

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

**DECEMBER 18, 2007**

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Duffy, Commissioner Moore, Commissioner Cummings, and Commissioner Loftus. Also in attendance were Assistant County Attorney Browne, Assistant County Administrator Shoemaker, Executive Assistant Dillon, Deputy Clerk Manley, and Minutes Secretary Lansing. The following members were absent: None.

(Proofs of Publication were in order.)

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

Presentation - Update on Septic System Program:

Herman Velasco reported that NBC News did a surveillance to prove that school cafeterias in the region are in bad shape; that Charlotte County schools had the highest rating of any county in the region; and explained that Charlotte County has seasoned inspectors that are certified by the FDA who monitor the schools; and that during the recent MRSA outbreaks the inspection program was increased to include the gymnasiums and laundry rooms at the schools. Mr. Velasco pointed out that the Health Department also inspects the foster homes, nursing homes, and swimming pools, and in general protect the health of all the citizens, whether young or elderly.

Mr. Velasco explained that a few months ago he requested an amendment to the rules of the Arobic Treatment Units (ATU's); that additional time was needed for research and that research is still ongoing. Mr. Velasco indicated that he anticipates re-visiting the issue of allowing the Health Department to determine what type septic system goes to the properties in Charlotte County; and expressed concern that at the time the ATU's were implemented in 1987 there was to have been a managed septic system implemented in Charlotte County by the year 2000, which has not been done. Mr. Velasco advised that the Health Department will also propose to the Board that the Manchester

Lock Ordinance be extended to cover all septic tanks in the county; and commented on difficulties that have been experienced as a result of the very old septic tanks that are in the county.

Mr. Velasco advised that **Commissioner Loftus** has received complaints from citizens that the Health Department is inspecting the septic tanks at their homes, collecting a fee, permitting their septic tanks, and putting them into its data base; and stated that like any program there are always a few citizens that resist change. Mr. Velasco pointed out that the change that was made in the Manchester Lock should have taken place over the entire county for a period of years now, but that this particular change was mandated by a Department of Environmental Protection (DEP) Order that if the removal of the lock were to take place that this program must be implemented.

Mr. Velasco opined that this is a very good program in this area because those septic tanks are some of the oldest and closest to the surface waters; pointed out that the rest of Charlotte County is full of canals that all lead to the Peace River and the watershed area; and explained that he has emailed staff members how to process complaints that come in.

**Commissioner Loftus** expressed concern in going countywide with mandated inspections and pump outs because of the expense to homeowners and small businesses.

Mr. Velasco commented on modifications of systems versus the managed system; explained that any change of use requires plans; and that if it does not meet current codes new plans must be submitted; and pointed out that before he comes before the Board he would furnish the research that has been done on these septic tanks.

**Chairman D'Aprile** requested clarification that the Health Department is attempting to organize a five-year pump-out system for residential areas. Mr. Velasco replied affirmatively. **Chairman D'Aprile** expressed concern that there is only one entity maintaining the ATU's; that the rates are excessive and it has the power to raise rates at any time; that the fees are being charged but the systems are not being maintained on a yearly basis; that there are other entities in the community qualified to do this maintenance who would charge less money than

is what is being charged at the present time; and opined that something must be done to be certain the maintenance fees are justified.

Mr. Velasco agreed; indicated that is why he is attempting with the upcoming ordinance changes to limit the number of ATU's installed in the county; and stated that he has been in contact with the Health Department headquarters in Tallahassee requesting that the issue be addressed.

**Commissioner Moore** agreed that Mr. Velasco's mission is good for the county; and suggested that he come with a very good report on this matter when it comes before the Board.

**Commissioner Duffy** requested clarification that the systems in the Manchester Waterway that are being pumped and charged a \$115 fee are regular septic tanks. Mr. Velasco explained they are regular septic tanks, but that there are some ATU's in the area already being maintained; and explained the inspection process in accordance with **Commissioner Duffy's** inquiry.

Changes to the Agenda:

Addition #1 - Growth Management Department - Request the Board of County Commissioners set a public hearing on February 26, 2008, to consider approving a Development Order for the applicants of the Loop Development of Regional Impact.

