

LAND USE PUBLIC HEARINGS

BOARD OF COUNTY COMMISSIONERS

JANUARY 17, 2006

Public Hearings before the Board of County Commissioners on Planning and Zoning Land Use petitions were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Thomas G. Moore and Commissioners Adam Cummings, Matthew D. DeBoer and Sara J. Devos. **(Commissioner D'Aprile was not present for this meeting.)** Also in attendance were Assistant County Administrator Kelly Shoemaker, Assistant County Attorney Richard A. Browne, Executive Assistant to the Board of County Commissioners Joann Dillon and Deputy Clerk Karen S. Mitchell. The meeting was called to order at **9:01 A.M.** followed by the Pledge of Allegiance to the Flag. **(Proof of Publication was in Order.)**

I. PLANNING AND ZONING AGENDA

Agenda Item 1 - Z-05-09-60 (Quasi Judicial) District III

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) (Chairman Moore polled the Board for Ex-Parte Disclosures. Chairman Moore and Commissioners Cummings, DeBoer and Devos said yes and they would file the appropriate form.) Thomas A. Cookingham, Planning Services Manager, explained the subject site was located at the southern end of Manasota Key in the Englewood area and was developed with the legal non-conforming Weston's Resort, the current zoning on the property is Manasota Key Multi-family-7.5 (MMF-7.5) and -12 (MMF-12) with the corresponding Future Land Use Map (FLUM) designations of Medium Density Residential and High Density Residential. Mr. Cookingham stated Deborah Weston and J.S. Weston's Inc. were requesting a rezoning from MMF-7.5 and MMF-12 to Planned Development (PD) in order to make the legal, non-conforming commercial use conforming under the County's Zoning Regulations but the commercial use was still not consistent with the current FLUM designations. Mr. Cookingham explained in addition to being a legal non-conforming use, the structures of the resort facility were legally non-conforming structures but

according to the County Code the owner can keep the uses and structures as is, and in the case of a catastrophic event the non-conforming use may be rebuilt within a year, albeit to current codes. Mr. Cookingham stated the proposed PD rezoning was inappropriate as it would be amending the list of principal permitted uses in the two zoning districts and it would permit uses that were not contemplated in the two FLUM designations. Mr. Cookingham stated the Planning and Zoning (P&Z) Board recommended approval of this PD rezoning with conditions and staff recommended denial. Robert H. Berntsson, Esq. with the law firm of McKinley, Ittersagen, Gunderson & Berntsson, P.A., spoke on behalf of the applicant, reviewed the handout he distributed which now included the landscaping plan for the entire resort, explained the petitioner has a buyer for the resort who has the same goals of retaining resort, the PD would allow upgrading the property but not expansion of the facility, he disagreed with staff's report, Mrs. Weston has two back-up offers both at more money but both were with condo developers who will tear down the resort, if this is denied it will become a condominium development, and noted the P&Z Board unanimously recommended approval. Bob Carroll, a resident of Manasota Key, said he was there on behalf of Betsy McCallum who couldn't attend, and read her notarized statement in opposition to the proposed rezoning. **(County Administrator Bruce D. Loucks replaced Assistant County Administrator Kelly Shoemaker for this portion of the meeting.)** Wilma Katzu, Coastal Wildlife Club, said their organization was very familiar with the Weston property due to daily sea turtle nest monitoring on the beaches in this area, commented on the severe erosion at this location, they support staff's report, opined the buildings on this property will eventually be replaced, and denial will better ensure a lower density at this location which was clearly in the public interest. Steve Stump, a Manasota Key full-time resident, voiced support for staff's report, commented on fire safety and evacuation concerns, opined the proposed improvements can be done without changing the existing zoning, and requested denial. B.J. Galberaith, Manasota and Sandpiper Key Advisory Committee (MASKAC) Member and Architectural Board Member, stated approval would negate all the work that's been done and the Overlay Code that's in place, reviewed the five reasons the Architectural Committee denied the rezoning, said MASKAC agreed, it wasn't their responsibility to recommend approval of a zoning change for the sole purpose of maximizing an owner's sales potential, and they also felt it was

