

**LAND USE PUBLIC HEARINGS**

**BOARD OF COUNTY COMMISSIONERS**

**AUGUST 15, 2006**

A meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Vice Chairman D'Aprile, Commissioner Cummings, and Commissioner DeBoer. Also in attendance were Assistant County Attorney Browne, County Administrator Loucks, Executive Assistant Dillon, and Deputy Clerk Mitchell. The following members were absent: Chairman Moore, and Commissioner District V.

The meeting was called to order at **9:00 AM**, followed by the Pledge of Allegiance. **(Proof of Publication was in Order.)**

**Vice Chairman D'Aprile** stated today was Jorge Perez's last day with Charlotte County, he will personally miss him because of his planning expertise, the County will be losing quite an asset, and he was sure he would be very successful in the future.

**I. Planning and Zoning**

**1. Revision to the Manasota Key Zoning District Overlay Legislative Commission District III**

Per Chapter 125.66, F.S., an ordinance pursuant to Section 3-9-53, Code of Laws and Ordinances of Charlotte County, Florida; amending Section 3-9-53(e); creating a list of zoning district permissible and prohibited within the Manasota and Sandpiper Key Zoning District Overlay Code; creating provisions for Planned Developments (PD) on Manasota and Sandpiper Key; creating the Manasota Multi-family Tourist (MMF-T) zoning district; providing for intent; providing for a list of principal permissible uses and structures; providing for special exceptions; providing for development standards; providing for severability; and providing an effective date.

Jorge Perez explained this was the second of two public hearings; gave a slide presentation detailing the latest changes to the Manasota Key Zoning District Overlay; explained the proposed ordinance includes a list of zoning districts to avoid on the islands due to environmental concerns or inconsistencies with the Comprehensive Plan (Comp Plan) and/or the Community Plan; the proposed ordinance also creates the Manasota Multi-Family Tourist (MMF-T) District, and adds provisions that apply to new Planned Developments (PDs) on the island; and adopting of this ordinance will result in a cohesive set of zoning districts that properly implements to Comp Plan and the Manasota Key Community Plan. Mr. Perez advised the Manasota and Sandpiper Key Advisory Committee (MASKAC), the Planning & Zoning (P&Z) Board, and staff recommend approval.

B.J. Galberaith thanked the Board for their support, said they were sadly saying goodbye to Mr. Perez who has worked with them throughout this process, and they were going to miss him very much.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-069, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

2. PA-06-05-29                      Legislative                      Commission District III

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopting a Small Scale Future Land Use Map amendment to the Charlotte County Comprehensive Plan from Medium Density Residential to Commercial Center for a property located at 7160 Pinebay Blvd; containing 4.05± acres, in the Englewood area; Commission District III; Petition No. PA-06-05-29; applicant Charlotte County Board of Commissioners.

Inga Williams explained this item was initiated by staff after an outside attorney pointed out an error on the Future Land use Map (FLUM), the 4.05+ acre site was designated as Commercial

through a previous approved plan amendment but it is still designated as Medium Density Residential on the FLUM, and approval of this FLUM amendment to Commercial Center will allow the property owners to develop their property according to the commercial general zoning district. Ms. Williams stated staff recommends approval and the P&Z Board recommends approval with the request that the property owners in the area be given consideration with respect to their concerns.

Attorney Robert Berntsson stated he was the outside attorney staff referred to, spoke in support of this petition on behalf of his client who is a real estate agent listing this property for sale, and requested approval.

Attorney Michael Haymans spoke on behalf of the property owner Pines on the Bay Property Owner's Association, Inc., distributed photographs taken by one of the residents, distributed and reviewed documents related to this property, clarified Tract F is a separate deeded parcel belonging to the Association that lies between Tracts A and A-1 of this proposed plan amendment but it is not included in the legal description so Tract F is not part of this petition, and requested denial because according to the Comp Plan Parcel A-1 is less than three (3) acres and cannot be changed today to Commercial Center.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**Commissioner DeBoer** requested clarification on the smaller parcel not being in compliance because he thought a PD overrode all those things.

Ms. Williams said the PD is for the entire 4.05 acres, and the smaller parcel can't be split out because it was created as one development site and then platted, so she's not sure what he was trying to explain.

**Commissioner DeBoer** stated he wanted to make sure they're working through this on a PD and it's being filed as one PD because that's what it was originally, right. Ms. Williams concurred. **Commissioner DeBoer** said the only other issue seems

to be about Tract F but they're not approving the site plan today so the access issue isn't part of this right now. Ms. Williams agreed.