**COMMISSIONER MOORE MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER LOFTUS.**

**Motion Carried 5:0.**

A. Consent

1. Economic Development - Set a Public Hearing for January 8, 2008 at 10:00 a.m., or as soon thereafter as may be heard, to consider an Ordinance amending Objective 2.10 and associated policies in the Future Land Use Element of Charlotte County Comprehensive Plan.
2. Economic Development - Set a Public Hearing for January 8, 2008 at 10:00 a.m., or as soon thereafter as may be heard, to consider acceptance and execution of a Stipulated

Settlement Agreement with the Department of Community Affairs (DCA) to resolve DOAH Case No. 06-0686/05-2-NOI-0801-(A)-(N).

3. Request the Board of County Commissioners set a public hearing on February 26, 2008 to consider approving a Development Order for the applicants of the Loop Development of Regional Impact.

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

*Commissioner Cummings* stated he understands the need to approve the item on The Loop; that overall he believes The Loop is the right development in the right place at the right time but expressed concern with applicant's refusal to answer the Regional Planning Council's (RPC's) questions and some of the transportation issues; that he hopes applicant would choose to address those issues with staff; and stated that even if it is a good project, if it is not done in the correct manner he would not support it.

**Motion Carried 5:0.**

B. Public Hearing

1. County Attorney - Hold a Public Hearing at 9:00 a.m., (or soon as can be heard), to consider an Ordinance amending County Code Chapter 3-8, Article II, concerning Standards for Water and Sewer Utilities.

Attorney Marty Burton explained that this item is to amend a section of the County code relating to the regulation of the privately owned for-profit water and wastewater utilities; that the County already had in place the code from when the County regulated these utilities previously; and that what is before the Board today is an ordinance amending the County code making some cleanup changes to bring the twenty-year old code current; and which raises the regulatory assessment fee from 2.5 percent to 5 percent to cover the County's estimated expenses for regulating the utilities.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-092, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

2. Growth Management - Conduct the first of two public hearings to discuss the amendments to the Sign Ordinance, in accordance with Section 125.56, F.S. The second hearing is scheduled for January 8, 2008 at 10:00 a.m., or as soon thereafter as may be heard, thereby electing the second hearing to be heard at a time other than after 5:00 p.m., in accordance with Section 125.66, F.S.

Nicole C.E. Dozier explained that this is the first of two public hearings regarding the sign ordinance; that modifications have been made as it relates to political signage and addressed issues as it relates to definitions within the sign ordinance; that this is the first of many changes to take place with the sign ordinance, but these particular changes need to be addressed immediately.

**Commissioner Loftus** stated that he has difficulty with political signs being 16 sq. ft. on non-residential use and indicated his understanding is that it is 32 sq. ft. Attorney Derek Rooney stated there was no limit on size prior to this time, but it can be changed to 32 sq. ft. if that is what the Board wishes.

**Commissioner Cummings** requested clarification of where he could find the detail. Attorney Rooney advised it is on page 13, line 35. **Commissioner Cummings** advised that he specifically recalls the Board adopting 32 sq. ft., no higher than 6 ft., that the sign could not go up prior to 45 days before the election, and must be removed within 15 days after the election. Attorney Rooney stated he would look into it before the next hearing. **Commissioner Cummings** commented on temporary election signs. Attorney Rooney explained when such sign are allowed and restrictions that can be placed on them.

**Commissioner Cummings** requested clarification of the square footage for a yard sign. Attorney Rooney explained it was 4 sq.

ft. for smaller signs and that you can elect to have two 4 sq. ft. signs or one 6 sq. ft. sign. **Commissioner Cummings** inquired if a double-sided sign is treated as one sign. Attorney Rooney explained that a double-sided sign is treated as one sign if the message is the same on both sides.

**Commissioner Loftus** commented on specifications related to two-sided signs as a "V"; that signs had to be front-to-back, rather than a "V". Attorney Rooney explained that a "V" is separate from a two-sided sign; that the definition of signs states that one sign can be a sign that has the same face on both sides as long as the structure is back-to-back; and that a "V" sign would qualify as two signs. **Commissioner Loftus** expressed concern that it is not spelled out here. Attorney Rooney stated it is not spelled out within the political signage area but is dealt with in the definition of what a sign is. **Commissioner Loftus** opined that it should be spelled out in the political signage area because the Supervisor of Elections furnishes this to candidates.

**Commissioner Cummings** explained that previously you could have one double-sided 4' x 8' sign, but if the sign was opened up into a "V" is considered two signs; that you can only have a total of 32 sq. ft., which is two 4' x 4' signs (32 sq. ft. total), or if you open it up to a "V" you can only have 4' x 4' signs because both sides are counted in the square footage tally; and that back-to-back double-sided signs can be 4' x 8'.

