

LAND USE PUBLIC HEARINGS

BOARD OF COUNTY COMMISSIONERS

APRIL 18, 2006

Public Hearings on Planning and Zoning Land Use petitions were held before the Board of County Commissioners at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Thomas G. Moore and Commissioners Adam Cummings and Thomas C. D'Aprile. Also in attendance were County Administrator Bruce D. Loucks, Assistant County Attorney Richard A. Browne, Executive Assistant to the Board Joann Dillon, and Minutes Supervisor Diane J. Nice. The meeting was called to order at **9:04 A.M. (Commissioner Devos was not present for the first portion of the public hearings and Commissioner DeBoer and Chief Deputy Tommy Q. White were not present for the public hearings.) (Proof of Publication was in Order.)**

Following the Pledge of Allegiance, **Chairman Moore** announced an agenda item to set an Executive Session for April 27, 2006 at 8:30 A.M., or as soon thereafter, in the County Attorney's Office Conference Room to discuss settlement from Mosaic regarding the Altman Mine permit. **COMMISSIONER D'APRILE MOVED APPROVAL TO SET THE EXECUTIVE SESSION, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (3:0).**

I. PLANNING AND ZONING AGENDA

Agenda Item 1, Z-05-11-77-TDU (Quasi-Judicial) District III

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Jie Shao, Planner II, presented the petition filed by Paul Reynolds on San Casa Commons for a rezoning from Agriculture (AG) to Planned Development (PD) on approximately 19.92 vacant acres located at 6640 and 6650 San Casa Drive in the Englewood area owned by Jimmy L. and Patricia A. Philman; the site has a Low Density Residential (LDR) Future Land Use Map (FLUM) designation; the purpose of the petition is to increase the

maximum allowable residential density from one unit per 10 acres to 2.06 units per acre for a total of 41 single family units; the site is within the Infill Area of the Urban Service Area and development trends have made this property appropriate for residential development density higher than one unit per 10 acres; the proposed change is consistent with the Comprehensive Plan; the Development Review Committee (DRC) recommended the Concept Plan be approved with conditions A through S; staff recommends approval with the conditions; and the Planning & Zoning (P&Z) Board recommended approval with the conditions. **(Commissioner Devos was present for the remaining portion of the public hearings.)** Terry Dank, engineer for the project, appeared on behalf of the owners and accepted conditions A through S. **Chairman Moore** questioned deletion of the original condition S dealing with the School Board. Ms. Shao explained prior condition S was deleted after conversation with the School Board about the school bus pick up across the street. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0). COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2006-034 AND PETITION Z-05-11-77-TDU FILED BY PAUL REYNOLDS FOR SAN CASA COMMONS BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).** (Commissioner Devos advised she had no ex parte communications regarding this petition.)

Agenda Item 2, Z-04-11-49 (Quasi-Judicial) Commission District I

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications. Commissioner D'Aprile reported he had conversations with the petitioner on the telephone and in person.)

Ms. Shao presented the petition filed by Abdool Zaheer Sattar for a rezoning from Commercial General (CG) to PD on approximately 1.5 vacant acres located on Harborview Road within the Charlotte Harbor Community Redevelopment Area (CRA); the majority of the site has a Commercial FLUM designation; the purpose of the petition is to allow for some intense uses such as an automobile repair shop for minor repair work, sales, and

warehouse storages which are not permitted uses under the existing CG zoning; existing development along this portion of Harborview Road, such as Commercial Intensive (CI) uses to the west and Industrial uses to the north, have made the proposed development appropriate; the proposed PD conditions will minimize visual and noise impacts to residential land uses located to the south and southwest; the DRC recommended approval of the Concept Plan with conditions A through N; the Charlotte Harbor Community Redevelopment Area Advisory Committee (CRAAC) reviewed the proposed development and had no objection; staff recommends approval with the conditions; and P&Z Board recommended approval with the conditions. Alan Garrett, AICP, of Bowie Urban Planners, appeared on behalf of petitioner; advised Mr. Sattar had the Texaco station on the northbound lanes of US 41 in Punta Gorda, it was demolished as a result of hurricane damage, and he was unable to rebuild in that location; petitioner acquired the site on Harborview Road and as a result of a meeting with the CRAAC, an engineer was hired and a PD request was processed with recommendations for approval from staff and the P&Z Board; agreed with all of the conditions; and requested approval. **COMMISSIONER DEVOS MOVED APPROVAL TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0). COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-035 AND PETITION Z-04-11-49 FILED BY ABDOOL SAHEER SATTAR BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JANUARY 31, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** Commissioner **D'Aprile** questioned the need for petitioner to go back to the CRAAC for approval of the architectural design. Mr. Garrett expressed understanding that would not be necessary since it has been coordinated with the Community Development Department. Kathryn J. Lyden, PE, of Sunshine Engineering Ltd. Co., indicated awareness of CRA requirements and the letter of final approval regarding the elevations and plans prior to going to final DRC; she has done several rebuild properties in the CRA area recently; and she has met with Richard Loftus. **Chairman Moore** pointed out water but no sewers are in the CRA area and commented on the need for sewers. Ms. Lyden explained a high pressure force main runs in front of the property; in order to tie into the line, a lift station would have to be installed at a cost of \$40,000 to \$50,000; according to State regulations, a septic system is allowed under specific criteria that has been

met on the site; she has met with Charlotte County Utilities (CCU) officials concerning suitable alternatives; and even though the preference would be to hook into the sewer, it would not be cost effective for the development. **Commissioner Devos** agreed the cost to a new customer to hook up to sewer can be prohibitive, it can be counter productive, and needs to be addressed. **Commissioner Devos** questioned the inclusion of conditions A through N as part of the motion. **Commissioner Cummings** stated that was the intent. **Commissioner Cummings** recalled 12 mini-expansions were done in areas based upon excess capacity in the system so the less costly expansions have been done; CCU is working on new expansions and working with Community Development staff to do Infill Areas first; and an expansion should be brought back soon based on the Comprehensive Plan and growth development. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 3, Z-05-11-78 (Quasi-Judicial) Commission District IV