**Vice Chairman D'Aprile** asked why A-1 can't be changed today.

Attorney Haymans clarified whatever happened in the PD back in 1986 can't override what the Comp Plan land use plan says today which is in order to have a commercial designation you must have 3 acres or more, the County wants to combine two parcels to have the required acreage but these two parcels are separated by Tract F that's owned by another party, Tract F was not included in the legal description of the application, and so these two parcels can't be combined.

**Vice Chairman D'Aprile** said he thought these parcels were separated by a road.

Attorney Haymans agreed there actually is a road built on Tract F but reiterated this property is owned by the Association.

Attorney Berntsson rebutted it's the County through the Board who interprets the Comp Plan not Attorney Haymans, agreed there is a roadway area dedicated as a separate tract and deeded to another party but noted the issue today is the land on either side of the roadway, staff could have included Tract F in the FLUM designation but there was no need to do that, and there's no violation of the Comp Plan to designate both of these parcels as commercial as presented by staff.

**Commissioner Cummings** noted the area in question has a PD on it now and asked if the residential single-family property behind the PD was part of the PD to begin with. Ms. Williams said yes. **Commissioner Cummings** summarized what they're doing today was correcting a scrivener's error of the FLUM that underlies the entire PD. Ms. Williams concurred.

Ms. Williams clarified the residential and the commercial site plan was adopted all together, and it is staff's opinion that these two pieces are not separate but part of one site plan of 4.05 acres.

**Commissioner DeBoer** noted the tract wasn't dedicated as a right-of-way (ROW).

**Commissioner Cummings** asked how difficult it would be to sell off the smaller portion of the PD Attorney Haymans says doesn't meet the criteria for the Comp Plan change. Ms. Williams said they could sell it off separately and develop it as commercial.

**Commissioner DeBoer** agreed it does make it more difficult but splitting this won't make it any better.

**Commissioner Cummings** asked the conditions of the PD for the smaller portion. Ms. Williams responded there were no site conditions, and the only restriction was the number of square feet which was capped at 35,600 s.f.

**Vice Chairman D'Aprile** said he's having a hard time understanding Attorney Haymans' objection and asked if his concern was the type of commercial that might affect Tract A-1. Attorney Haymans agreed the type of commercial being requested was too intense, and it should be the sub-commercial neighborhood center as opposed to the neighborhood commercial center.

**Vice Chairman D'Aprile** asked if this has gone to the Development Review Committee (DRC). Ms. Williams said no.

**Commissioner Cummings** asked when the sub-neighborhood commercial center versus neighborhood commercial center issues come into play. Ms. Williams explained Commercial Center is the overall zoning category and the zoning sub-categories are identified at the time of development which is DRC.

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2006-070, SECONDED BY COMMISSIONER DEBOER.**

**Commissioner DeBoer** said they're trying to comply with the Florida Statutes' requirement that the FLUM and zoning match each other within a year of adoption which means they're way behind on that.

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

3. PA-06-05-34-LS                      Legislative                      Commission District III

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Future Land Use Map Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments report, amending the Charlotte County Future Land Use Map from Parks and Recreation to General Mixed Use for property located east of C.R. 775, and south and west of Gasparilla Pines Boulevard, containing 79.62 acres more or less, in the Cape Haze area; Commission District III; Petition No. PA-06-05-34-LS; applicant GSR Capital Group LLC.

**Vice Chairman D'Aprile** reported the Board had received many letters opposing this issue.

Ms. Williams gave a slide presentation, reviewed the goldenrod, explained this is the second petition to amend the Future Land Use for this site formerly known as the Wildflower Golf Course, the previous amendment drew multiple comments from the Department of Community Affairs (DCA), it was denied by the Board, and the applicant has now supplied the County with updated information and is still in the process of submitting information in response to the state's previous requests. Ms. Williams advised both staff and the P&Z Board recommend transmittal of the petition to DCA.

Attorney Geri Waksler spoke on behalf of the applicant in support of the petition, distributed a handout, reviewed the history of this application and the information submitted to staff addressing DCA's questions, and requested approval to transmit to DCA.

Wayne Waddington spoke in opposition to this petition; referred to the letter and packet with pictures from Fiddlers Green II Condominium Association to the Board; commented on the connectivity of the Wildflower property to existing sensitive park lands, Amberjack Park, Lemon Creek and Lemon Bay; and asked the Board to preserve this sensitive land.

Jack Taylor spoke in opposition to this petition, said as a retired marine biologist he knows there is a hydrological connection between the abandoned golf course and Lemon Bay via a

seawalled culvert underneath S.R. 775 into a man-made channel system that goes directly into Lemon Bay, commented on Todd Rebol's e-mail to Ms. Williams dated July 3, 2006, and requested denial.