**Commissioner Loftus** indicated that it was specified the signs must be joined together and that there was a height limit of 60 inches. **Commissioner D'Aprile** stated his advice to staff is to simplify it for those running for elections and put the language in simple terms.

**Commissioner Moore** inquired if billboards are permitted. Attorney Rooney stated no. **Commissioner Cummings** inquired if a candidate goes through all the permitting criteria of doing a commercial sign, could he/she then have that commercial sign with the same commercial message? Ms. Dozier replied affirmatively because they do not regulate content, only the sign size and number of signs.

**Commissioner Cummings** clarified that you can have a bigger sign, but you must go through the permitting process. Attorney Rooney advised that is the same for any of the exemptions under which political signs fall; and indicated that there is no distinction under our code for what your message is, that a commercial message can be changed to a non-commercial message.

Attorney Michael Haymans opined that in the political arena, rather than considering signage a blight on the community that they be recognized as an expression of political fervor; that signage is an inexpensive way to show one's support for a particular candidate; and requested that rather than being restrictive and tight that you be gentle and encouraging of that public debate and public representation of support.

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

**Motion Carried 5:0.**

C. Planning and Zoning Agenda

1. Revision of Manasota Key Zoning District Overlay Code - Legislative - Commission District III An ordinance amending Charlotte County Code, Manasota Key Zoning District Overlay Section, Sections 3-9-53(1) and 3-9-53(m), to clarify that neither a structure nor any portion thereof shall be erected or shall encroach or overhang upon the required setbacks.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

Jeffrey Crimer advised that a revision was applied to many zones in the Manasota Key District last spring prohibiting structures or any portion from encroaching on setbacks; that the Manasota Multi-family Tourist (MMF-T) District and the Planned Development (PD) District were omitted and are being included at this time; that the same language will be added stating that any encroachments or overhangs in the required setbacks are not permitted in these two districts; that the ordinance amendments are in support of the Manasota Community Plan; and that the Growth Management Department and Planning and Zoning Board recommend approval of this amendment.

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

**Motion Carried 5:0.**

*Commissioner Moore stated that he is a strong supporter of the Manasota Key Ordinances and would support this amendment, but opined that this guarantees bad design.*

*Commissioner Loftus advised he would support the amendment, but has a problem with the issue because of the overhangs; that they protect buildings and save energy; that green building and collecting of rainfall is being encouraged and this would prohibit it.*

*Mr. Crimer pointed out that overhangs in general are not prohibited, but are being prohibited from extending into the setbacks. Commissioner D'Aprile opined that the people of Manasota Key are concerned with eliminating the 6' to 8' overhangs such as what are on some of the older buildings that extend into the right-of-way; pointed out that buildings are presently being constructed with 4' overhangs; and indicated that it is something that could be modified in the future if needed.*

*Commissioner Duffy opined that the older buildings were built with the overhangs as they are in order to reduce the amount of sunlight coming in and decrease air conditioning cost, which is an element of green building construction; but pointed out that this is what the citizens of Manasota Key have requested.*

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-093, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

2. PA-07-06-42 - 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 Agriculture to Commercial Center, for property located at 2485 Luther Road; in the Port Charlotte, Florida area, containing 3.64± acres; Commission District I; Petition No. PA-07-06-42; applicant, Bruce D. MacDonald, Trustee.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

3. Z-07-06-43 - Quasi-Judicial - Commission District I An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Commercial General (CG), for property located at 2485 Luther Road, in the Port Charlotte area, containing 3.64± acres; Commission District I; Petition No. Z-07-06-43; applicant Bruce D. MacDonald, Trustee.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

Mr. Crimer explained that petition PA-07-06-42 is a Small-Scale Future Land Use amendment from Agriculture (AG) to Commercial Center(CC) for a site located in Commission District I on Luther Road south of Rampart Boulevard; that the purpose of the plan amendment is to apply a single Future Land Use Map (FLUM) category to the entire parcel; that Petition Number Z-07-06-43 is a companion rezoning from Agriculture Estates (AE) to Commercial General (CG); that the purpose of the rezoning is to support the plan amendment allowing commercial use in support of the developing residential community in the area; and that the Growth Management Department and the Planning and Zoning Board recommend approval.

**Chairman D'Aprile** indicated that Luther Road has apartments, churches, additional apartments possible at a later date; and a fire department on it; expressed concern with putting more activity on Luther Road without an extension of Luther Road to allow a second access; inquired what the road process is at the present time and why it was being considered at this time considering there are safety issues. Mr. Crimer stated he does not know what the road process is at this point.

