

BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS

APRIL 17, 2007

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Loftus, Commissioner Duffy, Commissioner Cummings, Commissioner D'Aprile, and Commissioner Moore. Also in attendance were County Administrator Loucks, Assistant County Attorney Browne, Administrative Assistant Dillon, and Deputy Clerk Mitchell. The following members were absent: None. The meeting was called to order at 9:00 AM, followed by the Pledge of Allegiance.

A. PLANNING AND ZONING AGENDA (Proof of Publication was in Order.)

1. PP 07-01-01 Quasi Judicial Commission District IV Venus Waterway Development Company has applied for a Preliminary Plat for Venus Waterway Development, a subdivision consisting of 7 residential lots in Section 7, Township 40 South, Range 21 East. The site, consisting of 4.28 acres, more or less, is located south of Hollow Avenue, east of Davenport Drive, north of Venus Waterway, and west of Butterfield Drive in a portion of the Port Charlotte Section 55 and a portion of the Plan of Garden Truck Farms El Jobean Subdivision, in Commission District IV. A complete legal description is on file.

(Deputy Clerk Mitchell administered the oath to prospective witnesses.) (Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

James Dossett presented the findings and analysis as detailed in the packet material and staff report dated February 23, 2007; and stated both staff and the Planning & Zoning Board recommend approval of the proposed preliminary plat with five conditions:

- (1) Provide SWFWMD ERP prior to Final Development approval.
- (2) Submit copies of Environmental Assessments.

- (3) Separate permit required for any structure on Venus Waterway.
- (4) Applicant must contribute \$1,500 for Habitat Reservation.
- (5) DRC Preliminary and Final approval prior to submitting for Final Plat.

**Commissioner Duffy** asked what will be done with the extra lots. Mr. Dossett responded they would be available for sale and the lots were acceptable for septic.

Attorney Robert Berntsson spoke on behalf of applicant; clarified the extra lots not part of this subdivision were pre-platted and grandfathered in and are allowed to have water and septic under the old regulations; commented on the reason for needing the offsite septic system; and explained the rear frontage is a private road much like an alleyway.

**Commissioner Duffy** asked who will maintain the private road. Attorney Berntsson said the property owners association.

**Chairman Loftus** asked if the applicant approves the conditions.

Attorney Berntsson said they join in the staff report and approve the five conditions.

**Commissioner D'Aprile** asked if the offsite septic system was for all lots. Attorney Berntsson said no it was only for the last lot and explained this was necessary because part of the property along Butterfield Drive was given away as part of the settlement of a separate lawsuit.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**  
Motion Carried 5:0.

**COMMISSIONER D'APRILE MOVED TO APPROVE PETITION PP-07-01-01 FOR VENUS WATERWAY DEVELOPMENT WITH FIVE CONDITIONS, SECONDED BY COMMISSIONER MOORE.**  
Motion Carried 5:0.

2. NC 06-12-03 Legislative Commission District III  
Charlotte County Community Development Department,  
Addressing Section, has applied to re-name a portion of two  
streets in Rotonda West Pine Valley Subdivision, more  
specifically the two segments of Pine Valley Lane,  
commencing at the intersection of Rotonda Circle running  
northerly to the northwest corner of Lot 299 Rotonda Pine  
Valley Subdivision to West Pine Valley Lane, and the segment  
of Pine Valley Lane, commencing at the intersection of  
Rotonda Circle, running northwesterly to the northeast  
corner of Lot 277, Rotonda Pine Valley Subdivision to East  
Pine Valley Lane. The aforementioned streets are located in  
the Rotonda Pine Valley Subdivision, as recorded in Plat  
Book 8, Page 16A of the Public Records of Charlotte County,  
Florida, in Section 25, Township 41 South, Range 20 East, in  
Commission District III.

Mr. Dossett stated the next three items deal with proposed street name changes, and there are approximately 130 others that have been brought to their attention by 911 Emergency Services due to difficulties in responding to emergencies.

Maggie Bartley explained the proposed resolution is to rename only the portion of Pine Valley Lane located on the west side to West Pine Valley Lane and leave Pine Valley Lane on the east side as recommended by the Planning & Zoning Board and detailed in their packet material, and staff concurs with this recommendation.

**Commissioner Moore** asked if the residents support the proposal. Ms. Bartley said yes.

Shiela Locatelli Wallace said she and her husband were the ones who recommended only changing a portion to West Pine Valley.

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

**Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2007-055, SECONDED BY COMMISSIONER MOORE.**

Commissioner Moore said nothing upsets people more than changing their addresses and they need a good public outreach program to get people behind this and the other 100+ street name changes that will be coming before the Board.

Commissioner D'Aprile said he appreciated the Commissioner's comments but he felt the people understand the safety issues involved, and asked if the Commissioner had received any complaints because he hadn't.

Commissioner Moore said he received complaints regarding the last West County name change, agreed doing it is fine but said they just need to do them intelligently.