not in the best interest of the County's citizens. Betty Sue Carroll stated she agreed with the previous speakers who support denial of the requested rezoning. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0.)** Attorney Berntsson said this wasn't a case of making a better deal, the PD conditions would keep the resort in place as well as allow the Board to add conditions, noted until the rezoning was requested there were no complaints about the resort, and requested approval. **Commissioner DeBoer** asked why it wasn't appropriate to stay legal non-conforming. Attorney Berntsson said a legal non-conforming use was something you want to go away over time. **Commissioner Cummings** asked if the resort was ultimately demolished and rebuilt with condos or whatever, would the armoring along the beach be a permanent condition for the demolition and reconstruction or would they be required to remove it. Mr. Cookingham said once a new project is started everything is re-reviewed, the existing armoring would be re-reviewed for appropriateness, and added if a structure was destroyed the current Manasota Key plan allows for rebuilding the structure to it's former state even if it was non-conforming, so he didn't know why rezoning this to a PD was really necessary. **Commissioner Devos** asked what the PD would give the applicant. Mr. Cookingham explained it would make a commercial use which wasn't allowed by right in a MMF zone. **Commissioner Devos** said what's being proposed wasn't going to be operated any differently than it was now. Mr. Cookingham responded that was his understanding. **Commissioner Devos** said the PD process allows the Board to put in whatever requirements, restrictions and conditions they want, that go with the property, in order to protect the islanders. Richard A. Browne, Assistant County Attorney, responded if the Board grants the PD and imposes conditions, and it disappears tomorrow, the approval with those conditions would still be in place. **Commissioner DeBoer** asked at what point in the process would the Board need to enumerate the conditions. Mr. Cookingham said this was the point where the Board needs to make a decision. Attorney Browne agreed the conditions need to be imposed as part of the approval process. **Commissioner DeBoer** recalled issues and problems with daily and weekly rentals. Mr. Cookingham said daily rentals weren't allowed in the MMF zone. **Commissioner DeBoer** asked if the requested change would preclude the condo scenario Attorney Berntsson mentioned. Mr. Cookingham said no. **Commissioner DeBoer** said the resort could continue to function as it is as a

legal non-conforming use even under a change of ownership. Mr. Cookingham said that's correct. **Commissioner Cummings** asked the number of units. Attorney Berntsson said currently there were 83 units onsite but if the resort was torn down it could be permitted to develop 50 condominium units. **Commissioner Cummings** asked how many development units would exist under the proposed PD. Mr. Cookingham said a PD would have no density associated with it. **Commissioner Devos** referred to the conditions in Exhibit B, said it almost seemed like it would be better with the 50 unit condominium so they could get rid of all these issues, and she knows there's a fear that if they do the PD then they'll have all these other applications that would usurp what the committee has worked so hard to put together for their island but she honestly feels in this particular case the PD was going to provide greater protection for the residents of the island. **(Executive Assistant Judy Hunter replaced Executive Assistant Joann Dillon for this portion of the meeting.)** Attorney Berntsson stated the DRC process was very limiting here because there was confusion on how to use the DRC process since it's usually for new construction; agreed the PD was more limiting, said conditions d, e, f, and g of Exhibit B were conditions he and Mr. Cookingham both agreed to; and agreed more parking would be needed to construct the same 83 units today but this was about allowing what's been there in the unique situation of this resort. **Chairman Moore** said if they go with the PD today they must stipulate the rules today. Mr. Cookingham concurred. **Commissioner Devos** said she wasn't prepared right now to list everything that needs to be included so what she would like was to table this, and ask the parties involved to have a discussion and bring this back to us this afternoon with recommendations. **Commissioner Cummings** said he's having trouble with this, it sounds like they're having a Future Land Use Map (FLUM) discussion in a Quasi-Judicial setting, the question is do they want to keep the current resort facility with it's encroachments and armoring on the beaches or not, and he has no strong feelings one way or the other but that's a Comprehensive Plan (Comp Plan) decision. **(Executive Assistant Joann Dillon replaced Executive Assistant Judy Hunter for the remainder of the meeting.)** **Commissioner DeBoer** stated the property can be used as currently zoned, he has concerns about the long-term ramifications if they go forward with a PD and agreed future land use discussions were not appropriate now.