Perry Cook confirmed The Lemon Bay Conservancy has been in discussion with the developer about being the recipient of a conservation easement for the portion of this property that encompasses Lemon Creek in order to put the area around Lemon Creek in preservation forever.

Linda Frost spoke in opposition to this project, especially due to the increased traffic that will be generated, and asked the Board to protect the citizens and the County's natural resources.

Billy Stovall spoke in opposition to the project, and asked the Board not to change the FLUM from the existing Parks and Recreation designation.

Curtis Barker said Fiddlers Green has tried to be cooperative in meeting with the developer, the Board of Directors of Fiddlers Green is opposed to the proposed FLUM change, cited numerous existing concerns that have not been addressed by the developer, and asked the Board to deny this application.

Curtis Force read a summary of a five page letter on behalf of the Cape Haze Property Owners Association in opposition to this petition.

Charlotte Ventola voiced opposition to taking away more park lands, and opined the Board needs to retain the remaining park lands.

Nancy Stovall spoke in opposition to this project, and asked the Board to protect the existing environmentally sensitive park lands by denying this application.

Misty Nabers spoke on behalf of the Gasparilla Island Conservation and Improvement Association's 1,100 members in opposition to this proposed project.

Jane Barker spoke in opposition to this application, and summarized their concerns as detailed in the packet material.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

Attorney Waksler presented rebuttal to comments made during citizen input, noted the majority of speakers in opposition were from Fiddlers Green II who they were unable to meet with, and all the others have had their concerns addressed and are therefore not here today.

Attorney Waksler commented on how the Parks and Recreation land use designation came into being, and requested approval to transmit to DCA.

**Commissioner DeBoer** recalled about 5 years ago the Board wanted the residents of the Cape Haze Peninsula to develop a community plan but there was no interest because the residents wanted things left as they were.

**Commissioner DeBoer** said he was struggling with the vested rights issue, he didn't feel there was a vested right to develop this property at nearly 5-units per acre, the Board's policy is to preserve open lands, and asked if the vested right claim is valid.

County Attorney Richard Brown said he didn't believe there was a vest right at this time.

**Commissioner DeBoer** said he felt the property would develop but 5-units per acre was difficult for him to swallow.

**Commissioner Cummings** said this is a legislative decision, the Board isn't obligated to grant the requested development, DCA's concerns on where the development units were going to come from was valid, and he didn't feel bringing these units from Duffy's Golf Course on S.R. 776 was in keeping with the TDU ordinance.

**Commissioner Cummings** said he wasn't seeing sufficient benefits, and he's not comfortable with this.

**Vice Chairman D'Aprile** stated he needed to be sure about the comments made regarding the hydrological connection to Lemon Bay and the environmentally sensitive lands, and he can't support this at this time.

**Commissioner DeBoer** reiterated he felt this property will eventually develop, stated the minutes of the last meeting clearly showed the majority of the Board was against this much density going on the property, and suggested the developer find a way to work with the County on finding something they can do with this property that's acceptable.

**COMMISSIONER DEBOER MOVED TO DENY TRANSMITTAL OF PETITION PA-06-05-34-LS TO DCA, SECONDED BY COMMISSIONER CUMMINGS.**

**Commissioner Cummings** opined there are some vacant areas on the southern end of the peninsula that have enormous development potential but they should try to get that development potential out of there especially because some of these areas are very low-lying areas.

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**RECESS: 11:06 AM - 11:17 AM**

4. Commercial Design Standards Revisions Legislative

An ordinance of the Board of County Commissioners of Charlotte County, Florida, relating to Design Standards for Commercial Development, Article XXIV of Chapter 3-5 of the Code of Laws and Ordinances of Charlotte County, Florida; providing for the amendment of Section 3-5-506, Commercial Design Standards and subsection 3-5-506(h) Building Appearance, Mass and Design Treatments; Providing for Interpretation; Providing for Conflict with other Ordinances; Providing for Severability; and Providing an Effective Date

Thomas Cookingham stated there were two items he needed to address prior to his presentation; first he'd handed out a revision to Section 3-5-506 of the packet material, he'd added an option for item (h) of the proposed ordinance but within that option there's a change to what he'd added, and clarified the

words 'Minor Rural Collectors' would be deleted as reflected in the handout; and secondly, this has been advertised as the first of two public hearings but in actuality we only need one public hearing for this, and this would be the public hearing at which the Board would be making a decision on this ordinance.

**Commissioner Cummings** asked if this was legally okay. Attorney Browne said yes.

Mr. Cookingham clarified the agenda was incorrect because Community Development advertised this as a single public hearing.

