

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

**OCTOBER 16, 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 D'Aprile, Commissioner Moore, and Commissioner Cummings. Also in attendance were Assistant County Attorney Browne, County Administrator Loucks, Executive Assistant Dillon, and Deputy Clerk Mitchell. The following members were absent: None.

(Commissioner Cummings was not present for this portion of the meeting.)

The meeting was called to order at 9:00 AM, followed by the Pledge of Allegiance.

**A. PLANNING AND ZONING AGENDA**

1. Little Gasparilla Island Community Plan Commission District III  
Pursuant to Objective 2.9 (Community Planning) of the Future Land Use Element of the 1997-2010 Comprehensive Plan, a public presentation is being made by the Little Gasparilla Island Advisory Committee regarding the Little Gasparilla Island Community Plan. The Little Gasparilla Island Advisory Committee is seeking acceptance of the Community Plan by Charlotte County.

Recommendation: Community Development Department: Acceptance  
Planning and Zoning Board: (To be heard  
October 16, 2007)

Jie Shao presented the proposed plan which in essence is a wish list, and stated both staff and the Planning & Zoning (P&Z) Board recommend acceptance.

Bob Hill, Little Gasparilla Island Advisory Committee, gave a brief update on the history of the development of the proposed community plan, their current and future goals, and asked the

Board for their support. (Commissioner Cummings was present for the remainder of the meeting.)

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ACCEPTANCE OF THE LITTLE GASPARILLA ISLAND COMMUNITY PLAN, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Commissioner Moore commended the residents for the work they do out on the island, and opined there were some things the County could do to assist the residents such as help in removing some trash from the island.

2. PA-07-07-45 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 at 2483 Tamiami Trail (U.S. 41), in the Port Charlotte area, containing .47± acre; Commission District IV; Petition No. PA-07-07-45; applicant: Sunoco Inc. c/o Adam Deal III, as Vice President, Eryou Engineering, Inc.

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

3. Z-07-07-46 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 Commercial General (CG), for property located at 2483 Tamiami Trail (U.S. 41), in the Port Charlotte area, containing .47± acre; Commission District IV; Petition No. Z-07-07-46; applicant: Sunoco Inc. c/o Adam Deal III, as Vice President, Eryou Engineering, Inc.

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

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

Ms. Shao explained Petition PA-07-07-45 requests a small-scale plan amendment from Low Density Residential to Commercial Corridor, the companion rezoning Petition Z-07-07-46 requests a rezoning from Residential Single-family 3.5 (RSF-3.5) to Commercial General (CG), presented the findings and analysis contained in the packet material, and stated both staff and the P&Z Board recommend approval of the plan amendment and rezoning.

Attorney Waksler spoke on behalf of the applicant in support of the proposed plan amendment and rezoning that would allow the applicant to add a convenience store on the rear lots.

Commissioner D'Aprile asked if the number of gas pumps would be increased. Attorney Waksler said no, the existing pumps are on the front lots which are zoned Commercial Intensive (CI), and this request is to rezone the back lots to Commercial General (CG) which doesn't allow for gas pumps.

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

**Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-067 FOR PETITION PA-07-07-45, SECONDED BY COMMISSIONER DUFFY.**

**Motion Carried 5:0.**

**COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-068 FOR PETITION Z-07-07-46, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

4. PA-07-04-21 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 High Density Residential to Preservation, for property located South of Gasparilla Pines Boulevard and East of CR 775, containing 5.78± acres; Commission District III; Petition No. PA-07-04-21; applicant: Charlotte County Board of County Commissioners.

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

5. Z-07-04-22 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family 5 (RSF-5), Residential Multi-family 10 (RMF-10), and Residential Multi-family 12 (RMF-12) to Environmentally Sensitive (ES), for property located South of Gasparilla Pines Boulevard and East of CR 775, containing 220.82± acres; Commission District III; Petition No. Z-07-04-22; applicant: Charlotte County Board of County Commissioners.

