties to go through the process available to work out the differences. **Commissioner Loftus** agreed access should be in writing. **Chairman Duffy** requested clarification of where the access is and substance of changes and concerns of payment, which Mr. Ellis provided.

Attorney Browne requested that Attorney Bailey confirm that at the Motion to Re-consider, he agreed publicly that he was not going to require any contribution to the improvement on the property. Attorney Bailey responded that the internal private roads depicted on the subdivision plat are to be constructed by the developer and commented further on the easement of the adjoining property line.

**(Minutes Supervisor Manley administered the oath to all witnesses who have spoken or were yet to speak on this agenda item.)**

Discussion ensued between the Board and Attorney Bailey regarding the agreement and what would be included in the reimbursement for the construction of the easement.

Dale Johnson, of Punta Gorda of Charlotte County, LLC, addressed concerns involving payment of easement, internal roads, and connector road. Attorney Bailey indicated the County's Code has

a process for determining fair market value and handling grievances between parties. Attorney Browne agreed.

Jim and Cathy Sanders indicated that they would like to see the project move forward but are not yet in full agreement until it gets to a time of final plat approval. **Commissioner Skidmore** pointed out the motion included conditions and that the Sanders were in favor of moving the agenda forward. Attorney Browne advised that preliminary plat can be approved as long as the 15 conditions are met. **Commissioner Cummings** stated he would not support the motion. **Chairman Duffy** requested a recess in order to confer with County legal staff.

**RECESS: 10:00 AM - 10:15 AM**

(Additional discussion ensued.) **Commissioner Cummings** commented on his requirements before supporting approval.

**MOTION CARRIED 4:1. COMMISSIONER CUMMINGS OPPOSING.**

**CITIZENS COMMENTS: None**

**AA. County Administrator:**

Mr. Baltz provided a draft letter directed to the Regional Water Authority setting forth Charlotte County's reasons for denial of the Authority's request pursuant to their September 29, 2009 letter regarding the construction of a new water transmission pipeline and for Charlotte County's consent for a new Authority Water Supply Facility pursuant to section 22 of the 2005 Master Water Supply Contract. **Commissioner Cummings** opined that the reasons for denial should be as broad-based as possible. **Commissioner Skidmore** agreed. Mr. Baltz pointed out this was a draft letter, which would be broadened further, and a final draft furnished to Commissioners. **Commissioner Cummings** said the reasons in the letter are sufficient and that he was only pointing out that the reasons being stated should be as broad as possible.

Mr. Baltz asked if is the Board's desire to cancel the last BOCC meeting before the Christmas holiday, which is December 22, 2009, as has typically been done in the past. (**Consensus of approval to cancel the December 22, 2009 Regular BOCC Meeting.**)

BB. County Attorney: None

CC. Commissioner Comments: None

ADJOURNED: 10:30 AM

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

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