Mr. Cookingham reviewed the proposed changes to the existing ordinance regarding overhead doors as detailed in the packet material.

Mr. Cookingham advised the P&Z Board recommended approval of the second option and staff concurs with that approval.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2006-071 INCLUDING ALTERNATE PARAGRAPH H, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

5. PA-06-05-32                      Legislative                      Commission District IV

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopting a Small Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Commercial Corridor to U.S. 41 Overlay Mixed Use, for properties located at 2325 Tamiami Trail (U.S. 41), and 632, 636,640, and 644 N. Ellicott Circle, containing 3.19 acres more or less, in the Port Charlotte area; Petition No. PA-06-05-2; applicant Goodwill Industries of Southwest Florida, Inc.

6. Z-06-05-33                      Quasi-Judicial                      Commission District IV

An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial General (CG) to Planned Development (PD), for properties located at 2325 Tamiami Trail (U.S. 41), and 632, 636, 640, and 644 N. Ellicott Circle, containing 3.19 acres more or less, in the Port Charlotte area, Florida; Petition No. Z-06-05-33; applicant Goodwill Industries of Southwest Florida, Inc.

(Deputy Clerk Mitchell administered the oath for Agenda Items 5 and 6.)

(Deputy Clerk Mitchell administered the oath to Ms. Shao.)

Jie Shao reviewed the goldenrod materials via a slide presentation for the small scale plan amendment and the companion rezoning; explained the purpose of the plan amendment and rezoning was to allow the applicant to add an affordable housing component containing 14 units on the vacant portion of the subject site; and both staff and the P&Z Board recommend approval of the plan amendment and the companion PD rezoning with conditions 'a' through 'm' as detailed in Exhibit B of the proposed ordinance.

Kevin Higginson spoke on behalf of the applicant, and stated they were in agreement with the staff report and the proposed conditions.

Commissioner DeBoer asked the intended use. Mr. Higginson responded 14 units of affordable housing for handicapped individuals.

Commissioner Cummings said it looks like a good project. Vice Chairman D'Aprile agreed.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING FOR AGENDA ITEM 5, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and Commissioner District V.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-072, SECONDED BY COMMISSIONER CUMMINGS. Commissioner Cummings asked

for clarification on why the applicant isn't required to do a TDU as long as they continue to provide affordable housing.

Ms. Shao said this is consistent with the TDU code since the housing is for low to very low income individuals so they aren't required to transfer the density and Condition 'b' of the proposed ordinance requires these units remain available as housing for low or very low income persons in perpetuity but in the future if they decide to discontinue using this site as affordable housing they would be required to transfer the density at that time.

**Commissioner Cummings** summarized that condition only applies to low and very low income but not to some of the moderate income affordable housing, and asked if that's what the difference is and that it's in perpetuity rather than the usual 15 years for other affordable housing.

Jan Hancock clarified as part of the grant they are required for 15 years but the TDU ordinance does allow for low and very low income to be maintained in perpetuity so there's the difference.

**Commissioner DeBoer** stated they need to disclose this is grant funded and the applicant is coming to them for grant funding.

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

Ms. Shao stated her same comments applied to Agenda Item 6.

**(Vice Chairman D'Aprile polled the Board for ex-parte disclosures. Commissioner DeBoer acknowledged the applicant's request for grant funding.)**

**COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING FOR AGENDA ITEM 6, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2006-073, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

7. PA-06-05-30                      Legislative                      Commission District IV

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopting a Small Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor, for property located Southwest of Tamiami Trail, Northeast of N. Spring Lake Blvd., and Northwest of West Tarpon Blvd., in the Port Charlotte area; Containing 0.46 acres more or less; Commission District IV; Petition No. PA-06-05-30; applicant MTL Real Estate Investments, LLC.

8. Z-06-05-31                      Quasi-Judicial                      Commission District IV

An Ordinance approving an amendment to the Charlotte County Zoning Atlas from RSF-3.5 to Commercial General (CG), for property located Southwest of Tamiami Trail, Northeast of N. Spring Lake Blvd., and Northwest of West Tarpon Blvd., in the Port Charlotte area; Containing 0.46 acres more or less; Commission District IV; Petition No. Z-06-05-31; applicant MTL Real Estate Investments, LLC.

*(Vice Chairman D'Aprile polled the Board for ex-parte disclosures. There were none.) (Deputy Clerk Mitchell administered the oath.)*

Ms. Shao reviewed the goldenrod materials via a slide presentation for the small scale plan amendment and the companion rezoning; explained the purpose of the plan amendment and rezoning was to allow the applicant to develop a commercial use such as overflow parking for an existing store that fronts U.S. 41; and both staff and the P&Z Board recommend approval of the plan amendment and the companion rezoning.