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

Ms. Shao advised the companion rezoning petition Z-07-04-22 is the first of two required public hearings and the Board is asked to set the second public hearing for November 20, 2007 at 10:00 AM. Ms. Shao explained Petition PA-07-04-21 requests a small-scale plan amendment from High Density Residential to Preservation, presented the findings and analysis contained in the packet material, and stated both staff and the P&Z Board recommend approval of the plan amendment.

Frank MacTaggart stated he and the other residents of Fiddlers Green I Condominium support the proposed project, and asked if there was an opening onto Placida Road. Ms. Shao said no.

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-069 FOR  
PETITION Z-07-04-21, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO SET THE SECOND PUBLIC HEARING FOR  
PETITION Z-07-04-22 ON NOVEMBER 20, 2007 AT 10:00 AM, SECONDED  
BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

6. Z-07-04-23 Quasi-Judicial Commission District I  
An Ordinance approving an amendment to the Charlotte County  
Zoning Atlas from Residential Estates 1 (RE-1), Agriculture  
Estates (AE), Residential Single-family 3.5 (RSF-3.5),  
Residential Single-family 5 (RSF5), Residential Multi-family  
10 (RMF10), and Environmentally Sensitive (ES) to  
Environmentally Sensitive (ES), for property located West of  
Duncan Road (U.S. 17) and South of Royal Palm Drive,  
containing 636.39± acres; Commission District I; Petition  
No. Z-07-04-23; applicant: Charlotte County Board of County  
Commissioners.

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

Ms. Shao explained this is the first of two public hearings  
requesting a rezoning from Residential Estates 1 (RE-1),  
Agriculture Estates (AE), Residential Single-family 3.5 (RSF-  
3.5), Residential Single-family 5 (RSF-5), Residential Multi-  
family 10 (RMF-10), and Environmentally Sensitive (ES) to  
Environmentally Sensitive (ES); presented the findings and  
analysis contained in the packet material; and stated both staff  
and the P&Z Board recommend approval of the plan amendment and  
rezoning. Ms. Shao briefly reviewed the packet materials or the  
companion rezoning, and requested the Board set the second public  
hearing for November 20, 2007 at 10:00 AM.

(Chairman Loftus polled the Board for ex-parte disclosures and  
there were none; however, Commissioner Cummings still wanted to

disclose that his brother owned the parcel at the corner of Sam Way and Duncan Road.)

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO SET THE SECOND PUBLIC HEARING FOR PETITION Z007-04-23 ON NOVEMBER 20, 2007 AT 10:00 AM, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

7. PA-07-06-41 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 Low Density Residential, for property located at 14399, 14407, 14415, 14423, and 14431 Appleton Boulevard; in the Port Charlotte area, Florida, Containing 1.15± acres; Commission District III; Petition No. PA-07-06-41; applicant: Charlotte County Board of County Commissioners.

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

Ms. Shao explained Petition PA-07-06-41 requests a small-scale plan amendment from Medium Density Residential to Low Density Residential, presented the findings and analysis contained in the packet material, and stated both staff and the P&Z Board recommend approval of the plan amendment.

Kendall Leach voiced support for the proposed plan amendment.

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-070 FOR PETITION PA-07-06-41, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

8. Z-07-05-11 Quasi-Judicial Commission District III

An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family 5 (RMF-5) to Residential Single-family 3.5 (RSF-3.5), for property located south of Mobile Gardens Subdivision and north of Oyster Creek; in the Englewood area, Florida, containing 10.86± acres; Commission District III; Petition No. Z-07-05-11; applicant: Charlotte County Board of County Commissioners.

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

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

Ms. Shao explained Petition Z-07-05-11 requests a rezoning from Residential Multi-family 5 (RMF-5) to Residential Single-family-3.5 (RSF-3.5), presented the findings and analysis contained in the packet material, and stated both staff and the P&Z Board recommend approval of the rezoning.

