

BOARD OF COUNTY COMMISSIONERS - LAND USE PUBLIC HEARINGS

SEPTEMBER 19, 2006

Hearings of the Board of County Commissioner were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Moore, Commissioner D'Aprile, Commissioner Cummings, and Commissioner DeBoer. Also in attendance were Assistant County Administrator Baltz, Assistant County Attorney Browne, Executive Assistant Dillon, and Minutes Supervisor Nice. The following members were absent: Commissioner District V. The hearings were called to order at **9:00 AM** followed by the pledge of allegiance. (**Proof of publication was in order.**)

Addition to the Agenda:

9. Discussion and direction on the Department of Community Affairs (DCA) finding that the County is not in compliance with the Comprehensive Plan.

COMMISSIONER DEBOER MOVED APPROVAL OF THE ADDITION, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0. ABSENT: Commissioner District V.

I. Planning and Zoning Agenda

1. NOPC-06-04-25 Quasi-Judicial Commission District I Trinity Property Group LLC is requesting to amend the Sandhill Development of Regional Impact (DRI) Development Order by reallocating 38,000 square feet of existing commercial square footage from Parcel C-19B in Tract 4 to Parcel 5-19H; reallocating 25,000 square feet of existing commercial square footage from Parcel 5-18 to Parcel 5-19H; and, reallocating 25,000 generic square feet of existing commercial square footage to Parcel 5-19H for a total of 88,000 commercial square feet; providing for a revised Sandhill Map H dated July 14, 2006; incorporating changes to the Map H (reconfiguring acreage totals); finding that this amendment does not constitute a substantial deviation; and providing an effective date; the Sandhill DRI consists of 730± acres generally located south of DeSoto County, west of the Deep Creek area, north of Rampart Blvd, and east of

Loveland Boulevard; Sections 6 and 7, Township 40S, Range 23E in Port Charlotte, Florida; a complete legal description is on file. RECOMMENDATION: Community Development Department: Approval and Planning and Zoning Board: Approval

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures. Commissioner D'Aprile reported a telephone conversation with the developer.)

Michael Konefal explained the purpose of the petition to amend the Sandhill DRI by reallocating approximately 90,000 square feet of existing commercial near the intersection of Sandhill Boulevard and Kings Highway to the north and east of Wal-Mart and reducing the golf course acreage as shown on the map; the property to be reallocated is comprised of three segments of commercial e.g. 38,000 square feet from a lot off of Sandhill Boulevard, 25,000 square feet from the Wal-Mart property, and another 25,000 square feet of excess commercial; and staff and the Planning and Zoning Board (P&Z) have reviewed the petition and found it consistent with the Comprehensive Plan and Florida Statutes.

Gerri Waksler appeared on behalf of applicant to create another commercial parcel adjacent to Wal-Mart by reallocating 88,000 square feet of commercial as shown on the map as parcel 519-H; this will improve the traffic flow by establishing vehicular patterns off of Sandhill Boulevard and Kings Highway; reported the Regional Planning Council, P&Z, and staff have reviewed the application and determine it does not represent a substantial deviation; and requested approval.

COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 4:0. ABSENT: Commissioner District V.

COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2006-173, SECONDED BY COMMISSIONER DEBOER.

Commissioner DeBoer questioned the threshold for a substantial deviation determination. Mr. Konefal stated a 5%+ threshold of the golf course or recreation area would require a DRI review. **Commissioner DeBoer** stated the reallocation does not seem to

warrant this type of monumental process. Mr. Konefal explained it is contingent upon the Development Order language; this is a 20-year development period; and the change may have been possible within the first five years without this process.

Motion Carried 4:0. ABSENT: Commissioner District V.

2. Z-06-06-35 Quasi-Judicial Commission District IV An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family-3.5 (RSF3.5) to Environmentally Sensitive (ES), for property located at 2400 El Jobean Road; containing 354± acres, in the Port Charlotte area; Commission District IV; Petition No. Z-06-06-35; applicant Charlotte County Board of Commissioners.

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures and there were none.)