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Inga Williams, Planner III, presented the petition filed by Paradise Development Group, Inc. for rezoning of 36.87+/- acres from Residential Single Family-3.5 (RSF-3.5), CI, and CG to CG located north of SR 776 (a/k/a South McCall Road), east of Kevitt Boulevard, south of Coliseum Boulevard, and west of Willmington Boulevard in the Port Charlotte area; the FLUM designation is Commercial Center; the applicant has initiated this rezoning to change the RSF-3.5 inconsistency to CG as well as the CI to CG and to consolidate the zoning to CG over all of the property; staff recommends approval; and the P&Z Board recommended approval. Joel T. Arnold appeared on behalf of the petitioner and agreed with all conditions. **(Minutes Supervisor Diane J. Nice administered the oath to Peggy Burke.)** Peggy Burke, a resident on Kevitt Boulevard and a Board Member of the Lake Marlin Homeowners Association, stated she can see the access road from her house and expressed concern about removal of the access road that serves as a buffer as well as constructing the shopping center closer to her house and traffic cutting through the neighborhood to get to Gulf Cove and over to

David Boulevard; and advised other homeowners in the Association feel the same way. (**Minutes Supervisor Diane J. Nice administered the oath of Steven Zigan.**) Steven Zigan, an Englewood resident, commented in support of the proposed development to provide more amenities in the area. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).** **Commissioner D'Aprile** requested an explanation of the buffer to be provided by the project. Mr. Arnold stated buffering is necessary. Ms. Williams explained a "C" buffer might be necessary since it would be high density and Commercial Center along that area with a "D" buffer separating the RSF on the north side. Mr. Arnold stated the site is approximately 600 feet from the northwest corner from the first property in the subdivision. **Commissioner Cummings** concluded the underlying land use is Commercial Center and the zoning is a combination of RSF and commercial and approval of this petition will make the zoning and land use consistent. Ms. Williams agreed. **Commissioner Cummings** recalled Martina Kuche, Planner III, previously identified five locations for commercial nodes to serve residential areas as they build out and questioned if this is one of the nodes. Ms. Williams stated the site is a portion of one of commercial node sites located on the north and south sides of SR 776. **Commissioner Cummings** requested the likelihood of applications being filed to change any of the other property. Ms. Williams explained property to the south is correctly zoned and an inconsistency will still exist on the property to the north zoned residential with a commercial land use. **Commissioner Cummings** questioned the potential for future approval of a residential development on that property. Ms. Williams advised a large scale FLUM amendment would have to be filed and brought to the Board. **Commissioner Cummings** pointed out the Board would have the option to bring the zoning consistent with the land use or the land use with the zoning. Ms. Williams concurred. **Commissioner Cummings** stated the need for commercial nodes has been identified as part of the Comprehensive Plan process and the primary issue will be to address buffer concerns of existing residents. **Commissioner Devos** requested the location of the Myakka River Elementary School. Ms. Williams pointed out to the north and east of the site. **Chairman Moore** questioned if this development will have an impact on the excess road. Ms. Williams stated a vacation is scheduled for hearing next month. **Chairman Moore** requested an

explanation on 14.c. Utilities, Facilities Capacities, that reflects the permitted facility capacity and the current demand for potable water service is equal at 12,758,000 gpd whereas the demand for sewer service is more than the permitted capacity. Ms. Williams stated that would be a misprint. **Chairman Moore** expressed the assumption that the error would be corrected. **Commissioner Cummings** indicated development regulations need to be revised to include pedestrian access across parking lots to reduce traffic and safety hazards. **COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-036 AND Z-94-11-78 FILED BY PARADISE DEVELOPMENT GROUP, INC. BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** **Commissioner Devos** agreed on the need for commercial nodes but she does not like their close proximity to Myakka River Elementary School especially for students who live within two miles of the school and walk to school and suggested discussions take place with School Board officials prior to such petitions being brought to the Board. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 4, PA-05-12-91 (Legislative) Commission District IV
Agenda Item 5, Z-05-12-91 (Quasi-Judicial) Commission District IV

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Jan Rogers, Planner III, gave a consolidated presentation on PA-05-12-91 for a small scale plan amendment from LDR to Commercial Corridor and companion rezoning petition, Z-05-12-91, from RSF-3.5 to CG on approximately .43 acre owned by Thomas and Patricia Wiegand to allow for the expansion of Spas N' More to the adjacent rear lot; the proposed small scale plan amendment is consistent with Policy 2.2.6 of the Comprehensive Plan; the rezoning petition is consistent with the Comprehensive Plan and the US 41 Zoning District Overlay; and staff and the P&Z Board recommend approval. Robert H. Berntsson, McKinley Law Firm, appeared on behalf of petitioners in support of expansion of the commercial district; recalled his testimony before the P&Z Board indicated that Ellery Street and Albury Drive serve as an alternative access to CVS; there is not a heavy traffic burden