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

**Motion Carried 5:0.**

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-071 FOR  
PETITION Z-07-05-11, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

9. Z-07-02-06 Quasi-Judicial Commission District I  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family 12 (RMF-12) to Residential Multi-family 10 (RMF-10), for property located at 2150 Luther Road; containing 2.21± acres, in the Port Charlotte area; Commission District I; Petition No. Z-07-02-06; applicant Charlotte County Board of Commissioners.

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

Matt Trepal explained Petition Z-07-02-06 requests a small-scale plan amendment from Medium Density Residential to Low Density Residential, the companion rezoning Petition Z-07-05-11 requests

a rezoning from Residential Multi-family 5 (FMF-5) to Residential Single-family-3.5 (RSF-3.5), presented the findings and analysis contained in the packet material, and stated both staff and the P&Z Board recommend approval of the plan amendment and rezoning.

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

Commissioner D'Aprile asked if this was simply a housekeeping issue. Mr. Trepal said yes to meet the requirement that the Zoning Atlas and the Future Land Use Map (FLUM) be consistent. Commissioner D'Aprile stated he wanted staff to remember that on this particular road there's a lot of development going on but there is no access to Harborview Road and until such time development should be stopped.

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

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-072 FOR PETITION Z-07-02-06, SECONDED BY COMMISSIONER MOORE.  
Motion Carried 5:0.**

10. PA-07-04-24                      Legislative                      Commission District I  
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 Center, for property located at 475 Duncan Road in the Punta Gorda area; containing 1.65± acres; Commission District I; Petition No. PA-07-04-24; applicant: Charlotte County Board of Commissioners.

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

Mr. Trepal explained Petition PA-07-04-24 requests a small-scale plan amendment from Low Density Residential to Commercial Center, presented the findings and analysis contained in the packet material, and advised both staff and the P&Z Board recommend approval.

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

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-073 FOR  
PETITION PA-07-04-24, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

11. NOPC-07-08-48            Quasi Judicial            Commission District I  
Charlotte County Board of County Commissioners c/o James  
House, Department of Facilities Construction & Management,  
is requesting to amend the Development Order and Map H for  
the Sandhill Development of Regional Impact to allow the use  
of the land identified as public/semi-public, containing  
24.78± acres, in Tract 2 for government office space  
containing up to 65,000 square feet of floor space, to  
modify conditions that may suggest a conflict with this  
objective, and to amend Development Order condition 17 in  
Resolution 2007-112 to extend the expiration date of the  
development order by three years to March 1, 2012. The  
property is generally located south of DeSoto County, west  
of the Deep Creek area, north of Rampart Boulevard, and east  
of Loveland Boulevard; Sections 6 and 7, Township 40 South,  
and Range 23 East in Port Charlotte, Florida.

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

(Chairman Loftus polled the Board for ex-parte disclosures and  
there were none.)

Seann Smith explained the reason for the distribution of the  
additional material, presented the Notice of Proposed Change to  
amend the Development Order and Map H for the Sandhill  
Development of Regional Impact (DRI) to allow the use of the land  
identified as public/semi-public, the site contains 24.78 acres  
more or less, in Tract 2, for government office space; and to  
amend Development Order condition 17 in Resolution 2006-212 to  
extend the expiration date of the development order by three  
years to March 1, 2012; and stated that both staff and the P&Z  
Board recommend approval.

Commissioner Duffy asked the reason for the three (3) year period. Mr. Smith explained it was part of a state statute. Assistant County Attorney Browne clarified it's House Bill 7203 that was passed a few months ago in recognition of the housing slowdown.

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2007-161 FOR PETITION NOPC-07-08-48, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

12. PP 07-07-12 Quasi-Judicial Commission District II  
Punta Gorda I-75, LLC has applied for a Preliminary Plat for a subdivision consisting of 6 commercial and industrial lots within the ECAP area in Section 22, Township 41 South, Range 23 East. The site, consisting of 128.95 acres, more or less, is located west of Piper Road, east of I-75, south of Airport Road and north of Jones Loop Road, in Commission District II.