**COMMISSIONER DeBOER MOVED DENIAL PF PETITION Z-05-09-60 (PD),
SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).**

RECESS: 10:50 A.M. - 11:03 A.M.

Agenda Item 2 - PA-05-10-68 (Legislative) District III

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses for this item and the companion rezoning which is next on the agenda.) Jie Shao, Planner II, explained DCS Group, LLC was requesting a small scale plan amendment from Commercial Corridor to General Mixed Use on 1.14+ acres, the companion rezoning (Z-05-10-69) was from Commercial General (CG) to Planned Development (PD), the site was located on Placida Road in the Englewood area, reviewed the surrounding land uses, and advised the purpose was to allow the applicant to develop mixed uses on the site consisting of offices and residential. Ms. Shao stated the demand for mixed uses is new in Charlotte County, the County adopted Policy 2.2.28 of the Comp Plan last year which particularly addresses mixed use types of development and the proposed development has the support of numerous local residents and the Grove City Planning Committee. Ms. Shao said both staff and the P&Z Board recommend approval. Warren Ross, Esq., Agent for the applicant, said they support staff's report, they accept the 17 rezoning conditions and DRC's 32 conditions, the height issue regarding the parapet wall has been worked out so it can be granted administratively, and requested approval. Audrey Shinske, Grove City Civic Association and Grove City Planning Committee Chair, voiced support for this project. David Dayton, Grove City resident, said this proposal would be good for Grove City and asked the Board to approve it. **COMMISSIONER DEVOS MOVED APPROVAL TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0.) COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-002 FOR PETITION PA-05-09-60, SECONDED BY COMMISSIONER CUMMINGS.** Commissioner DeBoer asked where the conditions were stipulated. Mr. Cookingham said in the next rezoning item. **Chairman Moore** asked if there were any unresolved eagles' nest issues. Sandra Newell, Giffels-Webster Engineers, Inc., explained this wasn't an issue, they've done an environmental report and received preliminary approval, and they have to get U.S. Fish and Wildlife approval which was a normal site and development condition. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 3 - Z-05-10-69 (Quasi-Judicial) District III

(Chairman Moore polled the Board for Ex-Parte Disclosures. Chairman Moore said yes and he would file the appropriate form.) Ms. Shao stated this was the companion rezoning to the previous petition, her same comments applied, and both staff and the P&Z Board recommend approval with the conditions detailed in Exhibit B of the proposed ordinance. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0).** Commissioner DeBoer said he wanted to make sure the 17 conditions were in the proposed ordinance. Ms. Shao confirmed they were. **COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-003 FOR PETITION Z-05-10-69, SECONDED BY COMMISSIONER DeBOER.** Commissioner Devos said she wanted to make sure the DRC conditions were included. Attorney Berntsson explained those were in Exhibit B. **Commissioner Devos** said she wished to amend her motion to include the conditions part of Exhibit B. **Commissioner DeBoer** amended his second. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 4 - PA-05-09-56 (Legislative) District IV

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses for this item and the companion rezoning which is next on the agenda.) Inga Williams, Planner III, explained this plan amendment was initiated by the County requesting a FLUM amendment from Low Density Residential to Preservation with a companion rezoning from Residential Single-family-5 (RSF-5) to Environmentally Sensitive (ES) for 7.1+ acres, this petition was part of the sequence of actions needed to conclude a certification of density, the Treetops at Ranger Point Homeowners' Association certified 41 units of density from the subject site, no density was left on the property, the land was placed under a conservation easement and the change to Preservation will be indicative of the non-developable status of the property. Ms. Williams stated staff and the P&Z Board recommend approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).** **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-004 FOR PETITION PA-05-09-56, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 5 - Z-05-09-57 (Quasi-Judicial) District IV

Ms. Williams stated this was the companion rezoning to the previous petition, her same comments applied, and both staff and the P&Z Board recommend approval. **(Chairman Moore polled the Board for Ex-Parte Disclosures. There was none.) THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-005 FOR PETITION Z-05-09-57, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0).**