**Commissioner Moore** asked if **Chairman D'Aprile** would consider a motion to table these items. **Chairman D'Aprile** replied no.

(Deputy Clerk Manley administered the oath to prospective witnesses for Quasi-Judicial Agenda Item 3, Petition Number Z-07-06-43.)(Chairman D'Aprile polled the Board for ex-parte and there was none.)

Attorney Michael Haymans appeared in support of the petitioner; indicated that the property already has designation of CI on the portion of property that abuts I-75; that the only access to that portion is through the front of its property, which currently is agriculture; and that the request is to unify the zoning and the land use. Attorney Haymans explained that there may never be an extension to Luther Road where the apartments are; that the intended function of this kind of commercial general at this size is to provide neighborhood-type commercial uses; and indicated that this development would not cause failure of Luther Road or Rampart Boulevard.

Venkateswara R. Vattikuti, P.E., of Florida Transportation Engineering, Inc., provided analysis and comments regarding the Technical Memorandum of the Luther Road Development Traffic Impact Study which he submitted.

Attorney Haymans stated that Luther Road works now and will continue to work well after this development; and indicated that this property as commercial will serve the neighborhood.

Chairman D'Aprile stated he likes the idea of neighborhood commercial for area residents to utilize without traveling out of the area, but indicated he does not know what is going in here. Attorney Haymans explained that through the function of the zoning code, what we allow there under commercial general, and the very function of what it is, it would not be an attractant for a "big box"; but if Luther Road is connected it might be a concern for a "big box" coming in; and indicated that with the way the transportation system presently services that area it will be a neighborhood commercial services providing goods and services that area residents need in their neighborhoods just by the function of it.

**COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARINGS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

Commissioner Duffy agreed with Chairman D'Aprile's concerns and asked to be shown how a connection with Harborview Road would look. Attorney Haymans approached the dais and reviewed the area of concern with Commissioner Duffy and the neighborhood that this

commercial would serve; and indicated that ultimately it is a walk ability issue.

**Chairman D'Aprile** advised that his concern is in not knowing what services would be there. Attorney Haymans stated that commercial intensive already exists on a portion of the property; that applicant initially requested that all of the property be commercial intensive, which staff could not support; that applicant agreed to commercial general for the front parcel, and was supported by the Planning and Zoning Board, which in the structure of the County code is designed not to bring traffic in, but to serve the area in which it is located; and pointed out that the constraints on changes on Luther Road would point it in the direction of neighborhood commercial services there.

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-094, SECONDED BY COMMISSIONER LOFTUS.**

**Motion Carried 4:1. Chairman D'Aprile opposing.**

Mr. Crimer advised that the Growth Management Department and the Planning and Zoning Board recommend approval of rezoning petition Z-07-06-43 to support the change in land use.

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2007-095, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 4:1. Chairman D'Aprile opposing.**

4. PA-07-04-19 - 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 Low Density Residential to Commercial Center, for property located at 6900 San Casa Drive, in the Englewood area, containing 9.97± acres; Commission District III; Petition No. PA-07-04-19; applicant, Elbert C. Weaver, Trustee.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

5. Z-07-04-20 - Quasi-Judicial - Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Planned Development (PD), for property located at 6900 San Casa

Drive, in the Englewood area, containing 9.97± acres;  
Commission District III; Petition No. PA-07-04-19;  
applicant, Elbert C. Weaver, Trustee.

Recommendation: Growth Management Department: Approval with  
conditions - Planning and Zoning Board: Approval with conditions

(Deputy Clerk Manley administered the oath to prospective  
witnesses for Quasi-Judicial Agenda Item 5, Petition Number Z-  
07-04-20.)(Chairman D'Aprile polled the Board for ex-parte and  
all Board members acknowledged such disclosures.)

Jie Shao advised that this is a unified petition; that Petition  
PA-07-04-19 is a small-scale plan amendment from Low Density  
Residential to Commercial Center; that Petition Z-07-04-20 is a  
companion rezoning petition from Agriculture Estates (AE) to  
Planned Development (PD) for property located at 6900 San Casa  
Drive in the Englewood area; and that the purpose of the change  
is to allow for commercial uses and rectify the existing illegal  
non-conforming uses on the subject site. Ms. Shao reported that  
the Development Review Committee (DRC) recommended that the  
Concept Plan associated with this PD rezoning be approved with  
conditions, and that the Growth Management Department and  
Planning Zoning Board recommend approval of the small-scale plan  
amendment and the PD rezoning with conditions "a" through "y."