Recommendation: Community Development Department: Approval with conditions  
Planning and Zoning Board: Approval

(Chairman Loftus polled the Board for ex-parte disclosures and there were none.)

Tom Scott presented the findings and analysis as detailed in the packet material and staff report dated August 8, 2007; and stated both staff and the P&Z Board recommend approval of the proposed preliminary plat with the following six (6) conditions:

1. Must provide State Plane Coordinate values of two monumental corners.
2. Re-Design the right-of-way (ROW) intersection detail, which currently indicates a 25-foot ROW radius, to meet current design standards for commercial traffic.
3. Provide documentation from the County legal department that the dedication, as written on the preliminary plat, is acceptable.

4. County Engineer does not recommend approval of accepting road and drainage maintenance for the project; therefore, this dedication must be changed to the Property Owner.
5. Applicant must provide proof that all conditions of DRC Preliminary approval have been met.
6. Applicant must provide proof that all conditions of the Environmental Section have been met.

Attorney Robert Berntsson spoke on behalf of the applicant in support of the proposed petition, stated the six (6) conditions are acceptable with a caveat, they're working with Public Works on the acceptance of the road and drainage, as long as there's an understanding that when this comes back for final and Public Works feels it is in the County's best to interest to take the roads and drainage, the County does so; and they will also work with the County Attorney's Office on the dedication language. Attorney Berntsson advised there is also land that needs to be acquired for the widening of Piper Road they were working on, and there is not a dedication through this plat but they are working amicably with staff to provide the right-of-way (ROW) that's needed.

**Commissioner Moore** asked for clarification on the exception. Attorney Berntsson clarified Condition #4 states the County Engineer doesn't recommend approval of accepting the roads and drainage for maintenance, this was written months but in recent conversations Public Works is rethinking that position in that they may feel that this would be in the County's best interest to take the roads and drainage for maintenance, reiterated when this comes back at final it may be that the Board would be accepting the roads and drainage for maintenance, said he didn't want there to be any problem due to the language in #4, and if Public Works decides they don't want the roads and drainage, they accept that condition.

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

**Motion Carried 5:0.**

**COMMISSIONER MOORE MOVED TO APPROVE PETITION PP-07-07-12 WITH SIX CONDITIONS, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

13. PV 07-07-08                      Legislative                      Commission District IV  
Charlotte County Board of County Commissioners has applied to vacate a portion of Port Charlotte Subdivision Section 46, as recorded in Plat Book 5, Pages 26 A-F of the Public Records of Charlotte County, Florida, and more particularly described as Block 1267, Lots 1 thru 5; Block 1263, Lots 1 thru 10; Block 1268, Lots 1 thru 12; Block 1266, Lots 1 thru 24; All of Bloc 1265; Block 1264, Lots 1 thru 22; Block 1262, Lots 1 thru 24; Block 1261, Lots 1 thru 24; Block 3390, Lots 1 thru 14 and 19 thru 32; Block 3391, Lots 1 thru 13 and 19 thru 32; Block 3392, Lots 1 thru 14 and 19 thru 32; Block 3393, Lots 1 thru 14 and 19 thru 32; Block 3394, Lots 1 thru 14 and 19 thru 32; Block 3395, Lots 1 thru 24; Block 3396, Lots 1 thru 18; Block 3397, Lots 1 thru 18; Block 3398, Lots 1 thru 18; Block 3399, Lots 1 thru 27; Block 3400, Lots 1 thru 3 and 25 thru 28; Block 3401, Lots 1 thru 8; Block 3402, Lots 8 thru 11 and Track F; Block 3403, Lots 8, 9, 11 and Track G; and the following rights of way: all of the fifty foot right of way known as Carbon Avenue running east from Peppard Street to Penelope Ave; all of fifty foot right of way known as Belden Avenue running east from Peppard Street to Flamingo Boulevard; all of fifty foot right of way known as Claret Avenue running east from Pear Street to Penelope Avenue; all fifty foot right of way known as Walleve Avenue running east from Pear Street to Penelope Avenue; all of twenty five foot right of way known as Peppard Street running north from Belden Avenue to the northwest corner of Lot 1 of block 1268; all of fifty foot right of way known as Pigeon Street running north from Claret Avenue to Belden Avenue; all of fifty foot right of way known as Penelope Avenue running north from Wintergarden Avenue to the northeast corner of Lot 12 of Block 1268; the twenty-five foot right of way known as Pear Street commencing at northeast right of way line of Wintergarden Avenue running north to Claret Avenue; all of fifty foot right of way known as Alvin Avenue running east from Pear Street to Flamingo; all of fifty foot right of way known as Geranium Avenue commencing at the east right of way line of Pear Street and running east to the southeast corner of Lot 12 of Block 3391 and northeast corner of Lot 21 of Block 3392; all of fifty foot right of way known as Juliet Avenue running east from Pear Street to Flamingo Boulevard; all of fifty foot right of way known as Cactus Avenue running east