Motion Carried 5:0.

3. NC 06-12-04 Legislative Commission District I  
Charlotte County Community Development Department,  
Addressing Section, has applied to re-name a portion of an  
un-named roadway, more particularly described as that  
portion of an un-named platted right of way commencing at  
the intersection of Organ Street, running easterly to Duncan  
Road to Foxtail Lane. The aforementioned street is located  
in the Peace River Subdivision Unit 9, as recorded in Plat  
Book 7, Page 39B of the Public Records of Charlotte County,  
Florida, in Section 01, Township 40 South, Range 23 East, in  
Commission District I.

Ms. Bartley reviewed the proposed resolution to rename a portion of an un-named roadway commencing at Organ Street running easterly to Duncan Road to Foxtail Lane, and stated both staff and the Planning & Zoning Board recommend approval.

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2007-056, SECONDED BY TRICIA DUFFY.

Motion Carried 5:0.

4. NC 06-12-05 Legislative Commission District IV  
Charlotte County Community Development Department,  
Addressing Section, has applied to re-name a portion of four  
streets in Port Charlotte Subdivision Section 23. The  
streets to be re-named are more particularly described as a  
portion of Jarvis Street commencing at the intersection of  
Tropical Avenue, running northerly to Tropical Circle to  
Cook Avenue; a segment of Neptune Street, commencing at the  
intersection of Tropical Avenue running northerly to the  
southwest corner of Lot 1, Block 370 (intersection of  
Andrews Avenue) and the southeast corner of Lot 7, Block  
362, (intersection of Andrews Avenue) to Andrews Avenue; a  
segment of Columbia Street commencing at the intersection of  
Tropical Avenue running northerly to Andrews Avenue to  
Bering Street; a segment of Bayard Street commencing at the  
intersection of Tropical Avenue running northerly to Andrews  
Avenue to Cartier Street; and a segment of Phyllis Street  
commencing at the intersection of Tropical Avenue running  
northerly and easterly to Fleetwood Drive to Boone Street.  
The aforementioned streets are located in the Port Charlotte  
Section 23 Subdivision, as recorded in Plat Book 5, Page 14  
of the Public Records of Charlotte County, Florida, in  
Section 17, Township 40 South, Range 22 East, in Commission  
District IV.

Ms. Bartley explained the proposed resolution is to change only the street type, not the name with the exception of Neptune Street, as recommended by the Planning & Zoning Board, and the changes recommended are - Jarvis Street to Jarvis Terrace, Neptune Street to Andrews Avenue, Columbia Street to Columbia Terrace, Bayard Street to Bayard Terrace, and Phyllis Street to Phyllis Terrace. Ms. Bartley stated staff concurs with this recommendation and requested approval.

Robert Cole said he supports the proposal but he thought it might be easier if they changed the word Street to Court or 'CT' instead of Terrace so people would only have to change one letter.

Commissioner D'Aprile asked if that would be a problem.

Ms. Bartley said it wouldn't meet the standard definition of 'Court'.

Phyllis Pascarella said she lives on Columbia Street where the house numbers are very mixed up, going south the numbers on the right are in descending order but the numbers on the left are in ascending order making it very confusing, and suggested correcting this numbering issue at the same time.

Rollin Hatch stated he lives on Neptune Street, he'd needed an ambulance for his heart condition and they couldn't find him, so he supports the proposed changes.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY TRICIA DUFFY.**

**Motion Carried 5:0.**

Ms. Bartley explained currently there were 13 of the 100 affected addresses that are out of sequence, and the addresses will be brought into sequence if the street name changes are approved.

**COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2007-057, SECONDED BY TRICIA DUFFY.**

**Motion Carried 5:0.**

5. Revision of Manasota Key Zoning District Overlay Code  
Legislative Commission District III

An ordinance amending Charlotte County Code, Manasota Key Zoning District Overlay Section 3-9-53(a) amending the definition of setback; amending Sections 3-9-53(f)(12)(A), 3-9-53(g)(12)(A), 3-9-53(i)(8), and 3-9-53(j)(8) prohibiting structures or any encroachments or overhangs in the required setbacks; amending Sections 3-9-53(f)(12)(D) and 3-9-53(g)(12)(D) requiring for minimum side yards of lots that are nonconforming because of width, where the nonconformity is due to a natural disaster, shall not be less than 10% of the lot width but not less than 5 feet wide; providing for conflict with other ordinances; providing for severability; and, providing an effective date. Applicant the Charlotte County Board of County Commissioners'.

Jeffrey Crimer presented the findings and analysis as detailed in the packet material and staff report dated February 16, 2007; stated staff recommends approval of this petition; the Planning & Zoning Board recommended referral back to the Manasota/Sandpiper Key Advisory Committee for review which took place March 21, 2007; and the Committee fully supports the amendment.