Jie Shao reported Parks, Recreation and Cultural Resources Department requested a rezoning to make the zoning of the site consistent with the Future Land Use Map (FLUM) designation of Resource Conservation and to comply with Florida Communities Trust (FCT) grant requirements; staff has determined the proposed change is appropriate and recommends approval; and P&Z recommended approval of the rezoning.

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

Motion Carried 4:0. ABSENT: Commissioner District V.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-080, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0. ABSENT: Commissioner District V.

3. Z-06-06-36 Quasi-Judicial Commission District II An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial Highway (CH) to Commercial Intensive (CI), for property located west of I-75, south of the LaVilla Road, east of Florida Street, and north of Duncan Road (U.S 17); containing a total of 11.45± acres, in the Solana area; Commission District II; Petition No. Z-06-06-36; applicant Punta Gorda Interchange LTD.

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures and there were none.)

Inga Williams advised the request to amend the zoning designation to CI will allow a wider range of uses on the site and to make the zoning consistent across applicant's property; CI uses are consistent with uses allowed on properties in the immediate vicinity; staff recommends approval; and P&Z recommended approval of the rezoning.

James W. Herston appeared on behalf of applicant for approval of the housekeeping item.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:0. ABSENT: Commissioner District V.

Commissioner DeBoer questioned the access to I-75. Mr. Herston reported the I-75 access is protected by the Florida Department of Transportation.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-081, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0. ABSENT: Commissioner District V.

4. Z-06-06-40-TDU Quasi-Judicial Commission District II An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agricultural Estates (AE) to Planned Development (PD), for property located south of Notre Dame Boulevard, east of Burnt Store Road and west of Green Gulf Boulevard; containing 300± acres, in the Punta Gorda area; Commission District II; Petition No. Z-06-06-40-TDU; applicant Burnt Store Road Investments, LLC.

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures and there were none.)

Ms. Shao summarized the request for rezoning to a higher density residential use will allow a mixed residential development for single and multi-family units; the proposed development is compatible with surrounding land uses and consistent with the intent of the Burnt Store Area Plan and Goals, Objectives, and Policies of the Comprehensive Plan; the Development Review

Committee (DRC) recommended the Concept Plan associated with this PD rezoning be approved with conditions; and staff and P&Z recommend approval with conditions "a" through "w".

Gerri Waksler appeared in support of the applicant to reduce the overall density on the site based on preservation and reservation of land adjacent to Burnt Store Road for future development purposes and requested approval with all conditions.

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

Motion Carried 4:0. ABSENT: Commissioner District V.

Commissioner Cummings stated he wants to make sure the proportionate share process will be completed and requested the reason for the density reallocation. Attorney Waksler explained the purpose of the reallocation.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-082, SECONDED BY COMMISSIONER CUMMINGS.

Commissioner DeBoer questioned the adoption of the proportionate share funding ordinance. Attorney Waksler recalled the Board has not yet adopted such an ordinance and pointed out proportionate share funding is addressed in the Burnt Store Area Plan. **Chairman Moore** asked about the availability of a site for a school bus turn around. Attorney Waksler stated even though the roads will be private, a pick up and turn around area will be provided.

Motion Carried 4:0. ABSENT: Commissioner District V.

5. Z-06-06-41 Quasi-Judicial Commission District III Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family-5 (RSF-5) and Agricultural Estates (AE) to Residential Estates-1 (RE-1) and from Agricultural Estates (AE) to Residential Multi-family-3.5 (RMF-3.5), for property located west of C.R. 771, south of the Rotonda Airport, east of East Branch Coral Creek; containing a total of 158.65± acres, in the Cape Haze area; Commission District III; Petition No. Z-06-06-41; applicant Boca Creek Development Company, LLC.

RECOMMENDATION: Community Development Department: Approval
and Planning and Zoning Board: Approval

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures. Commissioner D'Aprile indicated he has completed necessary paperwork.)

Ms. Williams stated the petition requests an upzoning and downzoning to allow more density on the south portion of the property and less density on the north portion of the site; applicant has retained the base density of 346 units on the site by redrawing the boundary of the zoning districts; the proposed rezoning is consistent with development in the area; and staff and P&Z recommend approval.