from Pear Street to Flamingo; all of fifty foot right of way known as Samantha Avenue running east from Pear Street to Flamingo Boulevard; and all of fifty foot right of way known as Fatima Avenue running east from Pear Street to Gabor Street; all of fifty foot right of way known as Mahn Avenue running east from Pear Street to the west right of way line of Majestic Street; all of fifty foot right of way known as Maindeck Avenue running east from Pear Street to the west right of way line of Majestic Street; all of fifty foot right of way known as Mandrake Avenue running east from Pear Street to the west right of way line of Majestic Avenue; the twenty five foot right of way known as Pear Street commencing at the north right of way line of Maureen Avenue running north to the south right of way line of Geranium Avenue and the northwest corner of Lot 32 of Block 3392; the fifty foot right of way known as Majestic Street commencing at the centerline of Fatima Avenue running south to the northwest corner of Lot 3 of Block 3400; and the fifty foot right of way known as Gabor Street commencing at the centerline of Samantha Avenue running south to the northwest corner of Lot 8 of Block 3401 and the northeast corner of Lot 25 of Block 3400; located in Sections 11, 14 and 23, Township 41, Range 21; and a portion of Port Charlotte Subdivision Section 31, as recorded in Plat Book 5 Pages 39 A-F of the Public Records of Charlotte County, Florida, and more particularly described as Block 2741, Lots 1 thru 19; Block 2742, Lots 1 thru 9, 12, 13, 16 thru 29, 31 thru 38; Block 2743, Lots 1 thru 38; Block 2744, Lots 1 thru 14; Block 2745, Lots 1 thru 16; Block 2746, Lots 1 thru 17; and the following rights of way: fifty foot right of way known as Centennial Lane commencing at Southeast corner of Jessica Terrace running easterly to the southeast corner of Lot 7 of Block 2741 and the northeast corner of Lot 32 of Block 2742; the fifty foot right of way known as Calhoun Lane commencing at the southeast corner of Jessica Terrace running easterly to the southeast corner of Lot 8 of Block 2742 and the northeast corner of Lot 31 of Block 2743; the fifty foot right of way platted as Geraldine Lane commencing at the southeast corner of Jessica Terrace and running easterly to the west right of way line of West Como Street; the fifty foot right of way known as Hurst Lane running easterly from Como Street to the west right of way line of West Como Street; the fifty foot right of way known as Cecilia Lane

running easterly from Como Street to the west right of way line of West Como Street; and a portion of Como Street commencing at Geraldine Lane and running southerly to the northerly right of way of Hurst Lane. The site, consisting of 151.79 acres, more or less, is located west of Como Waterway, north of Edgewater Drive, in Commission District IV.