as evidenced by his use of this route last night to avoid a vehicle fire on US 41; requested approval of the plan amendment and rezoning; and stated appropriate buffering would be included in the site plan. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).** Chairman Moore commented on the need to address sewers in this area. **COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2006-037 AND PA-05-12-91 FILED BY THOMAS AND PATRICIA WIEGAND BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.** Commissioner Cummings questioned if any of the adjacent residential properties have deed restrictions against commercial use. Attorney Berntsson stated he is not aware of any such deed restriction on this property but there is legislation referred to as the Marketable Record Title Act (MARTA) that directs if a deed restriction is older than a certain period of time, e.g. 30 years, and it has not been renewed or referred to in subsequent deeds, the deed restriction would no longer be applicable to that property; that is why at the turn of the century, several communities readopted deed restrictions; it can be relevant in bank financings; recalled all of SR 776 between US 41 and Flamingo Boulevard were deed restricted as residential although development has occurred in violation of those restrictions but there was no enforcement; and pointed out the CVS petition involved getting title insurance over expired deed restrictions. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).** **COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2006-038 AND Z-05-12-91 FILED BY THOMAS AND PATRICIA WIEGAND BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS.** Commissioner Devos requested verification that it is legal to hold one public hearing on the two petitions. Richard A. Browne, Assistant County Attorney, responded affirmatively. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Agenda Item 6, PA-06-01-03 (Legislative) Commission District V
Agenda Item 7, Z-06-01-04 (Quasi-Judicial) Commission District V

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-

parte communications. Commissioner Devos stated she knows petitioners because she was previously interested in purchasing the property and she has spoken with them about potential development plans.)

Ms. Rogers gave a consolidated presentation on PA-06-01-03 for a small scale plan amendment from LDR and Commercial Corridor to US 41 Overlay Mixed Use and the companion rezoning Z-06-01-04 from RSF-3.5 to CG for lot 9 or 1.3774 acres of the site owned by Stephen and Janie Duke to allow for expansion of a commercial business to the rear lot located on the site of the Pineapple Motel that was destroyed by Hurricane Charley; the property is located on US 41 access road between Harbor Boulevard and Adams Court; expansion of an existing commercial development within the US 41 Overlay District must comply with specific standards; a Type "D" buffer with a wall would be required to minimize impacts to adjacent residential properties; the plan amendment and rezoning are both consistent with the Comprehensive Plan; and staff and P&Z Board recommend approval of the petitions. **Commissioner Cummings** questioned if the property two lots over on the map reflects a Code violation dealing with a parking lot extending into the residential area or if the map needs to be updated. Ms. Rogers expressed uncertainty and offered to look into it. James W. Herston, of Herston Engineering Services, Inc., appeared on behalf of petitioners; commended staff for their efforts; expressed agreement with staff's report and conditions for approval; and showed the Board a model of the proposed Westchester Towers. **Commissioner D'Aprile** requested a description of the model. Mr. Herston stated it is a multi-level building that will house the Westchester Gold facility that was destroyed by Hurricane Charley and the remainder would be general office type condominiums including attorneys and general retail on all floors, exclusive of residential. Mr. Herston recalled the parking lot referred to by **Commissioner Cummings** was granted by special exception and the parking lot appears to be two lots from the Dairy Queen. **Commissioner Devos** stated the complex, as depicted by the model, would be a wonderful addition to US 41. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0). COMMISSIONER CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-039 AND PA-06-01-03 FILED BY STEPHEN AND JANIE DUKE BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27,**

2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-040 AND Z-06-01-04 FILED BY STEPHEN AND JANIE DUKE BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).

Agenda Item 8, PA-06-01-01 (Legislative) Commission District II
Agenda Item 9, Z-06-01-02 (Quasi-Judicial) Commission District II

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Ms. Williams gave a consolidated presentation on PA-06-01-01 for a small scale plan amendment from LDR to Commercial Center and the companion rezoning petition, Z-06-01-02, from RMF-5 to Commercial Neighborhood, filed by Donato Pizutti, on approximately 5.56 acres located north of Rio Villa Drive, east of Ash Street, south of Leach Drive, and west of US 41 at 180 Rio Villa Drive; the property was rezoned in 2001 from RSF-3.5 to RMF-5; it was never developed at that designation; the current owner is requesting the change to Commercial Neighborhood; staff has determine the change would be appropriate in this area; the supporting population meets the minimum standards under the Neighborhood Commercial Center FLUM designation; uses under Commercial Neighborhood are very specific to support surrounding residential; development standards are low impact with 20' height standard and 35% lot coverage standard; and staff and P&Z Board recommend approval. Warren Ross, of the Wotitzky Law Firm, appeared on behalf of petitioner in support of the requested changes; acknowledged development restrictions of the zoning district should create a "low keyed commercial" development to serve surrounding neighborhood; recalled this property was a par-3 golf course and a hair and nail salon currently exists on one corner of the parcel which are both low keyed commercial; the proposed change would remove potential density units from a Category I Storm Surge Zone; and concurred with staff's report and recommendation for approval. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC**

HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0). Commissioner Cummings requested an opinion from the Assistant County Attorney regarding a potential conflict based on a mowing contract his mother has with Windmill Village across the street. Attorney Browne stated that does not constitute a problem. **Commissioner D'Aprile** recalled this property was approved for condominiums. Ms. Williams stated it was rezoned in 2001 from RSF to RMF. **COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-041 AND PA-06-01-01 FILED BY DONATO PIZZUTI BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED MARCH 6, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).** **COMMISSIONER D'APRILE MOVED APPROVAL TO ENACT ORDINANCE #2006-042 AND Z-06-01-02 FILED BY DONATO PIZZUTI BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED MARCH 6, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 10, PA-05-12-93 (Legislative) Commission District I
Agenda Item 11, Z-05-12-94 (Quasi-Judicial) Commission District
I