Attorney Robert Berntsson appeared on behalf of the applicant in support of the rezoning, stated there will be no net increase in density, and requested approval. Chairman Moore questioned the right-of-way ownership for future widening. Attorney Berntsson stated that would be a DRC issue. Chairman Moore requested verification of the old bike trail location. Attorney Berntsson identified the location on the map. Commissioner DeBoer expressed concern about private jets utilizing Rotonda Airport and the impact on residents. Chairman Moore requested the existence of a map of current runways. Commissioner DeBoer expressed uncertainty of the runway extension location. Randy Keeling appeared on behalf of both parties, explained the runway extension will be mostly southwest, and both parties are aware of the problems. Commissioner DeBoer agreed as long as the runway extension will be considered in the DRC process. Mr. Keeling reported the existing runway was repaved two years ago and the primary change will bring the runway in compliance with safety standards.

Commissioner Cummings questioned the change to RMF-3.5 for use of single family homes. Attorney Berntsson stated single family homes may also be constructed in RMF zoning districts.

COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING,
SECONDED BY COMMISSIONER DEBOER.

Motion Carried 4:0. ABSENT: Commissioner District V.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2006-083,
SECONDED BY COMMISSIONER DEBOER.

Motion Carried 4:0. ABSENT: Commissioner District V.

RECESS: 9:45 AM - 9:50 AM

Chairman Moore announced for the benefit of citizens in attendance that PA-06-06-07 was withdrawn from the draft agenda, expressed uncertainty regarding the date when the petition will be heard, and advised notice of the public hearing will be published.

6. SV-06-06-07 Legislative Commission District II John C. Scoles has applied for a Street Vacation to vacate a portion of Jerry Avenue in Sunshine Park as recorded in Plat Book 1, Page 37 of the Public Records of Charlotte County, Florida, that portion of Jerry Avenue commencing at the southwest corner of Edmund Street, then running southerly approximately 265 feet, more or less, to the southwest corner of Parcel 10-1, then northwesterly along the Railroad Right of Way to the southeast corner of Lot 7 of Block D, and then northerly to the northeast corner of Lot 6 of Block D, then southeasterly to point of beginning, located in Section 18, Township 41, Range 23 in Charlotte County, Florida. The site consists of 0.18 acres, more or less, and is located in Commission District II.

James Dossett explained Mr. Scoles will not be present due to an accident on a job site and Mr. Scoles requested him to move forward with the presentation.

Mr. Dossett stated the request to vacate is based on the inadvertent omission of the site from a previous plat vacation approved by the Board on May 16, 2006; Public Works concerns have been satisfied and the legal description and survey are on file; the vacation will allow reversion of the site to Mr. Scoles who intends to develop or market the entire parcel; staff has reviewed the application and recommends approval with one condition requiring applicant to provide an easement to Florida Power and Light Company for existing facilities in the area; and P&Z heard the petition on August 14, 2006 and recommends approval.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:0. ABSENT:Commissioner District V.

COMMISSIONER DEBOER MOVED TO APPROVE RESOLUTION 2006-174, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:0. ABSENT:Commissioner District V.

7. PP-06-04-03 Quasi Judicial Commission District I Standard Pacific of SW FL has applied for a Preliminary Plat for Kensington Lakes, a subdivision consisting of a 255 lot residential subdivision in a Planned Development, lying in Sections 25 and 26, Township 40S, Range 23E. The site, consisting of 90.46± acres, is located on the North side of Duncan Road in Commission District I in Charlotte County, Florida. A complete legal description is on file. RECOMMENDATION: Community Development Department: Approval with Conditions and Planning and Zoning Board: Approval with Conditions

(Minutes Supervisor Nice administered the oath. Chairman Moore polled the Board for ex-parte disclosures and there were none.)

