

**BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS**

**OCTOBER 17, 2006**

A regular 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: Chairman Moore, Commissioner D'Aprile, Commissioner Cummings, Commissioner DeBoer, and Commissioner Duffy. Also in attendance were County Administrator Loucks, Assistant County Attorney Browne, Executive Assistant Dillon, and Deputy Clerk Manley. The following members were absent: None. The meeting was called to order at **9:00 AM**, followed by the Pledge of Allegiance. (**Proof of Publication was in Order.**)

Mr. Loucks advised there are no changes to the agenda.

**I. CONSENT AGENDA**

**A. Community Development**

1. Recommended Action: Cancel the October 25, 2006 Special Workshop for the Don Pedro/Palm/Knight Islands and Thornton Key Community Plan.

**B. General Services**

1. Recommended Action: Recommend the Board approve Change Order #2 to Contract #05-393, South Gulf Cove Lock Refurbishment, with Coastal Marine Construction, Inc., to increase the contract in the amount of \$103,869.07 for a revised total contract of \$441,613.40. (Budget Action: FY07 Budget \$6,965.71, Improvements Other Than Buildings, South Gulf Cove Lock Automation, project total \$144,000; and \$96,903.36 available, Contract Services Other. Funding - \$6,965.71 from the South Gulf Cove Waterway MSBU; and \$96,903.36, from West County Stormwater MSBU.)

**COMMISSIONER CUMMINGS MOVED TO APPROVE CONSENT AGENDA, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 5:0.**

**CITIZEN INPUT - AGENDA ITEMS ONLY**

Don Ross addressed agenda item C-1 in support of the Ansin site.

Greg Stuart spoke on agenda item C-1 in support of the Bermont Road site, and presented handout material.

Attorney Michael Haymans spoke in favor of the Ansin site.

I. REGULAR AGENDA

C. Regular Business

1. Community Development Discuss various sites to the proposed Florida Gulf Coast University and provide direction to staff on how the county should participate in the process.

**Chairman Moore** indicated this matter was brought up by **Commissioner DeBoer**, and wanted to make it clear that discussion today is for possible impacts to the Comprehensive Plan, not to tell Florida Gulf Coast University (FGCU) where it needs to be.

Michael Konefal advised that FGCU has proposed a campus in Charlotte County, that a site selection committee was set up, that five proposals of possible sites were submitted, and reduced to three, which are identified as the Ansin-Charlotte, LLC site, the Greg Eagle Bermont Road site, and the Hudson Sun-River, LLC site.

Mr. Konefal said Murdock Village was not submitted to the selection committee because it was not part of the Stock Development proposal, but it is a viable site if there is interest.

Mr. Konefal reviewed University requirements and major issues, indicated that requirements are linked to a grant application, and commitments with developers are in conjunction with funding from state agencies, advised that at least two of the three proposals would require DRI review, that hurricane evacuation should be considered when looking at surrounding housing, that the TDU Ordinance and affordable workforce housing are related if there is additional housing being built around the

university, and explained that a good bit of the property in Punta Gorda is in a Zone 1 flood plain.

Mr. Konafel presented a slide presentation reviewing the three proposed site locations that paralleled the handout material, and advised that staff requests direction from the Board of County Commissioners (Board) as to how they should proceed.

**Commissioner DeBoer** explained that this expanded far beyond what was originally thought of, that he does not want to wait until the selection committee has made a selection and has funding, and that he wants to be certain that the Board has a say in the actual siting of the university and that it does not interfere with the county's growth process.

**Commissioner DeBoer** stated he does not want the Board to be put in a position where everything else gets out in front of the Board's ability to make comments, and would like the Board to decide today, strictly from a growth management standpoint, areas that it would consider acceptable, and use this as a guide to send to the university as to where it would have the least resistance from this Commission, and indicated his preference is that the selection committee select a site within the urban service area that fits within the county's growth management strategy.

**Commissioner D'Aprile** agreed that any site must be in the urban service area and meet the Comprehensive Plan (Comp Plan), and that caution must be established when developers look at TDU removals, pointed out that the Murdock Village area is still up in the air, that Mr. Kitson has volunteered some of his property, and should not be overlooked, but that he could not make a decision until more information is furnished.