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Ms. Williams gave a consolidated presentation on the small scale plan amendment under PA-05-12-93 from Rural Estate Residential to Commercial Corridor and Z-05-12-94 for rezoning from Agricultural Estates (AE) to CI, filed by Willie M. Keiser, Trustee, on a portion of two parcels and one full parcel for a total of approximately 7 acres located at 4462 and 4472 Duncan Road, adjacent to US 17 on the south side and generally east of Argo Road and west of Pine Grove Circle; the property is located between two Commercial Corridor areas and two areas zoned CI; petitioner owns properties to the west and north that were rezoned in 1999 to CI; the property to the east is also CI but it contains a single family residence; the subject properties are vacant, they are Infill Commercial, and appropriate; staff and P&Z Board recommend approval. **Commissioner Devos** recalled a lot of rezonings have been done along Duncan Road. Ms. Williams

concurrent. Attorney Berntsson answered the question regarding the parking lot on the two prior petitions and stated that parking area was for the Beachcomber Lounge and Package Store. Attorney Berntsson appeared on behalf of petitioner, stated the plan amendment and rezoning are clear cut changes; Ms. Keiser owns the four lots that have been split into four contiguous lots on which one half are AE and the other half are CI; when the petition was filed, the neighbor asked to be included to bring Commercial across all of the property and staff allowed this; and requested approval of both petitions. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-043 AND PA-05-12-93 FILED BY WILLIE M. KEISER, TRUSTEE, BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.** Commissioner Cummings commented on the need for a master plan for the Infill Area instead of piecemeal changes along US 17 in the Cleveland area. Chairman Moore suggested setting a work shop or directing staff to bring back a master plan. Commissioner Cummings suggested directing the County Administrator to proceed with a master planning effort for the US 17 Corridor and neighborhood plans for Cleveland and Solona and hire more planners. Bruce D. Loucks, County Administrator, stated, if that is the Board's desire, direction should be given for staff to bring back a master plan using in-house personnel or/and contracted services. Commissioner D'Aprile agreed with Commissioner Cummings on the need for a master plan for that area. Mr. Loucks acknowledged direction to staff. Commissioner Cummings stated some type of village center would be good based upon the historical significance of the area. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-044 AND Z-05-12-94 FILED BY WILLIE M. KEISER, TRUSTEE, BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).**

RECESS: 10:20 A.M. - 10:27 A.M.

Agenda Item 12, NOPC-06-01-06 (Quasi-Judicial) Commission District IV

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Ms. Williams presented the petition to adopt a resolution amending the Development Orders for the Murdock Master Development of Regional Impact (DRI) and Murdock Increments I, II, III and IV; the change will extend the build out by one day less than five years to March 1, 2012, provide uniformity in the build out dates for all of the Incremental Development Orders, and change the annual reporting to biennial reporting on the monitoring reports; the Southwest Florida Regional Planning Council (RPC) voted on this NOPC and determined it was not a substantial deviation; and staff and the P&Z Board recommend approval. Al Mitchell, ALM Management Corp., stated he is acting as petitioner since the original and successor developers went out of business; stated, as a result of a meeting with staff, an RPC official, and DRI landowners, it was decided the landowners should group together and file an annual report to bring records of the County current as to what has been built and what remains to be built; the book is on file in the Community Development Department and RPC indicated it is the best report on Murdock they have ever seen; the report shows that density is less than originally planned e.g. office uses around the Town Center Mall and to the south and multi-family developed is less dense than originally planned; this extension will allow remaining landowners to decide what they want to do and obtain building permits; and acknowledged future extensions, if any, would have to come back to this Board. Attorney Berntsson appeared on behalf of several property owners including a law firm that is located within the DRI and will be reconstructing its offices; stated Mr. Mitchell has done a fantastic job on the report that accounts for every parcel and the square footage of each parcel as well as what has been done and what remains; commended staff for all of their efforts; and requested approval of the extension. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).** Commissioner Cummings expressed an interest in seeing the differences between what was originally planned and what has been developed as far as density

and intensity of uses and the likelihood for reintensification in the future and how the two scenarios would impact build out including the traffic build out model being developed by Public Works staff. **COMMISSIONER CUMMINGS MOVED APPROVAL TO ADOPT RESOLUTION #2006-055 AND NOPC-06-01-06 RELATING TO THE MURDOCK MASTER DRI AND INCREMENTS I, II, III, AND IV DEVELOPMENT ORDERS, FILED BY ALM MANAGEMENT CORPORATION, BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED FEBRUARY 27, 2006 AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 13, PP-05-12-11 (Quasi-Judicial) Commission District III

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

James Dossett, Development Review Manager, presented the petition filed by Waterford NPF, LLC for Mariner's Landings, a subdivision consisting of a 21-lot single family, cluster subdivision on approximately 6.49 acres located in Section 6, Township 41 South, Range 20 East, a replat of a portion of Breezewood Subdivision, Block 1, Lots 8 and 13 and adjoining Parcel P50, located between New Point Comfort Road and Homestead Street off of South McCall Road; the site is zoned RSF-3.5 that would allow up to 26 units; a special exception under SE-05-14 was granted on April 13, 2005 for cluster housing that allows reduced lot size as long as the dwelling units are built on platted lots; public water and sewer are provided by the Englewood Water District (EWD); the roads will be built to County standards but privately maintained; the P&Z heard the petition on March 13, 2006 and recommended approval; DRC reviewed it and approved it; the current zoning is RSF-3.5 and the FLUM designation is LDR; and there is no outstanding condition. **Chairman Moore** requested verification that the requirement for a 20' drainage easement listed on the golden rod has been met. Mr. Dossett reiterated no outstanding condition exists. **Commissioner Devos** pointed out this property could have been a County boat ramp instead of this community. Geri Waksler, of Moore and Waksler LLC, appeared on behalf of petitioner and requested approval of the preliminary plat.

COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0). COMMISSIONER D'APRILE MOVED APPROVAL OF PP-05-12-11 FILED BY WATERFORD NPF, LLC FOR MARINER'S LANDINGS AND THE ONE CONDITION HAS BEEN MET, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (4:0).

Agenda Item 14, PP-05-12-12 (Quasi-Judicial) Commission District IV

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Mr. Dossett presented the petition filed by Win-Tamiami, Ltd. for Paradise Shoppes of Port Charlotte, a subdivision consisting of a 3-lot Commercial Subdivision, located on the former Home Depot property in Section 8, Township 40, Range 22 consisting of approximately 9.19 acres located at the southeast corner of the intersection of Toledo Blade Boulevard and US 41 (Tamiami Trail); petitioner purchased the property with the intent to redevelop the property into a multi-use commercial property; the project includes 70,000 square feet of retail use including three out parcels approved by DRC on May 5, 2005; a one-time lot split was done to segregate Walgreen's out parcel from the site; petitioner desires to vacate existing easements that are no longer needed because new easements have been established for the new infrastructure; the project is located within the Murdock Center DRI, Increment I; central water and sewer will be provided by CCU; and roads will be constructed to County standards and privately maintained. **Commissioner Cummings** questioned current construction of the project and roads. Mr. Dossett explained the buildings are under construction, the purpose for this petition is to subdivide the out parcels to be sold; this is more of a housekeeping matter; the buildings under construction are under one permit; and this situation is similar to Wal-Mart on Kings Highway with subdivided out parcels for sale to restaurants and other facilities. **Commissioner D'Aprile** concluded the out parcels would be under private ownership rather than leases. Mr. Dossett reported conditions 1 and 3 on the golden rod have been met and easements relating to condition 2 are reflected on the plat so all conditions will be met with the recording of the plat. Paul Tremblay, owner and petitioner,

offered to answer questions; explained the existing buildings and those currently under construction are on the parent parcel and will be leased and the intent is to subdivide the front parcels to provide two out parcels on US 41 for private ownership; expressed no objection to the conditions; and requested approval of the preliminary plat. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). COMMISSIONER D'APRILE MOVED APPROVAL OF PP-05-12-12 FILED BY WIN-TAMIAMI, LTD. FOR PARADISE SHOPPES OF PORT CHARLOTTE WITH NO CONDITIONS, SECONDED BY COMMISSIONER DEVOS.** Commissioner Cummings stated he wants to make sure the easements granted would not provide additional future access onto US 41. Mr. Dossett stated the easements are for utilities other than the one that goes back to the main shopping center and any future redevelopment would be subject to DRC approval prior to coming back to the Board. Mr. Tremblay advised there are two access points onto US 41 and each of the two out parcels will have access to US 41, one of which will be moved slightly to the west, and pointed out the signage point. Mr. Dossett explained easements in commercial developments are written in favor of the upland parcels for ingress and egress across adjacent properties but he should confirm this with Public Works staff. Mr. Dossett suggested making sure of proper ingress and egress in favor of all adjacent property owners as a condition to be satisfied prior to recordation. **Commissioner Cummings** expressed concern about cutting up large parcels for smaller development purposes. Mr. Dossett recommended approval with one condition that prior to recordation of the subdivision, the ingress and egress easement question is resolved to the satisfaction of staff. **COMMISSIONERS D'APRILE AND DEVOS ACCEPTED THE AMENDMENT TO THE MOTION. Commissioner Devos** questioned continued access to the Carousel Mall. Mr. Dossett stated that would continue and it is mutually beneficial. **CALL ON THE MOTION, AS AMENDED: DECLARED UNANIMOUS (4:0).**

Agenda Item 15, PP-05-12-13 (Quasi-Judicial) Commission District III

(Minutes Supervisor Diane J. Nice administered the oath to prospective witnesses. Chairman Moore polled the Board for ex-parte communications and there were none.)

Mr. Dossett presented the petition for preliminary plat approval for the Landings at Coral Creek filed by C2FS-Coral Creek, LLC, for a 132 single family development in lieu of the 139 units allowed under the full density, cluster subdivision, on approximately 39.74 acres lying in Section 2, Township 42 South, Range 20 East (Parcel 4-6) on the north side of CR 775 across the road from Cape Haze Subdivision and Placida Bay Estates; the project was approved by DRC originally as condominiums but the owner has determined that creating a subdivision would be more appropriate; petitioner received approval of Special Exception #SE-01-34 on December 12, 2001 for Cluster Housing and Amenities; petitioner is proposing 132 townhouses with amenities to include a clubhouse, pool, and 34 boat storage buildings for a total of 166 lots; the cluster housing provisions and zero lot line setbacks allow the development to preserve wetlands and minimize the number of ingress and egress points onto CR 775; central water and sewer will be provided by CCU; roads will be constructed to County standards but will remain private and be privately maintained; proposed building heights will not exceed the 35' maximum; P&Z Board and staff recommend approval with the following condition: the surveyor of record must provide State plane coordinates on the plat and description for at least two PRM's on the plat as well as the legal description; and requested approval. Attorney Berntsson recalled the prior controversy on this property regarding the rezoning from RSF-3.5 to RMF-3.5 and as a result of concerns on the 60' building height maximum the zoning was denied; the cluster subdivision was approved by the Board of Zoning Appeals; throughout the entire process, petitioner has been up front about the uncertainty of the ultimate project development e.g. townhouse fee simple deed arrangement or condominiums; the project is under construction; the buildings are approved as condominiums for permitting purposes but they were also reviewed as single family townhouses at that time and they meet the requirements for both; this would allow the townhouses to be sold in fee simple; DRC has approved the plan and this is a form of ownership issue not a land use issue; and requested approval with the one condition. **(Assistant County Administrator replaced County Administrator Bruce D. Loucks for the remaining portion of the public hearings.)** Chairman Moore questioned the existence of any height issues. Attorney Berntsson stated no height issues exist because the buildings will be within the 35'

maximum. **COMMISSIONER CUMMINGS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). COMMISSIONER D'APRILE MOVED APPROVAL OF PP-05-12-13 FILED BY C2FS-CORAL CREEK, LLC FOR THE LANDINGS AT CORAL CREEK WITH ONE CONDITION, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).**