Mr. Dossett advised the project consists of a residential cluster subdivision; the site is zoned PD with a rezoning number Z-05-10-56 and PD-05-09pp; the plat contains lots measuring less than 50 feet in width that were approved as part of the PD process; staff recommends approval subject to the following conditions: (1) each lot in Area 1 must be 45 feet in width and each lot in Area 2 must be 55 feet in width; plat maps must graphically show the dimensions of each lot on the final plat; (2) State Plane Coordinates must be indicated in the description wording or in the drawings on the final plat mylar; (3) two permanent benchmarks with identification as to number, location, type, elevation, and datum shall be set by the surveyor on or near the site and shown with the same information on the record plat; and (4) street names for the project must be submitted to the Addressing Department and approved prior to submittal of the final plat; a median between Lots 48 and 52 should be removed for addressing purposes; water and sewer will be provided by the City of Punta Gorda; all roads will be paved to County standards but will remain private. Mr. Dossett indicated a school bus

stop and turn around area will be provided for safety purposes. Mr. Dossett reported P&Z heard the petition on August 14, 2006 and recommended approval.

Attorney Waksler appeared in support of the applicant and requested approval after joining in with staff's presentation. **Commissioner D'Aprile** questioned lot sizes. Attorney Waksler explained there are none less than 5,500 square feet.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.
Motion Carried 4:0. ABSENT:Commissioner District V.

COMMISSIONER DEBOER MOVED TO APPROVE PP-06-04-03, FILED BY STANDARD PACIFIC OF SW FL, FOR A PRELIMINARY PLAT FOR KENSINGTON LAKES WITH THE FOUR CONDITIONS, SECONDED BY COMMISSIONER D'APRILE.
Motion Carried 4:0. ABSENT:Commissioner District V.

8. Revision of US 41 Overlay (Boundary Only) Quasi-Judicial Commission District IV An ordinance amending Charlotte County Code, Section 3-9-52, U.S. 41 Zoning District Overlay, extending the existing U.S. 41 Zoning District boundary to include properties located Southeast of Murdock Circle, Southwest of Tamiami Trail (U.S. 41), and Northwest of Toledo Blade Boulevard; containing 18.17± acres, in the Port Charlotte area; Commission District IV; applicant: the Charlotte County Board of County Commissioners.
RECOMMENDATION: Community Development Department: Approval and Planning and Zoning Board: Approval

Chairman Moore related he has been advised this is not a quasi-judicial proceeding and requested an explanation from Attorney Browne on why this is not a quasi-judicial proceeding as noted on the agenda. Attorney Brown explained the basis for the legislative, administrative process and pointed out no ordinance would be adopted by the Board at this time.

Ms. Shao reported this is the first public hearing to consider revisions to extend the US 41 Zoning District Overlay boundary; the Board adopted the Overlay on November 9, 2004 and revisions on May 12, 2005; the purpose of the Overlay is to promote

development and/or redevelopment of commercial uses along the US 41 corridor and to improve the overall appearance of the corridor and functional operation of the thoroughfare; this change will apply to the west side of US 41 from the Sarasota County Line to Gardner Drive and the east side of US 41 from the Sarasota County Line to Hancock Avenue; staff recommends approval of the revisions; and P&Z heard the petition on September 11, 2006 and recommended approval. Ms. Shao stated the second public hearing has been scheduled for October 17, 2006 at 10:00 AM, or as soon thereafter as may be heard, thereby electing the second hearing to be held at a time other than after 5:00 PM in accordance with Section 125.66 Florida Statutes.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 4:0. ABSENT:Commissioner District V.

9. Discussion and direction on the DCA finding that the County is not in compliance with the Comprehensive Plan

Commissioner DeBoer suggested hiring an outside consultant to work with the Legislative Delegation on this issue. **Chairman Moore** requested an explanation on internal/external assistance being planned on by staff. Mr. Konefal stated the issue is being allocated to existing staff and no outside consultant staff is being considered. Mr. Konefal summarized the large scale plan amendment process; some amendments have been submitted to DCA and are awaiting Objections, Recommendations, and Comments (ORCs); the transmittal hearing on one of the amendments is scheduled in November 2006 which poses a tight timeline for staff's presentation and the hearing before P&Z in October. **Chairman Moore** pointed out it could be in Tallahassee for three months and then the ORC would come back to the Board. Mr. Konefal projected March 2007 for adoption. **Chairman Moore** concluded staff does not need outside assistance to assure the timeline is met. Mr. Konefal stated consultants might be utilized for back logged or other work. **Commissioner Cummings** requested the number of existing planners. Mr. Konefal stated 9 planners but there are 4 vacancies and an additional 6 planners are being requested in the current budget. **Commissioner Cummings** stated this is a surprise issue although staff has had several major projects since Hurricane Charley including recovery, Murdock Village, and Babcock Ranch; he is prepared to support