**Commissioner Moore** pointed out property to the extreme right on  
the map, which was not being discussed, and inquired what the  
property was zoned as. Ms. Shao stated it was zoned AE.  
**Commissioner Moore** requested clarification that the proposal is  
to get rid of some of the Agricultural classification, but not  
all of it. Ms. Shao replied affirmatively.

Attorney Craig Smith appeared on behalf of the applicant in  
support of the petitions; addressed issues raised regarding  
structures that are on the property; advised that applicant  
accepts conditions "a" through "y"; and requested approval.

Audrey Shinske indicated she is not against the re-zoning  
and believes the conditions cover her concerns; but requested  
that the Board delay approval until the development plans are  
submitted.

Nancy Christensen indicated that the conditions appear to cover the concerns of the neighboring residents; but requested that the Board postpone approval until the development plans are submitted.

Steve Schoff commented on his concerns, including that there is or was scrub jay activity on this property, that there has been no mention of the Department of Environmental Protection (DEP) permits for land clearing, the time period that the traffic study was done, that the new regional park is across the street from the subject property with three entrances, traffic issues and general public safety issues, and requested denial.

**(Deputy Clerk Manley administered the oath to Blair Milliken.)**

Mr. Milliken indicated that he has a business which he hopes to place at the 6900 San Casa Boulevard location, stated that it would bring new jobs to the community, and spoke in favor of approval.

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

Attorney Smith commented on changes made to the site plan due to a meeting held with the Grove City Planning Committee; indicated that the site is more readily in the Oyster Creek resident's backyard rather than that of Grove City and that the Oyster Creek residents did not appear today to voice objections; that site plans are not necessary for a Planned Development rezone; and that the applicant went from CI to PD rezoning in order to address some of possible concerns of staff and the Oyster Creek residents. Attorney Smith commented on the use of Winchester Drive, objected to a condition "z", but stated that applicant accepts the other conditions.

**Commissioner Moore** requested that Ms. Shao explain the PD requirements. Ms. Shao explained that this is a Concept Plan associated with the PD zoning; that the type of uses, the landscaping, and entryway are put there, but then applicant must go through the final detail site plan, which would include an engineer's drawing showing where the building, parking, and detail landscaping would be.

**Commissioner Moore** inquired if there was any data on Scrub Jays being on this land. Ms. Shao commented on conditions set out in the environmental report submitted by Jamie Schudera, Environmental Specialist, which covers this issue.

**Commissioner Duffy** requested clarification that Fish and Wildlife would have to do a survey. Ms. Shao explained that the project site is located in a Fish and Wildlife Service Scrub Jay review area and that further review would be required.

Attorney Geri Waksler explained that the property is listed on the County's Scrub Jay site map as one that "may" have Scrub Jay upon it; that the applicant would be responsible for doing a complete Scrub Jay survey and submit the findings to the Fish and Wildlife Commission; that if no Scrub Jay are found, a clearance letter would be issued; and if Scrub Jay are found it does not preclude development of the site, but the applicant would be required to mitigate for any Scrub Jays that are impacted.

**Chairman D'Aprile** expressed concern with the connection between San Casa and the road going north and south; and inquired if a road would be built throughout and if it would be paved. Attorney Smith replied affirmatively that a road is going all the way across between San Casa and Winchester along the northern edge. Attorney Waksler advised that the road resulted from discussions for EMS to utilize the road to get out to Winchester Boulevard; and advised that there is a condition in the PD that prohibits commercial traffic from extending beyond the boundaries of the commercial site.

**Commissioner Moore** pointed out that Winchester Boulevard would be a limited access road.

**Commissioner Loftus** thanked the Grove City Planning Committee for its efforts; and opined that the businesses going in would be an economic benefit to the community.

**Chairman D'Aprile** inquired if the architectural design is mandated by the County for the entire project. Ms. Shao explained that it would follow the commercial design standards.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2007-096,  
SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-097, SECONDED  
BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

RECESS 10:45 AM - 11:00 AM

(County Administrator Loucks replaced Assistant County  
Administrator Shoemaker for the remainder of the meeting)  
(Commissioner Duffy was not present for the remainder of the  
meeting.)