*Attorney Berntsson spoke on behalf of the applicant in agreement with staff's report.*

**COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING FOR AGENDA ITEM 7, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-074,  
SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and Commissioner District V.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING FOR AGENDA  
ITEM 8, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and Commissioner District V.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-075,  
SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and Commissioner District V.

(Assistant County Administrator Baltz replaced County  
Administrator Loucks for this portion of the meeting.)

9. PA-06-05-26-LS                      Legislative                      Commission District II

Pursuant to Section 163.3184(3), Florida Statutes, transmit a  
Large Scale Future Land Use Map Amendment to the Department of  
Community Affairs for an Objections, Recommendations, and  
Comments report, amending the Charlotte County Future Land Use  
Map from Agriculture to Public Lands and Facilities for property  
consisting of 78.64± acres located East of Burnt Store Rd;  
Section 32, Township 42 South, Range 23 East, in the Englewood  
area, Florida; Petition No. PA-06-05-26-LS; applicant Charlotte  
County Board of County Commissioners.

Ms. Williams reviewed the goldenrod material via a slide  
presentation, and advised both staff and the P&Z Board recommend  
transmittal of the petition to DCA.

Bruce Pomeroy asked if this item was in the Englewood area as  
stated on the agenda. Vice Chairman D'Aprile responded no. Mr.  
Pomeroy pointed out on Agenda Items 11 and 12 are in District  
III and not District IV as shown on the agenda. Vice Chairman  
D'Aprile thanked him for pointing out those errors.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE TRANSMITTAL OF PETITION PA-06-05-26-LS TO DCA FOR AN ORC REPORT, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

10. PA-06-05-27-LS                      Legislative                      Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Future Land Use Map Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments report, amending the Charlotte County Future Land Use Map from Low Density Residential to Preservation, for property located South of Sam Way and Royal Palm Drive, West of Duncan Rd., East of the Peace River and North of Taralane Dr., in the Punta Gorda area, containing 215.1 acres more or less; Commission District I; Petition No. PA-06-05-27-LS; applicant Charlotte County Board of County Commissioners.

Ms. Williams reviewed the goldenrod materials via a slide presentation, and stated both staff and the P&Z Board recommend transmittal of the petition to DCA.

Ms. Williams explained she'd spoken with Diane Davies with the Southern District and Ms. Davies had no comment at this time but she did say she reserved the right for comments during their review process.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**COMMISSIONER DEBOER MOVED TO APPROVE TRANSMITTAL OF PETITION PA-06-05-27-LS TO DCA FOR AN ORC REPORT, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

10. PV-06-02-01                      Legislative                      Commission District III

Wilmington Retail, Ltd., has applied for a Plat Vacation for a portion of the east side of Kevitt Boulevard, a portion of Englewood Road, and a portion of the west side of Willmington Boulevard, as recorded in Plat Book 10, Pages 1-A through 1-Z-33, in the Public Records of Charlotte County, Florida. The request is for an 80 foot strip of land on three sides of Tract E, consisting of 6.668± acres, and is located in Section 5, Township 41 South, Range 26 East, Commission District III. A complete legal description is on file. (Continued from June 20, 2006)

James Dossett gave a slide presentation detailing the goldenrod and packet material. Mr. Dossett distributed copies of a developer's agreement provided by the applicant detailing things to be done by the applicant, said one of the items is the applicant will pay for half the installation cost for a traffic light, additionally the applicant has agreed to put eight (8') foot sidewalks down Willmington Boulevard and across the front of S.R. 776, the next petition is an application for the same type situation across the street, and they have offered to pay the other half of this traffic light which has a total estimated cost of \$140,000 to \$160,000. Mr. Dossett stated both staff and the P&Z Board recommend approval with two conditions included in the proposed resolution.

Attorney Waksler spoke on behalf of the applicant in support of the proposed plat vacation, reviewed the development agreement, noted the sidewalk width is six feet not eight feet as stated in the development agreement, and requested approval.

Mr. Pomeroy commented on the Winn Dixie on Sunnybrook Boulevard, on the area on the east and west sides of Willmington Boulevard, opined the County needs to review traffic impacts and other needs due to continued growth, and noted access roads provide safety.

Jack Donkel opined no one in West County would support this, said people need and use the access roads for safety reasons to avoid having to use S.R. 776, reviewed his handouts, and asked the Board to deny this application.