Agenda Item 16, SV-05-10-22 (Legislative) Commission District IV

Mr. Dossett presented the petition filed by RAM Development, LLC to vacate a 12' alley between Lot 141 and Lots 335 and 142 in El Jobean Ward 1, as recorded in Plat Book 1, Page 31 of the Public Records of Charlotte County; the approximate .034 acre site is located north of Sturkie Avenue, between Stephens Road and Arlington Road, in Section 28, Township 40, Range 21; staff has reviewed the petition and recommends approval with conditions; all utilities have been notified and have no objections with the exception of Sprint that has cable within the alley and will need an easement and also reimbursement if relocation is required; a written determination by petitioner's engineer that the area does not currently convey stormwater from offsite public or private lands through or across the property will be needed; P&Z Board heard the petition on March 13, 2006 and recommended approval and staff recommends approval with the following conditions: (1) petitioner is to provide written documentation from the engineer that the area does not currently convey stormwater from offsite public or private lands through or across the property and (2) provide an acceptable easement or reimbursement if relocation is required to Sprint for the existing cable. Joette Maynard, appeared on behalf of petitioner, offered to answer questions, and pointed out on the aerial the old homes and a vacant lot that was primarily a junk yard. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).** **Chairman Moore** requested the purpose of the vacation. Mr. Dossett explained petitioner owns several nearby properties and has started clean up of the alley way and adjacent properties. **Commissioner D'Aprile** requested verification that the alley is not a road. Mr. Dossett stated that is correct and the alley is being used as a driveway. **Commissioner Cummings** stated, based on experience, back alleys create a buffer and provide more effective uses of properties with rear accesses. **COMMISSIONER DEVOS MOVED APPROVAL TO ADOPT RESOLUTION #2006-056 WITH TWO**

CONDITIONS AND SV-05-10-22 FILED BY RAM DEVELOPMENT, LLC TO VACATE AN ALLEY, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).

Agenda Item 17, SV-05-12-23 (Legislative) Commission District III

Mr. Dossett presented the petition filed by Dr. Leslie Hagan and Carol Steenson for a street vacation for Pirate Row, an unbuilt street lying between Spaniards Way and Pelican Bend, a 50' wide right-of-way, as recorded in Plat Book 2, Page 42, of the Public Records of Charlotte County, in the subdivision known as Cape Haze-Sub of Block R; consisting of .42 acre, located in Section 2, Township 42, Range 20; staff has reviewed the petition and recommends approval with the following conditions; all utilities have been notified and those responding have no objections with the exception of Florida Power and Light (FPL) that has facilities within the right-of-way and will need an easement and petitioner's engineer needs to provide written documentation that the area does not currently convey stormwater from offsite public or private lands through or across the property or, if so, provide easements; and P&Z Board heard the petition on March 13, 2006 and recommends approval with the two conditions. **Commissioner Cummings** questioned disposition of the vacated property e.g. to landowners to the southeast or split between the landowners and Charlotte County. Mr. Dossett explained the entire property would go to the private property owners to the southeast since it is adjacent to a right-of-way or public owned land, the vacated property goes to the adjacent privately owned land. Dr. Leslie Hagan outlined the conditions imposed by the P&Z Board regarding the FPL easement and drainage issues on the property although the property is absolutely flat; since she had to go back to the survey firm to secure a letter about the drainage, she had them split Pirate Row into two separate sections; one section lies contiguous to her property and the second to her sister, Carol Steenson, on the more southern area and provided it to staff yesterday; on the redo of the survey, there was a statement being subject to the FPL easement and that Pirate Row's unimproved right-of-way, with no visible drainage features; she received a letter yesterday from FPL that they have no objection to the vacation subject to another drawing being supplied with an actual easement grayed out. Mr. Dossett requested a stronger statement from the surveyor about no water

drainage across the property, requested Dr. Hagan to have the surveyor contact him to clarify the language, and asked for a copy of the letter from FPL. Mr. Dossett stated the condition would stand since FPL indicates they no objection as long as an easement is granted. Dr. Hagan stated she cannot apply for an easement until she owns the property. Mr. Dossett explained the easement is recorded with the resolution and this is a standard practice that should not delay this process. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0). COMMISSIONER DEVOS MOVED APPROVAL TO ADOPT RESOLUTION #2006-057 AND SV-05-12-23 WITH TWO CONDITIONS FILED BY DR. LESLIE HAGAN AND CAROL STEENSON, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).**