**Chairman Moore** commented on Mr. Kitson's offer.

**Commissioner Cummings** stated that focus on educational facilities should be in the urban service areas.

**Commissioner Duffy** said there are benefits to all three sites, but she would like to see the recommendations proposed by the committee.

**Commissioner DeBoer** said the Board should not wait until the selection committee makes a selection to avoid being locked into what they decide, and that the Board should make it clear that sites considered should be within the urban service area.

**COMMISSIONER DEBOER MOVED TO APPROVE THAT THE BOARD OF COUNTY COMMISSIONERS (BCC) ISSUE A STATEMENT UNDER SIGNATURE OF THE CHAIR THAT EXPRESSES OUR STRONG PREFERENCE TOWARD SITES WITHIN THE URBAN SERVICE AREA FOR LOCATION OF THE FLORIDA GULF COAST CAMPUS, AND THAT WE WOULD ALSO DISCOURAGE ANY SITES OUTSIDE THE URBAN SERVICE AREA AS THEY WOULD CONFLICT WITH OUR GROWTH MANAGEMENT POLICIES AND OBJECTIVES, SECONDED BY COMMISSIONER D'APRILE.**

**Commissioner Cummings** commented on reasons the university should be within the urban service area. **Chairman Moore** stated he hopes the selection committee would take the Board's concerns into consideration when selecting a site, as it would do little good to pick a site that the County could not approve.

**Commissioner D'Aprile** stated the college here would be an economic engine for the county, and that site selection is very important in making certain the site would compensate for the needed revenue. **Commissioner DeBoer** encouraged the site selection committee to treat the County and City as partners.

**Commissioner Duffy** requested clarification of the motion, and **Commissioner DeBoer** repeated the motion. **Commissioner Duffy** asked if that would eliminate two of the proposed sites. **Chairman Moore** said there are standards to be met, that it is not the intent of the Board to take over the committee, but it is the Board's obligation to meet the criteria in the county, which is urban service.

**Commissioner Cummings** explained that in his personal opinion the Board is offering additional information to the committee, that consideration of the likelihood of each proposal's legality and consistency with local and state laws should be considered, that the proposals inside the urban service area would be the easiest to move through the process, and that hopefully this information would be viewed by the committee in a positive light.

**Commissioner D'Aprile** pointed out that the financial aspect must be considered by the Board as well.

**Motion Carried 5:0.**

**II. PLANNING AND ZONING AGENDA**

1. 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.

**Chairman Moore advised that this agenda item is Legislative, not Quasi-Judicial.**

Jie Shao explained this is the second public hearing to consider revisions to extend the U.S. 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 U.S. 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 U.S. 41 from the Sarasota County Line to Gardner Drive and the east side of U.S. 41 from the Sarasota County Line to Hancock Avenue; staff and the Planning and Zoning Board recommend approval.

**COMMISSIONER DEBOER MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2006-085, SECONDED BY COMMISSIONER DEBOER.**

**Commissioner Cummings** stated he is amazed this passed with no objections.

**Motion Carried 5:0.**

Ms. Shao commented that possibly the mixed use for that area would be done next year.

2. Z-06-07-45 Quasi-Judicial Commission District IV An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family-3.5 (RSF-3.5) to Planned Development (PD), for property located south of Sackheim Avenue, north of Eleanor Avenue, east of Halsey Street and west of Cornelius Boulevard; containing 97.34± acres, in the Port Charlotte area; Commission District IV; Petition No. Z-06-07-45; applicant: Bethel Community LLC.

**(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. There were none.)**

Jie Shao reported Bethel Community LLC is requesting a rezoning to amend the zoning designation from RSF-3.5 to Planned Development (PD) in order to allow a mixed residential development including single-family units as well as multi-family units; that the proposed density is 3.37 units per acre, which is less than the current 3.5 units per acre; that the Development Review Committee (DRC) recommended that the Concept Plan not be approved due to unmet conditions, but staff and applicant have agreed to resolve this issue during the final detail site plan review; staff and Planning and Zoning Board recommend approval of PD rezoning Petition Z-06-07-45 with conditions "a" through "r".