hiring consultants if needed to assure compliance with the proposed timeline. **Commissioner Cummings** outlined upcoming projects including the east County sector plan, US 17, and numerous neighborhood community plans; stated it would be less expensive to fill the planner positions on the long-term basis but he will support hiring a consultant if justified. **Commissioner D'Aprile** concurred. Mr. Konefal stated it would be best to use current staff on Comprehensive Plan issues, there are seven developments, and staff has spoken with all of the developers.

Commissioner Cummings agreed with using current staff on Comprehensive Plan issues and using outside consultants, if necessary, on permitting issues. **Commissioner D'Aprile** expressed concern about delays in the proposed developments. Mr. Konefal stated applications were submitted as far back as November 2005 for development and indicated DCA should approve these developments instead of penalizing them. Mr. Konefal stated the four vacancies have occurred since the beginning of this year and the 6 proposed planners will be effective October 1, 2006. **Chairman Moore** questioned using the Legislative Delegation to secure more flexibility with DCA, recalled two extensions have been provided to the County, and stated the County needs to get serious. Mr. Konefal reported the shortage of planners exist over the entire State of Florida and the Nation and advised Charlotte County offered a \$30,000 incentive for new planners in the last 30 days. Assistant County Administrator Baltz explained Mr. Konefal has been requested to develop an action plan, he has been aggressively assigning staff with plan amendments, and pointed out the action plan provides for a four-week time line.

Commissioner DeBoer recalled major projects included the Burnt Store Sector Plan, Murdock Village, and Babcock Ranch; the Board requested on numerous occasions for input from staff on needs to accomplish the projects in a timely fashion; the Board and staff need to commit to everything possible to accomplish the plan amendments prior to going to the Legislative Delegation. **Chairman Moore** concluded the Board has no need of assistance from the Legislative Delegation and if asked this afternoon, he would indicate staff is doing everything possible. **Commissioner Cummings** concluded if another extension is required on the timeline, existing plan amendments should be considered under

the current Comprehensive Plan; the County is advertising a \$30,000 incentive to hire planners and if necessary, additional consultants will be utilized to comply with the proposed timeline. Mr. Konefal reiterated the October, November, and March proposed timeline. **Commissioner Cummings** suggested a request be made of DCA for expedition of their review process. Mr. Konefal agreed. **Chairman Moore** stated the County has no right to request anything of DCA since over two years has lapsed without accomplishing Comprehensive Plan revisions.

Commissioner DeBoer concluded Charlotte County has a serious credibility problem and suggested staff be directed to take whatever means are available to correct the situation. **Commissioner Cummings** stated the expenditure of \$300,000 to hire 10 planners is a serious commitment. **Commissioner DeBoer** suggesting doing nothing and letting **Chairman Moore** see how much help he can secure. Mr. Konefal explained passage of Senate Bill 360 was redrafted and approved without little or no input from local governments; outlined the County is supposed to pass a proportionate share ordinance by December 1, 2006; the County is responsible for funding five-year Capital Improvements Program (CIP) projects and there are drastic shortfalls; School concurrency must be passed for the School Board as mandated by 2008; a lot of governments will be lobbying to modify Senate Bill 360; and suggested focusing on Senate Bill 360 modification as an issue for the Legislative Delegation early next year for the 2007 Session.

Meeting Adjourned: 10:50 AM

Signature on file in Commission Minutes
Chairman Moore

ATTEST:

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

**By: Signature on file in Commission Minutes
Deputy Clerk**

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