Agenda Item 18, TDU Appeal to the Board

Chairman Moore announced staff has recommended the petition filed by Carmalita Investment, LLC for relief from Section 3-5-435, Determination of Density for a Sending Zone (SZ), be continued to the next Land Use Public Hearings and Attorney Waksler has requested an opportunity to appear for petitioner at this time. **(Board consensus.)** **Commissioner Devos** requested the reason for the continuance. Mr. Konefal stated documentation was received after the submittal deadline regarding a change in ownership. Attorney Waksler stated the appeal was originally filed June 2005, heard by the Board in August 2005, and continued the matter until after a workshop was held on the TDU Ordinance relating to a definition of density and its applicability to properties; the workshop was held in January 2006 during which a consensus was reached by the Board, staff, and land use practitioners that the zoning definition of density should be utilized although staff recommended some exclusions to the definition; and staff agreed to move this appeal forward since the exclusions did not apply to this property. Attorney Waksler advised Carmalita Investment entered into a contract subsequent to June 2005 and prior to today to sell the property to Engle Homes that is currently developing the property; the contract is with TOUSA LLC which is a wholly owned LLC that Engle Homes formed for purposes of this contract; at closing Engle Homes assigned their contract to LO Land Investments LLC, a land banker, that holds a mortgage that is not revenue producing while the construction is going on until completion; Lennar Homes has the same type of arrangement for Tern Bay and

it is a very common practice; Carmalita no longer owns the property and staff continued the matter; on April 4, 2006 a copy of the contract for purchase and sale which indicates that Carmalita retained the rights to the access density units was provided; as a result of a meeting with the County Attorney, an assignment of density rights from LO Land Assets in favor of Carmalita was recorded last week in the Public Records of Charlotte County; she is comfortable with the continuance as requested by staff but she has heard that staff may not allow this appeal to proceed at all because Carmalita is not the property owner; and indicated the Board should make that decision. Attorney Waksler explained sections of the TDU Ordinance refer to the property owner applying for the TDU but the section on appeals and waivers indicates the petitioner may request an appeal but a notarized affidavit from all property owners authorizing the petition must accompany the application; that is the same process being utilized to allow people who are not the property owners to apply for rezonings, land use amendments, and building permits; and requested the Board direct staff to allow this appeal to proceed, to accept an application from Carmalita Investments for a TDU certificate should the appeal be granted, and reschedule this hearing until the Board's meeting on Tuesday, April 25, 2006 instead of the next Land Use Public Hearings. Mr. Konefal expressed a preference to reschedule the appeal to the next Land Use Public Hearings; agreed to allow the appeal to be considered; indicated staff needs additional time to develop materials on the SZ certification; this appeal and SZ certification could then be done simultaneously at the next Land Use Public Hearings; and he wants to discuss some issues of the review with Attorney Waksler. **Commissioner Devos** questioned the continuance since the appeal was on the agenda to be heard today. Mr. Konefal explained some of the paper work was not received prior to the submittal time frame and advised he will be discussing deadline schedules and hearing TDU appeals and SZ certifications simultaneously with **Chairman Moore** this week. Attorney Waksler agreed with continuing the appeal to the next Land Use Public Hearings to be heard simultaneously with the SZ certification because the time frame would be the same as if the appeal would have been heard today and the SZ certification at the next Land Use Public Hearings. Mr. Konefal stated that is his intent and more legalities need to be reviewed. **Chairman Moore** opined this is a fair and equitable resolution.

Agenda Item 19, CDD-06-01, Waterford Estates Community Development District (CDD) Commission District II (Proof of Publication was in order)

Thomas A. Cookingham, Planning Services Manager, presented two handouts e.g. a replacement page 5, Exhibit 9 and a letter from the City of Punta Gorda indicating the CDD may conflict with City of Punta Gorda interests; City of Punta Gorda Utility Director Steve Adams is present as well as petitioner's representative; the replacement page corrects the original statement that the "District will fund and construct the water distribution and sanitary sewer systems and convey them to the County City of Punta Gorda" and Table 2 has been revised to reflect the Operations & Maintenance (O&M) and Ownership by the City instead of the County; in the letter, the City has requested an additional 30 days to review the matter; suggested the presentation be given by staff and petitioner's representative; and the Board can decide to continue the matter or move forward with the approval process at this time. Mr. Cookingham gave a presentation on the petition filed by TOUSA Homes, Inc. d/b/a Engle Homes Southwest Florida on the same property as in the prior petition; the project received DRC approval and the Board approved the preliminary plat; the site is located west of I-75, south of Carmalita, north of Airport Road; pursuant to Florida Statutes 190, any land under 1,000 acres can petition the County or the local jurisdiction for the formation of a CDD; the purpose is to establish a Special Taxing District to help pay for infrastructure costs related to the project and extraordinary amenities or other things associated with the project; the CDD will create a vehicle to allow bonding for improvements and payment of all or a portion of the bond as an assessment for the CDD; representative for petitioner, Dennis E. Lyles, Esquire, is present for comments; staff has reviewed the petition; and identified the following findings that must be presented to the Board:

1. All statements within the petition have been found to true and correct (including the revised page 5 to Exhibit 9);
2. The establishment of the CDD will be consistent with all applicable elements of the County's Comprehensive Plan 1997-2010 and zoning.