Attorney Berntsson spoke on behalf of the applicant that brought this forward, asked that this project be grandfathered in, said the Board of Zoning Appeals approved this project with a driveway variance but the Manasota Key committee would not support the variance because of the roof overhangs which resulted in the proposed ordinance, commented on missing cross-references within certain sections of the code, opined the proposed change goes far beyond what appears, and a further review of Section 3-9-75 is needed before it is wiped off Manasota Key because it does more than just talk about a roof overhang.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**  
Motion Carried 5:0.

Elaine Sanchez said she is a licensed Florida architect, commented on the changes and how they will affect the architectural style, reviewed her handout detailing their proposed project which would be allowed by the current code, and requested approval.

Betsy McCallum Architectural Board Vice-Chairman commented on the history of the development of the community plan and the resultant Manasota Key District Overlay Code, on the reasons behind the recommended change, and distributed copies of photographs showing that a majority of the condominiums on the island do not have overhangs.

B.J. Galberaith recalled the Board unanimously passed their ordinance 27 months ago, commented on developers wanting to expand their community beyond it's capacity and the need to preserve residents' rights against new development, on their MSBU assessment to deal with stormwater flooding that would be made worse by continued new development, asked the Board to support the new wording, stated large overhangs will cause

flooding of the adjacent neighbors which is the reason for the request for larger setbacks, and she didn't support the requested grandfathering.

**Commissioner Moore** said this was a tough spot for him, opined the committee needs to step back and see what they can do to improve the architectural content without destroying the whole Key because unfortunately it's resulting in designs that are just little boxes, agreed the Key needs to be saved but opined they're going down the wrong track, and everyone needs to work together a lot more than they are right now and still preserve what is right.

**Commissioner Cummings** said he's seen this type of presentation before, he didn't think they should design an ordinance based on one design, they had a very lengthy process, they developed a plan that everyone agreed on, the intent was clear, a loophole was found that was inconsistent with the intent so now they're closing that loophole, and they should stick with the community plan and the intent that was stated at that time.

**Commissioner D'Aprile** said he's been very active with this committee, it appears the overhang is the issue, trusses can be changed to address the overhang and still maintain the beauty of Manasota Key so he didn't see a problem, he supports the proposed ordinance, and he supports 100% the community plan approved by the Board.

**Commissioner Duffy** asked how far the overhang extend off the side of the building.

Ms. Sanchez said the current code allows a five foot encroachment into the yard but the overhang they have is less than that.

**Commissioner Duffy** said overhangs are one of the best ways to conserve energy, she needs to know more about why they need to protect residents' rights against new development, and recalled Mr. Crimer saying to her yesterday that this ordinance was a patch directed specifically at overhangs, and asked if there's a lot more to this than she's seeing.

Mr. Crimer said this is more a way to correct the existing loophole whereas a patch is something to fix an ongoing problem but this isn't an ongoing problem, it was always the intent of the ordinance to prevent the buildings from infringing on each other, and they weren't saying they can't do overhangs just that they can't do them in the setbacks.

**Commissioner Duffy** opined this is a no win situation for them.

**Commissioner Moore** asked if it's practical to use gutters to capture the water flow. Ms. Sanchez yes as she indicated in her handout.

**Commissioner Duffy** asked if gutters are required. Mr. Crimer said he didn't think so.

**Commissioner D'Aprile** clarified gutters are not required.

**Commissioner Duffy** asked if having 10' left between two buildings after allowing for five foot overhangs on each building was so bad.

Mr. Crimer opined through the community planning process they came to an agreement that some of these issues like wider setbacks between buildings were more appropriate to the prevailing conditions out on the island.

**Commissioner Duffy** said at this time she has too many questions about this change and she can't support it.

**Commissioner Cummings** said the subject of overhangs could be debated all day, each developer has the choice of how to design within the constraints of the community plan, and he supported the proposed ordinance.

**Chairman Loftus** said he supports overhangs because they provide energy savings and are architecturally more pleasing but the community plan has been in existence for some time, and he would support the proposed ordinance because the intent was there even though it wasn't clarified at that particular time.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-015,  
SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 3:2. Commissioner Duffy, and Commissioner  
Moore opposing.

Commissioner D'Aprile stated all Board comments aside, the fact  
remains that this is a community plan the people worked very hard  
to develop, he felt a five foot overhand is ridiculous because it  
would be encroaching on the neighboring properties, and he feels  
very strongly about protecting this particular area.

Commissioner D'Aprile said before they end the meeting he felt  
it was important for him to make a small announcement, noted  
there is a problem interpreting what is a residential estate and  
what can be built on it, referred to his memorandum to the  
Board titled 'Zoning/Residential Estates with acreage should have  
same zoning as Agricultural Estates', said he understood Mr.  
Konefal was working on this, and he hoped they would look into  
this in the future.

Chairman Loftus thanked the Commissioner for addressing that  
issue.

ADJOURNED: 10:30 AM

Signature on file in Commission Minutes  
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