Agenda Item 6 - NOPC-05-09-58 (Legislative) District I

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) (Chairman Moore polled the Board for Ex-Parte Disclosures. There was none.) Jason Utley, Planner II, advised Attorney Haymans has requested this item be continued. Michael P. Haymans, Esq. with the law firm of Farr, Farr, Emerich, Sifrit, Hackett and Carr, P.A., clarified the continuance was requested to allow the applicant to hold a town hall meeting to explain what's being proposed, requested this be continued to the next regular Board meeting and said this won't be controversial. Bruce D. Loucks, County Administrator, stated there was room to add this to the January 24, 2006 agenda but suggested it be scheduled for 2:00 P.M. or after. **Chairman Moore** stated this item will be incorporated into the January 24, 2006 meeting but they will have to notify him of the time. Attorney Haymans clarified this needs to be continued to a date and time certain in order to avoid a publication notice issue. **COMMISSIONER DeBOER MOVED TO CONTINUE PETITION NOPC-05-09-58 UNTIL JANUARY 24, 2006 AT 2:00 P.M., SECONDED BY COMMISSIONER CUMMINGS. Commissioner Cummings** said it appears from the report that Public Works has some concerns that will need to be addressed. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 7 - NOPC-05-11-70 (Legislative) District II

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) (Chairman Moore polled the Board for Ex-Parte Disclosures. There was none.) Jason Utley, Planner II, explained the purpose of this petition was to adopt a resolution amending the development order for Tern Bay

Development of Regional Impact (DRI) formerly known as Caliente Springs; and the resolution will incorporate Agreement 2005-005 regarding Burnt Store Road improvements into the development order, provide for biennial monitoring reports to provide accounting and reporting of proportionate share consumption and impact fee credit availability, and provide for a phasing change in the construction of previously approved recreational facilities. Mr. Utley indicated the subject site involved was located approximately three miles north of the Lee County line, west of C.R. 765 (Burnt Store Road), east of Charlotte Harbor, and approximately southwest of U.S. Highway 41. Mr. Utley said the petition will not contribute to decreasing property values or negatively affect living conditions for other properties in the area, the proposed resolution has been revised to reflect staff's recommended language correction as detailed on page 13 of Tab 3, and both staff and the P&Z Board recommend approval. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant in support of the petition and explained the Development Order requires this be incorporated into the DRI. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0).** Commissioner DeBoer asked for clarification on the phasing of recreational facilities. Attorney Waksler explained items like the golf course and tennis courts were being moved up in the schedule so they will be built sooner rather than later. Commissioner DeBoer said that's great. **COMMISSIONER DEVOS MOVED APPROVAL TO ADOPT RESOLUTION #2006-009 FOR PETITION NOPC-05-11-70, SECONDED BY COMMISSIONER DeBOER.** Commissioner DeBoer asked if the corrected language needed to be specifically stated in the Board motion. Mr. Utley responded the proposed resolution contains the correct language. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 8 - SV-05-09-17 (Legislative) District II

James Dossett, Development Review Manager, explained Richard and Donna Hendrickson were requesting a street vacation to vacate the end of Peeples Drive and Venice Canal of Rio Villa 1st Addition located in Section 19, Township 41, Range 23 containing approximately 0.04+ acres. Mr. Dossett said staff has reviewed the petition and determined that vacating the described portion of this Subdivision would not be appropriate since this portion