Commissioner Devos suggested granting the City's request for an additional 30 days for review and then bring the petition back to the Board. Mr. Cookingham pointed out the City has the opportunity for comments because the CDD is located within the City's certificated area; expressed no objection to **Commissioner Devos'** suggestion; and suggested petitioner's representative be given an opportunity to speak regarding the continuance. **Chairman Moore** requested input from petitioner's representative. Dennis E. Lyles, of the law firm of Billing, Cochran, Heath, Lyles, Mauro & Anderson, P.A., Ft. Lauderdale, FL, with offices in Palm Beach and Tampa, FL, appeared on behalf of petitioner; expressed unawareness of the City's interest until earlier this morning; stated the Board has the discretion to hear the City's comments and petitioner cannot object too strenuously to the request; notice regarding this petition has been published four times in the newspaper for a public hearing today and if it is to be continued, proper procedures need to be followed as to the recess and continuance; and pointed out Project Manager Vanessa Richter of Engle Homes Southwest Florida will be on maternity leave by the next Land Use Public Hearings and he will not be available at that time but he could have another attorney participate. **Chairman Moore** concluded the land location is under the County's jurisdiction whereas the water and sewer are located in the City's certificated area. Mr. Cookingham responded affirmatively. Steve Adams, City of Punta Gorda Utility Director, concurred with Mr. Cookingham's summary of the issues in the letter, expressed concern about bonds being issued for infrastructure costs, stated the assets (water and sewer lines) owned by the City will not be eligible to be pledged as collateral, recalled plans were reviewed for the project by the City but there was no indication of creating a CDD and there was a condition for approval that required the developer to fund and construct the utility improvement and, upon acceptance, convey it to the City as an asset. Attorney Lyles explained his expertise deals with CDDs, he represents over 75 active CDDs and 25 to 30 in different development stages, no public infrastructure is ever used as collateral for financing CDDs pursuant to Chapter 192, assessments levied to pay for infrastructure projects would be on the land units sold, a validation lawsuit will be filed in the Circuit Court in Charlotte County and the Judge's final judgment will set out that the bonding capacity and the ratings of the City and County

are not involved with the financing program and the CDD will convey clear title to the water and sewer system to the City, and offered to work with the City Attorney on this issue. Mr. Adams stated his concern has been addressed and he has no further objection to the appeal moving forward. Mr. Cookingham suggested completing the public hearing. **Commissioner Cummings** requested Mr. Adams provide a map of the City's certificated area and expressed no objection to proceeding with the appeal. **Commissioner D'Aprile** requested verification from staff on moving forward. Mr. Cookingham stated the only issue from misinformation on the utility has been resolved. Mr. Adams withdrew the request for a 30-day continuance. Roger Baltz, Assistant County Administrator, pointed out finding #5 should be revised to reflect "City of Punta Gorda Utility ~~Charlotte County Utilities~~ is able to supply potable water and sewer service to the project over its phased development." Mr. Cookingham explained a revised memorandum with the findings was sent out but apparently was not included in the packet information. Mr. Cookingham identified the remaining findings as follows:

3. The area of the proposed CDD is contiguous, compact and of sufficient size to be developed as a functional inter-related community. The subject property encompasses a total of 193.4 acres +/- that forms a contiguous parcel. The land use mix, distribution, and internal circulation form a contiguous and compact community that will be served by the proposed CDD.
4. The CDD is the best alternative available for delivering community development services and facilities to the area. Delivery of needed services and facilities for the project will have to be provided by the developer either with or without the CDD. Formation of the CDD will provide a mechanism for providing the needed services and facilities and alleviating the burden of upfront capital costs and related payments for the services and facilities. Establishment of the CDD could also cover ongoing maintenance of facilities that would accrue to the County.
5. The internal community development services and facilities that would be provided by the CDD are within the capacity and uses of existing local services and facilities. City of Punta Gorda Utility is able to supply potable water and sewer service to the project

over its phased development as discussed and the water and sewer lines were approved by the City as established on the original plans.

6. The area to be served by the special district government is wholly owned by the CDD petitioner and the area is amenable to the special district.

Mr. Cookingham recommended approval of the establishment of the CDD for Waterford Estates based upon the six findings and the economic impact statement. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).** Attorney Lyles concurred with staff's analysis and recommendation. **COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-045 AND CDD-06-01, FILED BY TOUSA HOMES, INC. D/B/A ENGLE HOMES SOUTHWEST FLORIDA, TO ESTABLISH THE WATERFORD ESTATES COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO SECTION 190.005 FLORIDA STATUTES, SECONDED BY COMMISSIONER D'APRILE.** Commissioner Cummings stated a CDD should be self-sustaining but ultimately CDD residents will pay the greater portion of costs over the long term. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

Commissioner Devos requested a point of personal privilege to allow Gussie Baker an opportunity for some positive comments about the Old Courthouse. Ms. Baker explained a painting has been presented by a gentleman who spent his summers on Sullivan Street at his grandfather's house, who was Reverend Gatewood and served as a pastor about 100 years ago; it depicts the Courthouse as it was with the addition of Royal Palms and how it could be again; the painting is to be auctioned off on Saturday. Ms. Baker complimented Board Members because more infrastructure improvements have been accomplished in these last four years than has been done since 1956. Ms. Baker stated she visited a gentlemen in Sarasota County who made a copy of the painting; he was so impressed that he asked where the building was located, she told him it was the Charlotte County Courthouse, and he said it was the most beautiful thing he had seen on the West Coast of Florida; he does prints from all over the World; and he offered to present a print of the Old Courthouse after its restoration to the Board of County Commissioners. **Commissioner Cummings** suggested putting a copy of the picture in the newspaper and on the County website. Ms. Baker offered to follow up on the suggestion. **Commissioner D'Aprile** requested information on the

auction. Ms. Baker stated 1:15 P.M. at the Tentatorium on Saturday, April 22, 2006; as a result of a print donated by the same gentleman last year, \$10,000 was donated to the Committee for the restoration of the Old Courthouse; and this same gentlemen has three art pieces hanging in the Smithsonian Institute. **Commissioner Cummings** suggested the history also be included in a newspaper article. Ms. Baker advised all of Reverend Gatewood's grandchildren still living will be at the Old Timers lunch on Saturday and the oldest one is 92 years old.

MEETING ADJOURNED: 12:05 P.M.

Signature on file in Commission Minutes
Thomas G. Moore
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**

djn