Mike Hartsell reiterated they are against this application, said he hasn't heard anything that addresses the safety issues dealing with the local school, there is a lot of value to this land, and asked the Board to deny this.

Charlotte Ventola said the County needs to stop giving away County land and she didn't see any County benefit.

Granville Pennypacker said the access roads provide a benefit to West County residents as evidenced by the money the County has spent in maintaining these roads, agreed if the Board approves this the County should be reimbursed for the value of the land, and the money given to the Englewood East MSBU to reimburse them.

Charles Lindberg said he supported keeping these access roads, they are needed, and asked the Board to retain them.

Stacey Pooler Andersen spoke on behalf of the residents of the Gardens of South Gulf Cove in opposition to this application as detailed by her letter which she distributed.

Attorney Cody Vaughn Birch said he represents Crown Plaza the applicant for Item 12 which is next on the agenda, they were in agreement with the items addressed by Attorney Waksler and the efforts of the developer, similar efforts have been made on the part of Crown Plaza, he will be making an identical request, asked the Board to support this item and that the Board treat the next item in a similar fashion.

Audrey Shinski addressed Agenda Items 11 and 12, said she was opposed to both of these petitions, and asked to Board to protect the residents.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

Attorney Waksler presented rebuttal to some of the comments regarding the access road, explained they will be relocating the access road interior to the site not eliminating it to provide better and safer traffic flow, the land gained by the vacation of that access road would in turn be given back to the County in the form of an easement, and it is Wes Millard's opinion the benefit gained simply from the relocation of the access road is worth the entirety of the requested street vacation. Mr. Dossett concurred that was accurate.

**Commissioner DeBoer** commented on reverter clauses, explained when the County stops using these right-of-ways (ROW) or park lands the property goes back to the adjacent property owners, ROWs have to be vacated to the adjacent properties, and the County has no right to sell the property. Attorney Browne stated that was correct; and clarified the County doesn't really have a marketable title to the dedicated ROW so the County can only use it for the dedicated purpose, hold on to it for future use or vacate it. **Commissioner DeBoer** added that in this case what they were talking about was exchanging it for another purpose.

**Commissioner DeBoer** opined what staff and the developer has worked out is a great compromise, noted FDOT controls the traffic lights, and said he felt the proposed changes will increase safety of the intersections.

**Commissioner Cummings** said they need to determine if this is in the best interest of the residents, and he's willing to consider vacating the ROW but he's not seeing the benefit of moving the access road more internal.

**Commissioner Cummings** said he does want to find a way to make these commercial developments happen but he didn't feel this proposal gets it done.

**Vice Chairman D'Aprile** agreed with Commissioner DeBoer regarding reverter clauses, said he would like to see the developer offer more to compensate for what they want the County to give up, and if that happens he would feel more comfortable but otherwise, no.

Attorney Waksler reiterated what the developer would be providing, and said she has been authorized to offer an additional \$75,000 if that's acceptable.

**Commissioner D'Aprile** said that works for him.

Attorney Waksler said the developer's agreement could be amended to include the additional monetary offer.

**Commissioner Cummings** commented on the real value of the property being \$840,000 not \$75,000 when calculating 106,000 s.f. at \$8 per s.f.

**Commissioner DeBoer** opined if they're going to ask that \$75,000 be put into the developer's agreement then it should be stipulated that the money should go to improvements to the access in that area.

**Vice Chairman D'Aprile** agreed the money should be used for area improvements.

**COMMISSIONER DEBOER MOVED TO APPROVE RESOLUTION 2006-149 FOR PETITION PV-06-02-01 WITH TWO CONDITIONS AS DETAILED IN THE PROPOSED RESOLUTION AND AGREEMENT 2006-040 WITH THE SIDEWALK WIDTH CORRECTED TO SIX (6) FEET, AND TWO CONDITIONS - THE COMMITMENT TO A \$75,000 PAYMENT AS PART OF THE DEVELOPER'S AGREEMENT TO MAKE FURTHER IMPROVEMENTS IN THAT AREA AND EASEMENT TO SPRINT , SECONDED BY VICE CHAIRMAN D'APRILE.**

**Motion Carried 2:1. Commissioner Cummings opposing.**

**ABSENT:Chairman Moore, and Commissioner District V.**

12. PV-06-04-06                      Legislative                      Commission District III

Crown Plaza, LLC has applied for a plat vacation to vacate a portion Port Charlotte Subdivision Section Ninety Five, as recorded in Plat Book 10, Pages 1-A, 1-Y, 1-Z8 in the Official Records of Charlotte County, Florida. The request is to vacate the 50' of right-of-way commencing at the southwest corner of Tract P on Kevitt Boulevard, along with the 30 foot Park site, running north to the north side of the Access Road on the south side SR 776; continuing east along with the 50 foot right of way known as the Access Road, (south of SR 776) and a 100 foot portion of the 35 foot Park site, both running from Kevitt

Boulevard to Gulfstream Boulevard. The site consists of 3.71± acres, located in Section 5, 6, and 7, Township 41S, Range 21E, in Commission District III.