of Peeples Drive provides public access to the Venice Canal and the portion of Venice Canal that is being requested to be vacated is preferred to be used for canal maintenance; and stated it is recommended that the applicant apply for an Occupation of Right-of-Way (ROW) with an easement dedicated to the County for Canal Maintenance. Mr. Dossett said both staff and the Planning and Zoning (P&Z) Board recommend denial. **(Assistant County Administrator Roger Baltz replaced County Administrator Bruce D. Loucks for this portion of the meeting.)** Michael P. Haymans, Esq. with the law firm of Farr, Farr, Emerich, Sifrit, Hackett and Carr, P.A., spoke on behalf of the applicant, explained Peeples Drive doesn't go to the water, there was no public roadway access because the connecting parcel of land is privately owned, commented on the over-dug canal situation, and said the owners want to own and maintain this portion of Peeples Drive. Dr. Dossett clarified staff recommended denial based on the need to have some place to put the debris removed from the canal during maintenance, this became very important during the aftermath of the hurricane, and that's the reason Public Works doesn't recommend the vacation. **Commissioner DeBoer** said there are a number of instances like this, staff was trying to maintain a Board policy that we absolutely protect every access to waterfront, he has a number of requests from citizens in the Port Charlotte area where there's a piece of property that's basically land-locked except for access from the water, and opined they have a larger policy issue here and having maintenance easements on the property as a condition of vacating it wasn't a bad option but trying to maintain property like this as a public access to water was really a policy issue the Board needs to start addressing. **Chairman Moore** said he agreed with the concept that they don't vacate streets that go all the way to the water but he didn't view this as the same thing. **Commissioner DeBoer** agreed with Attorney Haymans, said the County isn't buying property when it approves a plat so if they vacate a dedicated right-of-way (ROW) half of it has to go to each of the abutting properties, this is a platting issue, he thought vacating this was okay as long as they have the maintenance easement put on top of it, and then they will have to try to get the maintenance easement over from Peeples Drive to it which he thought was a good solution. Attorney Haymans responded it was a condition they would accept. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., said she endorsed **Commissioner DeBoer's** comments

wholeheartedly, agreed this was a platting issue, vacating but retaining a maintenance easement was the proper way to go, and it also establishes a policy staff can follow in the future. Wayne Williams, said he's a resident on Peeples Drive, he agreed with **Commissioner DeBoer** and Attorney Haymans, he'd been an attorney in California for over 30 years, and granting a maintenance easement to the subject property was the correct solution. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0).** **Commissioner Cummings** asked the implications from a policy level between vacating the property and granting a maintenance easement to the County versus retaining the property and the County giving the land owner an occupation of that property. Mr. Dossett explained with the vacation the house could be that much bigger when rebuilt, Public Works would want to have that area totally encompassed in an easement for potential hurricane recovery or similar use, and the improvements would have to be fairly limited because you cannot fill it with gazebos, docks, decks and so on and still have a place for Public Works to have access from the water to place debris. Attorney Haymans said it has to do with whether the property owners were paying tax on that land as would be the case with granting a maintenance easement to the County but if the County continues to hold the property in trust for the purpose for which it was dedicated which in this case was a canal the developer never finished and because this was never a canal there would be cause for the vacation. **Commissioner Cummings** summarized his understanding now was if the County gives up the property and grants a maintenance easement the property owners can still landscape it, seawall it, etc., the difference was they can build a little bigger house and the setback would be measured from the edge of the canal; if the County retains ownership and grants an occupation they can still put in landscaping, a seawall, etc. but the house would be set further back; and he didn't have really strong feelings but he did feel they need to preserve the ability to temporarily deposit debris on this piece of property during clean-ups. **Commissioner Devos** agreed with **Commissioner DeBoer** that the vacation was the right and best action and with making it a policy issue in the future. **COMMISSIONER DeBOER MOVED APPROVAL TO ADOPT RESOLUTION #2006-010 FOR PETITION SV-05-09-17, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 9- SV-05-09-18 (Legislative) District I