Attorney Geri Waksler spoke on behalf of the applicant, indicated that the site has been before the Board on previous occasions, that all but 4.44 acres of the site already has approved DRC final development plans, and that construction has begun on the site; that applicant purchased additional lots and revised a portion of the site plan, and that rezoning to PD is the only option.

**Commissioner C'Aprile** inquired about the disagreements between DRC and the applicant during the review plan, and Attorney Waksler explained.

**Commissioner Cummings** commented on the pedestrian facilities.

**COMMISSIONER DEBOER MOVED TO APPROVE CLOSING THE PUBLIC HEARING,  
SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2006-086,  
SECONDED BY COMMISSIONER D'APRILE.**

*Commissioner Cummings* suggested an effort be made to improve the pedestrian and vehicular access between the residential community and the commercial area before development.

*Commissioner DeBoer* stated this is not a good site plan.

*Commissioner D'Aprile* agreed with *Commissioner DeBoer* and stated that this area is being overcrowded.

**Motion Carried 5:0.**

3. Z-06-07-44 Quasi-Judicial Commission District IV An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Planned Development (PD) to Commercial General for the property located at 2885 Tamiami Trail (US 41), containing 3.92+ acres, in the Port Charlotte area; Commission District IV; Petition No. Z-06-07-44; applicant: Inter-Medic Health Center of Charlotte County, Inc.

**(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. There were none.)**

*Jeffrey Crimer* summarized the rezoning request from Planned Development (PD) to Commercial General (CG) by Inter-Medic Health Center of Charlotte County, Inc. in Petition Z-06-07-44, for property located at 2885 Tamiami Trail (U.S. 41) in the Port Charlotte area, to allow the property to better fit with the profile of other neighboring properties in the U.S. 41 Corridor Overlay, and allow greater flexibility for development of new uses; staff and Planning and Zoning Board recommend approval.

*Attorney Michael Haymans* appeared on behalf of the applicant, advised that the site is no longer proposed as a medical facility, that the owners of the property would like to market the property, that the property is large enough to overcome some

of the strip development concerns along U.S. 41, and that Commercial General would allow flexibility.

**Commissioner DeBoer** inquired why the site was originally changed to a PD. Attorney Haymans speculated that the PD would have assured no access into the residential community behind the medical facility, but code provisions that prohibit accessing residential roads for commercial project unless there is no other alternative, and buffering ordinances have been adopted which must be complied with by any development on the site.

**Commissioner Cummings** pointed out that the site is broken up into small lots and if the lots were sold separately it could create a problem when the access rule comes into play.

Attorney Haymans stated the property is more valuable in its size and there is no economical reason to break the parcel into individual lots.

**Commissioner Cummings** stated he would be more comfortable if there had been a deplatting.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.**

**Motion Carried 5:0.**

**COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-087, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 5:0.**

**RECESS: 10:20 AM - 10:25 AM**

4. PP 06-07-05 Quasi Judicial Commission District I Argosy Advisors, LLC has applied for a Preliminary Plat for Palmetto Plantation, a subdivision consisting of 89 residential lots and a clubhouse located in Section 25 & 26, Township 40 South, Range 23 East. The site, consisting of 25.99 acres more or less, is located North of Riverside Drive, East of the Seaboard Coastline railroad right-of-way, south and southeast of Shell Creek, and west of drainage ditch and residential property in Commission District I. The site currently consists of two parcels, both owned by Riva Del Sol, LLC. A complete legal description is on file.

**(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. There were none.)**

James Dossett reported that the site in Preliminary Plat Petition PP 06-07-05 for Palmetto Plantation by Argosy Advisors, LLC, consists of two parcels, 25.62 acres more or less, which is in a high-hazard zone; that the applicant's engineer has responded to most of the deficiencies and submitted documentation to prove compliance; the project received Preliminary Site Plan approval from DRC on August 16, 2005, with conditions; water and sewer will be provided by the City of Punta Gorda provided the applicant designs, funds and installs all facilities, and provided the capacity is available at the time of connection; all roads will be built to County Standards and will remain private; staff and Planning and Zoning recommend approval of PP-06-07-05 with five (5) conditions because condition number 6 has already been met and is being dropped; if approved, a statement is needed from the applicant as to how soon construction will begin, because material needs to be removed if construction will not begin until 6 days after approval granted. Chairman Moore advised there was a typo on condition 5, but that the intent is understood.