6. Z-07-09-54 - Quasi-Judicial - Commission District II An  
Ordinance approving an amendment to the Charlotte County  
Zoning Atlas from Commercial General (CG), Industrial Light  
(IL), Residential Multi-family 12 (RMF-12), and Residential  
Multi-family 10 (RMF-10) to Residential Single-family 1  
(RSF-1), for property located at 670 Cooper Street, in the  
Punta Gorda area, Florida, containing 84± acres; Commission  
District II; Petition No. Z-07-09-54; applicant, Charlotte  
County Board of County Commissioners.

Recommendation: Growth Management Department: Approval - Planning  
and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and  
there was none.)(Deputy Clerk Manley administered the oath  
to prospective witnesses for Quasi-Judicial Agenda Item 6,  
Petition Number Z-07-09-54.)

Ms. Shao presented the findings and analysis as detailed in the  
packet material and staff report for property owned by Charlotte  
County, which makes up the South County Regional Park; and  
reported that the Growth Management Department and the Planning  
and Zoning Board recommend approval of this RSF-1 rezoning.

Commissioner Moore requested clarification of why RSF-1 rezoning  
is being requested. Ms. Shao explained that the County does not  
have a specific zoning district for park uses and that RSF-1 is  
the most suitable because it has the least amount of density.

Commissioner Moore expressed concern that there is no specific zoning district for park uses and inquired if zoning classifications were being worked on by staff at the present time.

Jeffrey Ruggieri explained that in the past parks have been allowed in all residential zoning districts as an allowable use; that in this instance RSF-1 was chosen because it is the least intense zoning district for a residential; and stated that it will be looked at during the re-writes of the LDR's. Commissioner Moore inquired what the Future Land Use was. Mr. Ruggieri explained it was Parks and Recreation.

Commissioner Cummings pointed out that one of the hard lessons learned during the Wildflower discussions is that the zoning for golf courses and parks, whether private or public park, is residential even though the underlying land use is something different; and agreed it should be changed.

Chairman D'Aprile advised this is the first of two public hearings and that the second public hearing will be held January 15, 2008 at 10:00 AM.

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

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

7. Z-07-09-55 - Quasi-Judicial - Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial General (CG) to Residential Single-family 1 (RSF-1), for property located at 100 Rotonda Boulevard E, in the Rotonda, Florida area, containing 32± acres; Commission District III; Petition No. Z-07-09-55; applicant Charlotte County Board of County Commissioners.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and there was none.)

Ms. Shao explained that this petition is similar to agenda item 6; that the property is owned by Charlotte County and makes up the Rotonda Community Park; and that the Growth Management Department and the Planning and Zoning Board recommend approval of this RSF-1 rezoning.

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

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

Chairman D'Aprile advised this is the first of two public hearings and that the second public hearing would be held January 15, 2008 at 10:00 AM. Commissioner Cummings clarified that it was not necessary for Ms. Shao to be sworn in again for the separate hearing. Attorney Browne explained it was not necessary because the staff report and recommendation was already on record and nothing different was stated by Ms. Shao.

8. Z-07-09-56 - Quasi-Judicial - Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Environmentally Sensitive (ES), for property located South of S McCall Road (SR 776), North of Oyster Creek, east of Placida Road (CR 775), and west of San Casa Drive, in the Englewood, Florida area, containing 141.513 ± acres; Commission District III; Petition No. Z-07-09-56; applicant, Charlotte County Board of County Commissioners.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and all Board Members acknowledged such disclosures.) (Deputy Clerk Manley administered the oath to prospective witnesses for Quasi-Judicial Agenda Item 8, Petition Number Z-07-09-56.)

Ms. Shao presented the findings and analysis as detailed in the packet material and staff report for property owned by Charlotte County, which makes up a portion of the Oyster Creek Regional Park; and reported that the Growth Management Department and the Planning and Zoning Board recommend approval of this ES rezoning.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

Chairman D'Aprile explained that this is the first of two public hearings and that the second public hearing would be held January 15, 2008 at 10:00 AM.

Commissioner Moore inquired if a road could be put in if ES is approved. Mr. Ruggieri explained that what is allowed now with the Future Land Use change and the rezoning is development of the lowest impact; that some imperative trails, primitive camp ground and very little paving, if any, would be allowed.

Commissioner Moore commented on the road across the street at Cedar Point being paved. Mr. Ruggieri explained that the Future Land Use there is Parks and Recreation, which allows paving and black-topping.

Commissioner Moore asked if an educational facility could be placed on this land coming off Placida Road along the water. Mr. Ruggieri replied affirmatively.