Recommendation: Community Development Department: Approval with Conditions  
Planning and Zoning Board: Approval with conditions

Mr. Scott explained the purpose of this plat vacation is to create the Tippecanoe Scrub Environmental Park II, presented the findings and analysis as detailed in the packet material requesting a plat vacation for Port Charlotte Sections 46 and 31 with two conditions detailed in the proposed resolution, stated staff recommends approval with those two recommendations, the P&Z Board recommends approval with an additional recommendation that the density associated with this property be retired, and staff is passing this recommendation on but it is not a staff recommendation. Mr. Smith added Attorney Berntsson has indicated there may be a need for an easement for Embarq for the telecommunications, Embarq has been contacted but hasn't responded, and if Embarq does in fact need an easement staff is in agreement with that.

Attorney Berntsson said he lives adjacent to this property, he's certain Embarq needs an easement as well, he supports this, work is already underway so he hopes this will be approved, and asked that the repaving and cul-de-sacs be done as early as possible instead of Public Work's current time frame of next spring.

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

Commissioner Duffy asked if Comcast needs an easement. Mr. Smith stated Comcast didn't come back with a request for one but if any other utility requires an easement it will be provided.

**Chairman Loftus** referred to the issue of TDUs, and said he would like to see those banked for future use such as for workforce housing instead of retired.

**Commissioner D'Aprile** said he agreed with the Chairman 100% and asked if they could manufacture a bank for these purposes. Attorney Browne responded they could, there's been some discussion about that in connection with the TDU revisions, and this will be discussed at the upcoming TDU public hearing next Monday.

**Commissioner Moore** said what he's hearing is they may not need to create a bank, and asked if the Chair was satisfied with that. **Chairman Loftus** responded the only thing is they haven't passed that, and he doesn't want this closed off by any action taken today. Attorney Browne stated they don't have a bank set-up to accept these things but they could certainly create one.

**Commissioner Moore** asked legal if they need to do anything special today. Attorney Browne said no.

Mr. Scott said they could hold off the recordation of this pending the resolution of the upcoming TDU hearings.

**Chairman Loftus** stated he was comfortable moving forward with this item.

**COMMISSIONER MOORE MOVED TO APPROVE RESOLUTION 2007-162 WITH TWO CONDITIONS FOR PETITION PV-07-07-08, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 5:0.**

14. SV 07-07-09                      Legislative                      Commission District III  
Hacienda Marina Partners, LLC has applied to vacate a portion of an un-named street, located in Delaney and Treloar's Subdivision, in Section 33, Township 41, Range 20. The portion to be vacated is the thirty (30) feet of right of way commencing at the northwest corner of the platted Lot 15 (now known as P10) and the northeast corner of the platted Lot 16 (now known as P11-1), and running southerly 544.46 feet (consisting of 16,334.92 square feet more or less); and a triangular shaped thirty foot right of way over and across a portion of Lots 12, 13, 14 and 15 (now

known as P10) Delaney and Treloar's Subdivision on the east side of Placida Road, recorded in the Public Records of Charlotte County, Florida, in Plat Book 1, Page 12 (consisting of 8,230.82 square feet more or less). The site is located west of Placida Road, south and east of Lemon Bay, and north of Hacienda Del Mar Condominiums in Commission District III.

Recommendation: Community Development Department: Approval with conditions  
Planning and Zoning Board: Approval with conditions

Mr. Scott presented the findings and analysis as detailed in the packet material for the proposed street vacation with one condition detailed in the proposed resolution, and stated both staff and the P&Z Board recommend approval with one condition.

Paige Vickers stated they are the owners of the south three lots, and explained they have had concerns because they have been verbally threatened by Hacienda employees that they will keep them from getting into their property. Mr. Scott assured Mrs. Vickers she shouldn't have any problems.

Commissioner D'Aprile clarified he wanted it on the record and mandatory that this vacation would in no way interfere with access or the ability to enter any of the properties surrounding this area. Mr. Scott stated that was absolutely correct.

Sherry Simmons asked what is the acreage of the property being given to the applicant, what is the appraised value of that property, and what are the taxpayers getting in return.