Attorney Michael Haymans appeared on behalf of the applicant, explained the application process that had occurred on this petition, part of which is extension of the sewer line down Riverside Drive, and indicated that the material on the property is primarily that which will be used for sewer expansion for Riverside Drive.

Attorney Haymans stated he believes the concerns of the neighbor, Mr. Bush, have been met, that the buffer would be in place before construction, and that applicant accepts all five conditions.

John Bush advised that he supports the project and appreciates the 50' buffer, that his annoyance is for the material which has been stored on the property for six months, but understands from Mr. Dossett that something can be worked out to proceed quickly with construction so the material doesn't just sit there, and that he supports the Board's assistance in getting the project started.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.  
Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE PRELIMINARY PLAT PETITION PP 06-07-05 FOR PALMETTO PLANTATION WITH FIVE (5) CONDITIONS RECOMMENDED BY STAFF, SECONDED BY CHAIRMAN MOORE.**

*Commissioner DeBoer* questioned the property size. Attorney Haymans explained the property had two different zonings, Multi-family 5 and Residential single-family 5, that the smaller lots are the detached town homes, that the applicant went through the cluster special exception process for the single-family portion of the property in order to have this site-layout because it maximizes the asset of the waterfront and protects the environmentally sensitive areas in the interior, that the overall density is 3.5 or less, and that homes are clustered together to protect open space, and to take advantage of amenities.

Attorney Haymans indicated the yard has been eliminated so it looks and feels like a condominium and the common areas are used as the open space, but instead of a condominium, there are detached town homes through the cluster special exception process that applicant went through.

**Commissioner Cummings** expressed concern that the clustering is within the Special Surface Water Protection Overlay District, and requested verification. Attorney Haymans indicated his understanding is that the Special Surface Water Protection Overlay District is above the dam and designed to protect the potable water source for the City of Punta Gorda, and that the site is below the dam.

Mr. Dossett said the person who would give that information is not here, but that she is an advisor on the DRC committee and that the DRC committee approved the plan.

Attorney Haymans stated that the strip of waterfront housing does not drain into Shell Creek, and that a major benefit of this project is that not only would it be on a central sewer,

and not a package plant, but that over 500 additional units would come off package plants and go onto central sewer.

Attorney Haymans explained the mobile home parks would pay their entire impact fee, which would include a transmission component, and a portion of that would be reimbursed to the developer of the sewer line.

**Commissioner Duffy** requested that the construction material be removed as soon as possible.

**Commissioner D'Aprile** indicated he has concerns with the cluster homes.

**Motion Carried 5:0.**

5. SV-06-06-08 Legislative Commission District III Everett W. Munsell has applied for a Street Vacation to vacate a portion of Palmetto Street, Englewood, that portion located 474.26 feet South from the N.E. corner of Section 6, Township 41, Range 20 East, thence running North West 283 feet to the point of beginning, thence continue North West 50 feet, thence South West 180 feet; thence South East 50 feet; thence North East 180 feet to the point of beginning. The site is located in Commission District III, and consists of 0.2 acres, more or less. A complete legal description is on file.

James Dossett advised that staff and Planning and Zoning Board have reviewed Petition SV 06-06-08 of Everett W. Munsell to vacate a portion of Palmetto Street in the Englewood area, that staff reviewed the petition and recommends approval with conditions, which must be met before the vacation may be recorded. Mr. Dossett advised that Public Works' concerns on drainage have been met, that a statement has been received from applicant's engineer stating there is no public or private drainage coming across this strip, that a survey has been received of this property, and that the only outstanding issue remaining is that applicant must provide an easement to Florida Power and Light (FPL) and Verizon, or any other utility easements for existing facilities, that FPL and Verizon have facilities within the area, which have not yet been

located, and approval is recommended with the condition that an easement be granted for any existing facilities.

Attorney Tom Smith appeared on behalf of the applicant and advised there is support from the adjoining property owners, that there is a public benefit, and that applicant agrees with the condition to provide the easement.

**COMMISSIONER DEBOER MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.  
Motion Carried 5:0.**

**Commissioner DeBoer** inquired if it was now possible that Palmetto Street could create access to the water. Mr. Dossett stated the water area is a stormwater pond owned jointly by the County and the State, that there are no trespassing signs posted for access to the water, and that the County and State own the lots that at located in the pond.