9. Z-07-09-61-TDU - Quasi-Judicial - Commission District I An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Mobile Home Conventional (MHC) and Agriculture Estates (AE) to Planned Development (PD), for property located south of Lee Branch, north of Palm Shores Boulevard, west of Duncan Road (US 17), and east of Hunter Creek, in the Punta Gorda, Florida area, containing 122.94± acres; Commission District I; Petition No. Z-07-09-61-TDU; applicant, Waterfront Homes of Charlotte, LLC.

Recommendation: Growth Management Department: Approval with conditions - Planning and Zoning Board: Approval with conditions

(Deputy Clerk Manley administered the oath to prospective witnesses for Quasi-Judicial Agenda Item 9, Petition Number Z-07-09-61.) (Chairman D'Aprile polled the Board for ex-parte disclosures and all Board Members acknowledged such disclosures.)

Ms. Shao explained Petition Z-07-09-61-TDU requests a rezoning from Mobile Home Conventional (MHC) and Agriculture Estates (AE) to Planned Development (PD), presented the findings and analysis contained in the packet material, stated that the Development Review Committee (DRC) recommends that the Concept Plan associated with this PD rezoning be approved with conditions; and that the Growth Management Department and the Planning and Zoning Board recommend approval of this PD rezoning with conditions "a" through "u."

Attorney Robert Berntson spoke on behalf of the applicant in support of the proposed petition; stated that petitioner joins with the staff report and accepts all conditions; advised that petitioner is rezoning this property to PD and seeking Concept Plan approval on property that is currently zoned for AE and MHC; that additional housing is needed off US #17; that this will be a mixed-use project with single-family homes and multi-family homes, as well as amenities to include a marina and yacht club for use by residents and the general boating public; and advised that the engineers, environmental consultants, and the project owners are available for specific questions.

John Pell expressed concern with the impact on Hunter Creek, the rookery, and the wildlife.

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

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

Attorney Berntsson explained that the marina is an accessory use to the overall development; that there are two dry-storage buildings that are internal to the project, which are available for use by residents and the general public; that the boat basin is to provide for traffic; and that the wet slips are primarily for people to keep their boats when going to the Yacht Club. **Chairman D'Aprile** inquired if consideration had been given to boat traffic. Attorney Berntsson replied affirmatively and commented on the considerations involved in the permitting process.

**Commissioner Loftus** commented on his familiarity with Ingman's dry storage and marina in the Manchester Waterway

and indicated that the heaviest boating traffic was during the Fourth of July and Memorial Day holidays with an anticipated 40 boats.

**COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2007-098, SECONDED BY COMMISSIONER LOFTUS.**

**Commissioner Cummings** inquired if the PD with a marina and yacht club allowed for any retail such as where snacks and the like could be purchased.

Attorney Berntsson explained that typically with a marina-type use there would be a small boat store where lubricant, suntan lotions, etc. could be purchased, and there would be something like that, which is typical with a marina-type use. **Commissioner Cummings** indicated that such a store where basic supplies could be purchased may help reduce some of the trip generation.

**Commissioner Moore** inquired if fuel could be sold. Attorney Berntsson explained the applicant was not proposing any gas pumps in the water basin; that it was a separate permitting; but indicated that there may be the ability to have fuel in the dry slips, but not fueling in the marina.

**Commissioner Cummings** indicated that if fuel sales are not allowed in the dry slips, boat owners would most likely call in fuel trucks.

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

10. Z-07-09-57 - Quasi-Judicial - Commission District II An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family - 15 units per acre (RMF-15) to Residential Multi-family - 5 units per acre (RMF-5), for property located at 28413 and 28425 Chinquapin Drive in the Punta Gorda, Florida area, containing 0.885± acres; Commission District II; Petition No. Z-07-09-57; applicant: Charlotte County Board of County Commissioners.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and there was none.) (Deputy Clerk Manley administered the oath to prospective witnesses for Quasi-Judicial Agenda Item 10, Petition Number Z-07-09-57.)

Matt Trepal presented the findings and analysis as detailed in the packet material and staff report; indicated that this is a County-initiated rezoning to correct an inconsistency; and stated that the Growth Management Department and Planning and Zoning Board recommend approval.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-099, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

11. Z-07-09-58 - Quasi-Judicial - Commission District III An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family 15 (RMF-15) to Residential Single-family 3.5 (RSF-3.5), for property located south of Oyster Creek, north of Oregon Trail, east of Lemon Bay, and west of Placida Road (Cr775), in the Englewood, Florida area, containing 7.305± acres; Commission District III; Petition No. Z-07-09-58; applicant, Charlotte County Board of County Commissioners.