Mr. Dossett presented the petition, advised there's a developer's agreement very similar to the one from the previous petition, and stated both staff and the P&Z Board recommend approval with one condition as detailed in the proposed resolution.

Attorney Birch spoke on behalf of the applicant, explained the developer's agreement would help offset some of the impacts of this project, the proposed changes to the access roads would provide more safety, reviewed the items incorporated in the developer's agreement, and stated similar to the previous petition they were offering a similar proportionate amount of money as it relates to the square footage of parkland they were proposing to use. Attorney Birch noted Public Works supports the proposal, and requested Board approval.

Mr. Pomeroy commented on the new Home Depot site plan, opined traffic will be horrendous, and commented on the need for additional traffic lights.

Mr. Pennypacker spoke in opposition, and asked who will be responsible for all the proposed sidewalks.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**Commissioner Cummings** commented on the retention areas and the possible scenic highway designation for S. R. 776.

**Commissioner DeBoer** asked if there would be sidewalks along the 30 foot park strip. Mr. Dossett responded one would be required.

**COMMISSIONER DEBOER MOVED TO APPROVE RESOLUTION 2006-150 FOR PETITION PV-06-04-06 WITH ONE CONDITION AS DETAILED IN THE PROPOSED RESOLUTION AND AGREEMENT 2006-041 WITH THE MONETARY AMENDMENT, SECONDED BY COMMISSIONER CUMMINGS.**

**Commissioner Cummings** asked if they could we add an additional condition addressing the aesthetic amenities above and beyond what the current code requires.

**Commissioner DeBoer** said he would consider it a friendly amendment to the motion to have a second condition that the applicant do something to enhance the aesthetic qualities along S.R. 776.

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

13. PP-06-05-04            Quasi Judicial            Commission District II

Tern Bay, LLC has applied for a Preliminary Plat for the First Replat of Tern Bay County Club Resort, (being Tract C of the Tern Bay Country Club Resort plat, as recorded in Plat Book 19, Pages 18-A thru 18-M of the Public Records of Charlotte County, Florida), a subdivision consisting of a 129 lot residential subdivision in a Planned Development, lying in Section 20, Township 42S, Range 23E. The site, consisting of 97.11± acres, is located on the west side of Burnt Store Road in Commission District II in Charlotte County, Florida. A complete legal description is on file.

**(Vice Chairman D'Aprile polled the Board for exparte. There was none.)**

**(Deputy Clerk Mitchell administered the oath.)**

Mr. Dossett presented the petition, and said both staff and the P&Z Board recommend approval.

Attorney Waksler spoke on behalf of the applicant in agreement with staff report.

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

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**Commissioner Cummings** asked if this was part of the DRI process. Mr. Dossett said yes.

*Commissioner Cummings* recalled they had one wildlife corridor more toward the northern side and down the ninth fairway, and said if there's a way to promote more of those he would be interested in doing it.

**COMMISSIONER CUMMINGS MOVED TO APPROVE PETITION PP-06-05-04, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 3:0.**

**ABSENT:Chairman Moore, and Commissioner District V.**

**RECESS: 1:15 PM - 2:03 PM**

*(County Administrator Loucks replaced Assistant County Administrator Baltz for the remainder of the meeting.)*

**2:00 PM - Joint Meeting**

14. Economic Development - Hold a Joint Meeting of the Board of County Commissioners and Ex-Officio as the governing board of the Charlotte County Community Redevelopment Agency and the Charlotte Harbor Community Redevelopment Advisory Committee (CRAAC) at 2:00 p.m., or as soon thereafter as may be heard.

*Debrah Forester explained staff would be presenting brief overviews of three ongoing studies - Stormwater Master Plan, U.S. 41 Gateway Project, and Wastewater.*

*Joanne Vernon gave a brief overview of the Stormwater Master Plan Study.*

*Kelly Slaughter gave a brief overview of the U.S. 41 Bridge Lighting Project.*

*Ms. Slaughter gave a brief overview of the Charlotte Harbor Gateway Project, Phases I and II.*

*Dave Schlobohm introduced the staff involved with the Wastewater Study.*

*James Huish gave an overview of the Wastewater Study in the Charlotte Harbor CRA area.*

Teresa Kesner explained the study compared the use of low pressure sewers and conventional gravity sewers, low pressure sewers was the least expensive alternative for this area, and reviewed the Executive Summary in the material.