**Commissioner Cummings** said he is not certain how vacating this lot would clear up the access issue. Discussion ensued on access and parcels that could be developed individually.

Chairman Moore inquired about deplatting of property in conjunction with a right-of-way vacation. Attorney Smith said deplatting would not be a problem. Attorney Browne said a condition of the vacation could be the deplatting requirement of the five lots.

**COMMISSIONER CUMMINGS MOVED TO APPROVE RESOLUTION 2006-197 WITH THE THREE (3) CONDITIONS LISTED IN THE STAFF REPORT, AND AN ADDITIONAL FOURTH CONDITION THAT THE APPLICANT SUBMIT AN APPLICATION FOR A PARTIAL DEPLATTING OF THE REMAINING 5 PARCELS AS REFERENCED UNDER TESTIMONY, SECONDED BY COMMISSIONER DEBOER.  
Motion Carried 5:0.**

6. SV 06-07-10 Legislative Commission District III Michael Alexander has applied for a Street Vacation to vacate a portion of Wharf Avenue, in the Seaboard Subdivision (W. A. McElya's Subdivision of Little Gasparilla Island) as recorded in Plat Book 1, Page 11 of the Public Records of Charlotte County, Florida, that portion of Wharf Avenue commencing at the Northwest corner of Lot 5, Block 95,

running southerly 100 ± feet to the southwest corner of Lot 5 at the intersection of Wharf Avenue and King Street, then southwesterly approximately 40 ± feet to the southeast corner of Lot 6, then northwesterly to the northeast corner of Lot 6, then northeasterly 40 ± feet to the point of beginning. The site, consisting of 0.09 acres, more or less, is located in Section 15 and 16, Township 42, Range 20 in Commission District III of Charlotte County, Florida.

James Dossett advised Michael Alexander is the applicant for Petition SV 06-07-10 for a Street Vacation to vacate a portion of Wharf Avenue in the Seaboard Subdivision (W.A. McElya's Subdivision of Little Gasparilla Island), a site consisting of 0.09 acres, more or less; Public Works determined that the applicant must provide a determination by an engineer that the area in question does not currently convey stormwater from offsite public or private lands through or across subject property, and that an original survey, by a Florida licensed surveyor must be provided; no utility company will be affected; Florida Power and Light has not responded yet; the Little Gasparilla Advisory Board has requested the petition be held in abeyance without prejudice until the Little Gasparilla Island Community Plan is adopted; and staff and the Planning and Zoning Board recommend approval with three (3) conditions.

Mr. Dossett reported there is an existing shed on the site that is being used, that the shed would have to come down whether the vacation is approved or not because it straddles the property line, that no permit had been issued for the shed, and that the property owner had been notified the shed must come down.

**Chairman Moore** expressed concern about vacating a road on Little Gasparilla Island because of the limited access, and inquired if this would be of benefit to the community.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEBOER.  
Motion Carried 5:0.**

**Commissioner D'Aprile** inquired how old the building was that was in the roadway. Mr. Dossett advised no permit was ever issued for the building, but it appears to be several years old,

and the building would have to come down, regardless of the vote today.

**Commissioner DeBoer** expressed concern that this would create a dead-end road and difficulty for people turning around, and indicated it was premature to vacate the street.

**Commissioner Duffy** inquired if the residents drove cars, or mostly golf carts. **Commissioner Moore** replied both are used, but the roads are unpaved.

**Commissioner Cummings** advised the advisory committee is not in favor of the street vacation, and that he sees no public benefit in approving this petition.

**COMMISSIONER DEBOER MOVED TO DENY PETITION SV 06-07-10 OF MICHAEL ALEXANDER TO VACATE A PORTION OF WHARF AVENUE, SECONDED BY COMMISSIONER D'APRILE.**  
**Motion Carried 5:0.**

**Commissioner DeBoer** advised that he received a letter from Lindsey Harrington about land locking in the airport area, and requested that this be placed on an agenda to be brought before the Board as soon as possible. **Chairman Moore** agreed.

**MEETING ADJOURNED: 11:30 PM**

**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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