Recommendation: Growth Management Department: Approval - Planning and Zoning Board: Approval

(Chairman D'Aprile polled the Board for ex-parte disclosures and there was none.)

Mr. Trepal reported that Petition Z-07-09-58 is another County-initiated inconsistency correction from Residential Multi-family 15 (RMF-15) to Residential Single-family 3.5 (RSF-3.5) for approximately 6.952 acres along Oregon Trail in the Englewood,

Florida area; and stated that the Growth Management Department and the Planning and Zoning Board recommend approval.

Commissioner Moore requested clarification of the acreage amount. Mr. Trepal advised the correct acreage is 6.952.

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

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-100, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

Attorney Browne stated that there had been discussion with some Board members about potential changes in the PD laws to allow for additional height within the waterfront property, and that staff requests direction on whether or not to proceed.

**Chairman D'Aprile** indicated he was in favor of it. **Commissioner Moore** commented on there being the option to modify height restriction within 1200 feet of water or put specific modifications to the PD; indicated that he does not want to fool with the 1200 foot rule on height around water; and opined it was better done through the PD.

Attorney Browne explained that the way it is written under current law a particular project could not go forward without a variance from the Board of Zoning Appeals (BZA) because the Board of County Commissioners (Board) is not permitted through the PD process to alter heights in the waterfront area, that currently the Board is not allowed to go outside the waterfront limitation of 38 feet.

**Commissioner Moore** requested clarification of the changes being considered. Attorney Browne explained we would be taking out the exception to the Board's ability to vary the heights in the waterfront in the PD. **Commissioner Moore** opined that the Board should have the right to make those decisions and stated that it is apparently smarter to do it under the PD than the ordinance.

**Commissioner Cummings** inquired if in giving the Board the ability to vary the heights, it does not give the Board the obligation to say yes to an applicant, and that the Board retains the ability to say no for any reason. Attorney Browne advised that would depend upon how it was written; and indicated that staff has discussed including some performance standards and giving back to the public in exchange for increased heights and things of that nature.

**Commissioner Cummings** opined that it should be treated much like Intensive Use is treated, which has a strong impact on the surrounding area; that the condition should be set so that the height variance is based upon drawing in development potential from the site itself and allowing for corridors in between to create more green space and view ways through to the waterfront and possibly access way or easements for public access.

**Commissioner Loftus** explained that **Commissioner Cummings** was referencing a similarity of what was done in Charlotte Harbor with the performance standards; and agreed those performance standards should be included in those PD's.

Mr. Ruggieri commented on his understanding of what the Board's desire is and indicated that staff would go the performance standard route and present options and explanations to the Board rather than going with strike-thru language and allow it in the PD zoning district. Board consensus.

**Commissioner Moore** inquired if someone wants to build a marina, we indicate that the conditions have been met, and approve building of a marina and dry storage, if the Board has the power to state that they cannot condo-ize it or can condo-ize only a certain percentage.

Attorney Browne explained that the Board can do quite a bit in the PD process, but that it could not do what **Commissioner Moore** specified in his example because it would be discriminating against condo ownership, which state law prohibits. **Commissioner Moore** inquired if the Board could require new marinas to be "green" marinas. Attorney Browne indicated that could be a PD condition.

**Commissioner Cummings** opined that we should proceed with a blue-belting plan that would hopefully create incentives for establishing public access marinas, boat ramps, etc. and encourage it to remain as such and not be flipped into a marina for just that residential development.

Mr. Loucks reported that updating of the blue belt marina siting study has begun and will come back to the Board; and indicated that the issues **Commissioner Cummings** raised would be addressed in the context of the study.

**Commissioner Loftus** commented on an email received from Mr. Hebert in reference to a focus group for Dr. Marlow, which did not say when appointments would have to be made. Mr. Loucks stated that he would be coming to the Board at the January 8, 2008 meeting in a workshop format for Dr. Marlow to go through the specifics of the process and give the Board a budget update on the constitutional amendment vote and things like that. Mr. Loucks requested that the Board begin considering a list of appointees even though the group would not be activated until later, indicated that about fifteen total would be needed, and commented on the criteria.

**Commissioner Loftus** inquired if information regarding the January 29, 2008 amendments would be received in sufficient time to discuss it with the public. Mr. Loucks explained that some additional material was being added and that he anticipates furnishing a completed packet to the Board tomorrow.

ADJOURNED 11:45 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

gm