James Dossett, Development Review Manager, explained Robert and Nancy Parker were requesting a street vacation to vacate a portion of Magnolia Avenue, an unimproved street, between Lot 16 and Lot 17 of the J.H. Lucas Subdivision, Section 17, Township 40S, Range 24E containing 0.88+ acres; and clarified the Parkers own both Lots 16 and 17. Mr. Dossett indicated all utilities have been notified and none have facilities in the described area. Mr. Dossett advised the P&Z Board recommended approval with one condition that the applicant's engineer investigate whether a drainage easement was required, he has received a letter from Herston Engineering saying no drainage easement was required as there was no public drainage, and staff recommends approval with no conditions. Christopher Dotson said he lived to the west, Magnolia Avenue stretches from the edge of the Parkers' property all the way down to Sections 18 and 19 that was closed off in 1980, the only legal access he has was to go through their property and down just to the edge of the property at Blackjack Circle, and if the vacation was granted the only legal access to his property would be blocked. **(Discussion ensued on the issues of current legal access and being landlocked.)** COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). Commissioner Devos suggested this be tabled until staff can provide them with more information. Commissioner Cummings said he thought one of the conditions for approval of a vacation was it can't adversely affect legal access to another property. Attorney Browne agreed. **(Discussion continued regarding areas that have or have not been vacated using the GIS map displayed on the overhead monitors.)** Chairman Moore asked if the Board wished to continue this. Commissioner Devos said she didn't feel staff gave them enough information for them to make a determination today. COMMISSIONER DEVOS MOVED TO CONTINUE PETITION SV-05-09-18 UNTIL THE NEXT LAND USE MEETING SCHEDULED FOR FEBRUARY 21, 2006, SECONDED BY CHAIRMAN MOORE. Commissioner DeBoer stated he was familiar with the area, the main access as explained by Mrs. Parker was correct, he was didn't have a problem with this vacation and he felt the bigger issue was the same problem they were having in Harbor Heights and that's allowing people to build in areas that have unimproved roads. Commissioner Devos pointed out the Ranchettes was another location like this where access could be on private property.

CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS CUMMINGS AND DEVOS VOTED "YES" AND COMMISSIONER DeBOER VOTED "NO." MOTION CARRIED: (3:1).

Agenda Item 10 - PV-05-09-14 (Legislative) District I

James Dossett, Development Review Manager, explained Jim and Margaret Crews, Trustee, were requesting a plat vacation to vacate a portion of Leonard Park, a subdivision located in Section 18N, Township 40S, Range 26E containing 19.55 acres, the applicants property was certified as a Sending Zone (SZ), and a plat vacation was required as part of the certification. Mr. Dossett indicated staff has reviewed the petition and determined that vacating the described portion of this subdivision would be appropriate for the SZ, all utilities have been notified, only Florida Power & Light Company (FPL) has been unable to determine if there are any lines in the area, and the applicant must contact the utility to verify that there are no affected lines in the area. Mr. Dossett stated both staff and the P&Z Board recommend approval with the condition that any necessary FPL easement be provided. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY CHAIRMAN MOORE AND DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ADOPT RESOLUTION #2006-011 FOR PETITION PV-05-09-14 WITH THE CONDITION THAT AN FPL EASEMENT BE PROVIDED AS NEEDED, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0).**

Agenda Item 11, PV-05-09-15 (Legislative) District IV

James Dossett, Development Review Manager, explained the Homeowner's Association of Treetops at Rangers Point were requesting a plat vacation to vacate a portion of the El Jobean Ward 1, a portion of Nutsedge Road platted as Newcombe Road, and a portion of El Jobean Ward 2 located in Section 28N, Township 40S, Range 21E containing 7.1+ acres. Mr. Dossett indicated the applicant's property was certified as a Sending Zone (SZ) and a plat vacation is required as part of the certification. Mr. Dossett stated staff has reviewed the petition and determined that vacating the described portion of this subdivision would be appropriate for the SZ, all utilities have been notified, only the El Jobean Water Association has facilities in the area and would require an easement, and both staff and the P&Z Board

recommend approval with one condition that the applicant must provide El Jobean Water Association with an easement for existing facilities before the vacation is recorded. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (4:0). COMMISSIONER DeBOER MOVED APPROVAL TO ADOPT RESOLUTION #2006-012 FOR PETITION PV-05-09-15 WITH THE CONDITION THAT AN EASEMENT FOR THE EL JOBEAN WATER ASSOCIATION BE PROVIDED BEFORE THE VACATION IS RECORDED, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 12 - PV-05-09-19 (Legislative) District III