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

Mr. Scott advised the size of the property was 8,230.82 square feet, and the County would receive higher taxes paid by the people gaining access to this property. Bruce Loucks clarified right now this property is a public right-of-way and no taxes are paid on it but when the transfer occurs it will become taxable property. Mr. Scott agreed.

Mr. Scott added current policy dictates that when they are vacating lands such as this that the resulting increase in area doesn't increase the density.

**COMMISSIONER MOORE MOVED TO APPROVE RESOLUTION 2007-163 WITH ONE CONDITION FOR PETITION SV-07-07-09, SECONDED BY COMMISSIONER DUFFY.**

**Motion Carried 5:0.**

15. SV 07-07-10                      Legislative                      Commission District IV  
James J. and Joan E. Raimer have applied to vacate a portion of the unbuilt Juno Waterway, adjacent to their home, and more specifically that portion located south of Lot 1, Block 2900 of the Port Charlotte Section 49 Subdivision, as recorded in Plat Book 5, Pages 63A thru 63F of the Public Records of Charlotte County, Florida. The site, consisting of 2,630 square feet is located west of Jacob Street, south of Biscayne Drive, north of Eleanor Avenue and west of the Apollo Waterway in Section 08, Township 40, Range 21, in Commission District IV. The purpose of this vacation is to allow the applicant to meet the set backs in order to install a swimming pool at the rear of their property.

Recommendation: Community Development Department: Approval with conditions  
Planning and Zoning Board: Approval with conditions

Mr. Scott presented the findings and analysis as detailed in the packet material for the proposed street vacation with three conditions detailed in the proposed resolution, and stated both staff and the P&Z Board recommend approval.

**Commissioner D'Aprile** noted the property owner is going to end up paying more taxes as a result of the County vacating this portion of land. Mr. Scott noted that the County will still have easements that will go over this so any improvements the property owners could make won't affect access or canal maintenance.

Joan Raimer explained the purpose of her petition, and requested Board approval.

*Commissioner D'Aprile* stated he supports this but asked the petitioner to be aware that their taxes are going to go up. *Mrs. Raimer* said she's aware of that but this is what they want to do.

*Christie Carlomany* said she has concerns as a realtor, and asked if the boat dock and lift are part of the property. *Mr. Smith* responded the map doesn't accurately show the house, and explained the property doesn't overlap onto a second lot.

*Ms. Carlomany* noted this land is being donated, and she wondered why the property owner isn't being charged a prorated fee because this is waterfront property.

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

*Mrs. Raimer* responded every enhancement to the property has been properly permitted, they understood it wasn't their property, and the lot configuration was unusual. *Mr. Scott* clarified it was against the law to sell right-of-way property but it can be donated to the property owner, and then the County receives taxes.

*Commissioner Cummings* said the test is does this right-of-way serve a public benefit, in this instance there is no public benefit being provided, and the best use is to return the property to the private sector.

**COMMISSIONER CUMMINGS MOVED TO APPROVE RESOLUTION 2007-164 FOR PETITION SV-07-07-10 WITH THREE CONDITIONS, SECONDED BY COMMISSIONER D'APRILE.  
Motion Carried 5:0.**

**RECESS: 10:45 AM - 10:56 AM**

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

16. SV 07-07-11 Legislative Commission District II  
I-Park of ACC, LLC and Blue Bell Creameries, L.P. have applied to vacate a portion of Duffie Drive, located in the Woodland Acres Subdivision as recorded in Plat Book 1, Page

59 of the Public Records of Charlotte County, Florida. That portion more particularly described as the eighteen (18) foot wide right of way commencing at Ameropa Drive and running northerly to Woodlawn Drive, and consisting of 0.26 acres, more or less, located in Commission District II. The site is located north of Jones Loop Road and east of Charlotte County Airport in Section 14, Township 41 South, Range 23 East.

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

Mr. Scott presented the findings and analysis as detailed in the packet material for the proposed street vacation, and stated both staff and the P&Z Board recommend approval.