Donovan Bramlett gave a slide presentation of their study titled "Technical Memorandum on Evaluation of Alternative Sanitary Sewer Collection Systems" as detailed in the material.

David Schmidt asked if there was an overall cost to everyone including existing customers.

Ms. Kesner stated existing customers shouldn't incur any additional costs.

Mr. Loftus summarized the cost will be \$1,800 whether they use the existing tank or put in a new one. Mr. Stacy said yes.

Mr. Loftus asked if any of the existing septic tanks will be able to be used instead of having to buy new ones.

Mr. Stacy said they intend to use existing tanks if they are found to be structurally sound.

Mr. Schmidt asked if the cost will be less if they are able to use an existing tank. Mr. Stacy said no, the cost will be the same.

Grace Amodeo opined then they might as well put in new tanks everywhere.

**Commissioner Cummings** asked if CCU is planning on subsidizing especially when adding a new tank. Mr. Stacy said that's been the procedure in the past and probably would be again.

**(Discussion ensued regarding various costs, estimated prepayment amount, other charges incurred by the users, and grant funding to assist low income families.)**

Ms. Forester reviewed the tax increment financing (TIF) projections for the coming year and current spending to date.

Ms. Forester reviewed the 2006 Proposed Workplan - updated August 15, 2006.

**2:00 PM 1st Public Hearing**

**15. Charlotte Harbor Community Development Code - Legislative Commission District II**

Per Chapter 125.66 F.S., an ordinance amending Section 3-9-50. Charlotte Harbor Community Development Code, of the Code of Laws and Ordinances of Charlotte, Florida; pertaining to development standards and sign requirements; providing for severability; and providing an effective date.

Thomas Cookingham reviewed the goldenrod, and the proposed changes to the sign ordinance.

Mr. Cookingham referred to his memorandum to the Board dated July 26, 2006 titled Revisions to Charlotte Harbor Community Development Code; and said staff, the P&Z Board and the DRC recommend approval of (e) on page 3.

Mr. Cookingham explained the time to bring signs into conformity has been extend from 2010 to 2012 but the P&Z Board and the CRA felt it should remain unchanged.

Mr. Cookingham clarified there was a misprint in the agenda, this is the only public hearing on this ordinance, and Board action is required today.

Jerry Wilson voiced support for extending the time to conform to 2012 especially where it concerns monument signs.

Mrs. Ventola agreed.

Dwayne Needham opined 35 s.f. just isn't enough room to specify everything his business owner deals in and that size sign will get lost compared to the size of his building.

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

**Motion Carried 3:0.**

**ABSENT: Chairman Moore, and Commissioner District V.**

**Vice Chairman D'Aprile** opined staff had done an admiral job with the proposed changes and noted these changes will be happening throughout the County not just in Charlotte Harbor.

**Commissioner Cummings** stated he supported the P&Z Board's recommendations.

**Commissioner DeBoer** said he can't support the proposed ordinance, and he felt they need to continue to review this.

**Vice Chairman D'Aprile** asked if the Commissioner would support 50 s.f. Class A signs instead of 35 s.f. and the two year extension. **Commissioner DeBoer** said yes even though he still feels they need to go back and look at the whole thing.

**Vice Chairman D'Aprile** said he could go along with the 50 s.f. Class A signs but he has a problem with the two year extension because he wants the people to be able to use the money that's available to them.

**Commissioner DeBoer** noted the Board can make money available to them for another two years.

**Vice Chairman D'Aprile** asked if it was possible to extend funding for another two years.

Ms. Forester responded the sign grant program is funded from TIF with \$36,000 and with general revenue funds the Board has set aside for overall Countywide sign changes.

**COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-076 WITH THE 50 S.F. AND THE TWO YEAR EXTENSION, SECONDED BY VICE CHAIRMAN D'APRILE.**

**Motion Carried 2:1. Commissioner Cummings opposing.**

**ABSENT: Chairman Moore, and Commissioner District V.**

**Commissioner DeBoer** requested a point of personal privilege, recalled a situation a couple of years ago in the Ranchettes dealing with a commercial dog training business, the Board took action to have this stopped but it hasn't stopped, and it needs to be followed.

**Vice Chairman D'Aprile** recalled this issue, and agreed that evidently Code Enforcement hasn't followed up.

Mr. Loucks said he will follow up and find out why this is still going on.

**MEETING ADJOURNED: 3:30 PM**

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

/ksm