James Dossett, Development Review Manager, stated the petitioner has requested this item be continued to the next land use meeting. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant, and clarified this was being done so this petition would run concurrently with the rezoning of the same parcel. **COMMISSIONER DeBOER MOVED TO CONTINUE PETITION SV-05-09-19 UNTIL THE NEXT LAND USE MEETING SCHEDULED FOR FEBRUARY 21, 2006 TO BE HEARD WITH THE REZONING ISSUE, SECONDED BY CHAIRMAN MOORE AND DECLARED UNANIMOUS (4:0).**

Agenda Item 13, NC-05-12-01 (Legislative) District III

James Dossett, Development Review Manager, explained Jack Donkel has requested a street name change for 1st through 9th Streets in the Rock Creek Park Subdivision located in Englewood, the request was to add "East" to all of the street names in order to match the GIS records, street signs, Property Appraiser Office and Tax Collector offices, and the 911 System. Mr. Dossett indicated both staff and the P&Z Board recommend approval of the street name change. Jack Donkel said he was so happy today to get this long-standing problem fixed. Ginger Aiken said she supported this and asked the Board to please clean up this mess. **COMMISSIONER CUMMINGS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ADOPT RESOLUTION #2006-013 FOR PETITION NC-05-12-01, SECONDED BY COMMISSIONER CUMMINGS. Commissioner DeBoer** said he really worries when he hears EMS is having problems because of street names, they went through a lot to renumber streets in Charlotte County based on a grid but now he's wondering what they did it for, and asked the County

Administrator to look into that program. Mr. Dossett reported staff has 32 more of these that will be brought to the Board very shortly. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Chairman Moore stated they have an Executive Session 2:00 P.M. expected to last about one hour and they will reconvene after it concludes.

RECESS: 1:06 P.M. - 3:30 P.M.

(Commissioner Devos was not present and County Administrator Bruce D. Loucks replaced Assistant County Administrator Roger Baltz for the remainder of the meeting.)

Chairman Moore announced the Executive Session had adjourned at approximately 3:15 P.M. **Commissioner DeBoer** said they needed to put a few things on the record as a result of the Executive Session they just had on the phosphate litigation, "One was that the Board of County Commissioners is going to invite to a meeting as soon as we possibly can, I will try for a week from today, whatever I can get in I'm sure is the quicker the better as far as the Board is concerned, to have the Department of Environmental Protection and the representatives from Mosaic come to the County Commission to discuss the two issues that we had in terms of the Altman permit. Adam you're going to have to help me. One of them was the issue of the recharge wells and the second one was what they were doing with the sand tailings. Both of those groups have committed to me individually that they would be in favor of doing this, so I'm going to go ahead and extend that. As soon as the Chairman can get us out of here, I will make those phone calls and I will give the information back to the County Attorney or the County Administrator to relate to all of you. And the second thing was that Charlotte County is going to see if we can bring together a phosphate summit which would be for DEP, Mosaic, SWFWMD and all the affected counties in south Florida - Charlotte, Lee, Sarasota, DeSoto, Hardee and Polk County. Also I think we should probably have the Peace River/Manasota Regional Water Supply Authority in there. But basically have a phosphate summit to talk about how we are going to, as a group, how we are going to regulate and help regulate the phosphate mining in the bone valley in southwest Florida forever. Possibly that we might even be able to join together, and become part of a working group that will work with DEP in

terms of their cumulative impact study that they are doing right now and creating the resource management plan that would come out of that study, and then hopefully help as a group to shape what legislation will actually be enacted to carry out that resource management plan and to regulate the industry." **Commissioner Cummings** said he thought the Commissioner covered everything.

(Attorney John Shamsey replaced County Attorney Janette Knowlton for the remainder of the meeting.)