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

**COMMISSIONER MOORE MOVED TO APPROVE RESOLUTION 2007-165 FOR PETITION SV-07-07-11, SECONDED BY COMMISSIONER D'APRILE.  
Motion Carried 5:0.**

**B. REGULAR AGENDA**

(1) Recommended Action: Move the Public Hearing TDU Ordinance set for October 23, 2007, at 2:00 p.m. to Monday, October 22, 2007 at 2:00 p.m., or soon thereafter as may be heard.

**COMMISSIONER D'APRILE MOVED TO SET THE PUBLIC HEARING SET FOR TUESDAY OCTOBER 23, 2007 AT 2:00 PM TO MONDAY OCTOBER 22, 2007 AT 2:00 PM, SECONDED BY COMMISSIONER MOORE.**

Commissioner Duffy asked if staff was ready. Jeffrey Crimer responded yes.

**Motion Carried 5:0.**

(2) Recommended Action: Approve a Resolution to request the Florida Department of Environmental Protection to remove the Charlotte County portion of the Myakka River from the Wild and Scenic Rivers designation. Budgeted Action: None

James Dossett explained this is being brought forward at the request of the Board for a resolution asking the state to remove the Myakka River from the list of rivers to be designated as a Wild and Scenic Rivers.

(Discussion ensued on what constitutes a Wild and Scenic River designation.)

Commissioner Moore commented on why he'd brought this forward.

Chairman Loftus stated he wanted to open this for public input. (Board consensus.) Mr. Stevens added there is a public hearing Thursday night at Edison College at 7 PM.

The following people spoke in support of the proposed resolution: John Barbour, Zac Extejt, Daniel Braswell, Tom Black, Al Beninati, George Stockert, Sherry Simmons, Christie Carlomany, and Jean Donahue.

The following people voiced opposition to the proposed Resolution: Sue Reske, Jon Miller, and Ruth Bromberg.

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

**Motion Carried 5:0.**

Commissioner Cummings referred to the oversight committee in Sarasota, said he'd learned that speed zones wouldn't be addressed by them but by Charlotte County, opined the issue of why you would want to do this designation hasn't been addressed, these types of designations provide the Board with tools to have a direct effect on what happens up-river, these designations have proven to have a positive effect on property values, and reiterated he felt the County still has control of the speed zones.

Chairman Loftus said he also has some concerns regarding this designation, and he supports the proposed resolution.

Chairman D'Aprile said his objection to this designation is the involvement of other communities in this County's housekeeping, and he would need more specific information before he would be

able to support this designation but he can support the proposed resolution.

COMMISSIONER DUFFY MOVED TO APPROVE RESOLUTION 2007-166,  
SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:1. Commissioner Cummings opposing.

Commissioner Comments

Chairman Loftus stated before they adjourned Commissioner Duffy had requested time to bring up a couple items.

Commissioner Duffy stated she's received a lot of community requests regarding a code enforcement issue of cars and other types of vehicles and trailers being parked in the middle of front yards, she'd spoken to Shawn Horton who told her the problem affected approximately 10% or 6,000 homes in Charlotte County, and asked if the Board supported having Mr. Horton look into this further. (Board consensus not to add more regulations at this time.)

Commissioner Duffy said another situation is the issue of multiple families living in a single two or three bedroom house which does have a negative impact on the sewer system.

Commissioner Duffy suggested next week when they have their meeting on the phosphate agreement that everyone bring to the meeting a list of their individual concerns or recommendations.

Commissioner D'Aprile agreed.

Commissioner D'Aprile referred to the passing of Anne Henderson, and asked that the Board consider naming the event center or a roadway near there in her honor because she was such a patriarch.

ADJOURNED: 12:00 PM

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Chairman

THESE MINUTES ARE NOT OFFICIAL  
UNTIL ADOPTION BY THE BOARD OF  
COUNTY COMMISSIONERS

Book \_\_, Page 22  
October 16, 2007

ATTEST:

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

By: \_\_\_\_\_  
Deputy Clerk

/ksm