Agenda Item 14, Manasota/Sandpiper Key Architectural Design Guidelines

Thomas A. Cookingham, Planning Services Manager, explained the Board accepted the Manasota and Sandpiper Key Community Plan as the blueprint for future development of these two islands, the proposed ordinance implements a goal of the community plan that will result in standards applicable to all new construction and significant additions/remodeling on Manasota and Sandpiper Key, and applies to residential single-family, residential multi-family and commercial. Mr. Cookingham reviewed some of the key points in the proposed ordinance, and said the architectural standards were designed to be flexible enough to allow for various architectural styles while at the same time maintaining uniformity in terms of construction elements and proportions. **Commissioner DeBoer** asked why wall art was prohibited. Mr. Cookingham responded he wasn't sure it was prohibited but a member of the Advisory Committee was present and would be better able to address that. **Commissioner DeBoer** asked why wood siding was not permitted if it was installed at an angle. Mr. Cookingham asked that this be addressed the same way. B.J. Galberaith, Manasota and Sandpiper Key Advisory Committee (MASKAC) Member and Architectural Board Member, clarified wall art was allowed on the backs and sides of buildings if approved by the Architectural Committee, and regarding slatted boards they have been told by architects they were not as safe or architecturally attractive. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY CHAIRMAN MOORE AND DECLARED UNANIMOUS (3:0).** **Commissioner DeBoer** said if that's what the folks want that's fine but he felt the wall art in Punta Gorda was pretty neat and gives an ambiance to the commercial area and added he

thought it was done through an approved program. **Commissioner Cummings** agreed it was through an approved program and he even thought there was a group that helps fund it. **COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-006 AMENDING THE MANASOTA AND SANDPIPER KEY OVERLAY ZONING DISTRICT, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS (3:0).**

Agenda Item 15, Manasota/Sandpiper Key Sign Ordinance

Thomas A. Cookingham, Planning Services Manager, explained signs for businesses and other development can add or detract from a community's appearance, excessive signage can even result in dangerous conditions while driving, and as a proactive tool for future development Manasota and Sandpiper Key Advisory Committee (MASKAC) proposes the implementation of the sign requirements for new signs on both islands. Mr. Cookingham reviewed some of the key points in the proposed ordinance, said the proposed ordinance will produce enforceable guidelines for new signage, and it was expected that adoption of these guidelines will result in the protection of the pristine corridors on Manasota and Sandpiper Key. Mr. Cookingham stated when the P&Z Board recommended approval it was with the request to extend the sunset clause from January 1, 2007 to January 1, 2008, and both staff and MASKAC concur. B.J. Galberaith, MASKAC Member and Architectural Board Member, thanked the Board for their support and asked anyone with information on a wall art program to contact her or any MASKAC member. **COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (3:0).** **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-007 AMENDING THE MANASOTA AND SANDPIPER KEY OVERLAY ZONING DISTRICT, SECONDED BY COMMISSIONER CUMMINGS.** **Chairman Moore** asked for clarification on the sunset provision. Mr. Cookingham reiterated the change was from January 1, 2007 to January 1, 2008. **Commissioner Cummings** responded to Mrs. Galberaith and suggested she contact the City of Punta Gorda or Marilyn Smith-Mooney. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).**

Commissioner DeBoer requested time to update the Board on his recent trip to Tallahassee and commented on Eminent domain, and misinformation regarding Babcock and the water issues. **Commissioner DeBoer** said he would like for South Florida Water Management District (SFWMD), Southwest Florida Water Management

District (SWFWMD) and the Board to have a sunshine discussion so its recorded and reported. Bruce D. Loucks, County Administrator, stated during the Executive Session he spoke with SFWMD and SWFWMD representatives reiterating to them the criteria that has to be met for Charlotte County to get water off Babcock Ranch, and he will arrange for the meeting the Commissioner requested if that's the Board's desire. **Commissioner Cummings** said he didn't object but he would feel much better if it was SFWMD Executive Director Carol E. Wehle addressing the Board. Mr. Loucks said he would convey that. **Commissioner DeBoer** concurred, stated his last issue dealt with a citizen complaint regarding a contractor from Miami who rehabbed their house that was severely damaged by Hurricane Charley, during the process the contractor didn't keep their workers' compensation insurance up to date so the home owners can't get a Certificate of Occupancy to get the power turned on because there's a hold on the contractor's license, opined they shouldn't hold the property owners hostage because the County's process doesn't work timely, and asked the other Board members to pass their comments to Mr. Loucks.

MEETING ADJOURNED: 4:15 P.M.

Thomas G. Moore
Chairman

ATTEST:

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

By: _____
Deputy Clerk

/ksm