

BOARD OF COUNTY COMMISSIONERS

February 15, 2011

A meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida.

Members present were: Chairman Starr, Commissioner Constance, Commissioner Deutsch, Commissioner Duffy, Commissioner Skidmore, County Administrator Sandrock, County Attorney Knowlton, and Deputy Clerk Carleton. The following members were absent: None

The meeting was called to order at **9:00 A.M.**, followed by the Pledge of Allegiance. **(Proofs of Publication were in order)**

A. PLANNING AND ZONING PUBLIC HEARING

(1) **RECOMMENDED ACTION:** Approve transmittal of Petition #PA-10-11-32-LS to the Department of Community Affairs (DCA) for an Objections, Recommendations, and Comments (ORC) Report; amending the Charlotte County 1997-2010 Future Land Use Map (FLUM) and the 2030 FLUM from Agriculture (AG) to Low Density Residential (LDR), applying an annotation to both Future Land Use Maps limiting residential density to two units per acre; for property located north of South Jones Loop Road, south of and adjacent to Alligator Creek, east of Taylor Road and west of I-75, in the South County area, containing 42.59± acres; Applicant: KB Home Fort Myers LLC, c/o KB Home Orlando LLC.; Commission District II. **BUDGETED ACTION:** None

Jie Shao presented the proposed petition which paralleled visual slides and packet material and noted staff recommendation for approval.

Geri Waksler spoke on behalf of the applicant, described the proposal in detail, responded to a number of Board inquiries, and requested approval.

COMMISSIONER SKIDMORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEUTSCH

MOTION CARRIED 5:0.

COMMISSIONER DUFFY MOVED TO APPROVE TRANSMITTAL OF PETITION #PA-10-11-32-LS, SECONDED BY COMMISSIONER DEUTSCH

MOTION CARRIED 5:0.

(2) *RECOMMENDED ACTION:* Approve a resolution to vacate a portion of the plat of Solana Subdivision, as recorded in Plat Book 1, Page 5, of the Official Records of Charlotte County, Florida.
BUDGETED ACTION: None

Steve Ellis presented the proposed resolution for plat vacation in detail, paralleled packet material and visual slides, mentioned three (3) conditions, advised the Developer's Agreement would appear on the next Consent Agenda, noted staff recommendation for approval, and responded to Board inquiries.

Rob Berntsson spoke on behalf of the applicant, provided detailed development background, pointed out access issues, explained the Developers Agreement and related timeline, and requested Board approval.

Attorney Berntsson responded to related inquiries. There was additional Board discussion. Mr. Ellis addressed further concerns.

Robert Driscoll spoke on behalf of Emerald Point Condominium Association, advised no objection to the project, and presented several concerns to be considered.

COMMISSIONER CONSTANCE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEUTSCH

MOTION CARRIED 5:0.

Commissioner Skidmore and *Commissioner Deutsch* addressed Mr. Driscoll's remarks. Mr. Ellis and Attorney Berntsson commented further.

COMMISSIONER DUFFY MOVED TO APPROVE RESOLUTION 2011-006 TO VACATE A PORTION OF THE PLAT OF SOLANA SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 5, OF THE OFFICIAL RECORDS OF CHARLOTTE COUNTY, FLORIDA, SECONDED BY COMMISSIONER DEUTSCH

Commissioner Skidmore asked for confirmation of the return of the Developers Agreement. Attorney Berntsson stated it would be put on the next Consent Agenda. **Chairman Starr** questioned the process if the vote is in the affirmative. Attorney Knowlton advised the Developers Agreement is second to this and explained further. **Commissioner Deutsch** expressed concern with access to the waterfront. Mr. Ellis confirmed the plat is to the high waterline and pulled up a GIS view for observation. There was further discussion related to the Developers Agreement as associated with the Resolution to approve the Plat Vacation.

Attorney Berntsson suggested revised language to address Board concerns and offered to meet with the Commissioner's individually. There was **Board Consensus** to allow **Commissioner Deutsch** to amend the original Motion and also include three (3) conditions originally omitted in error.

COMMISSIONER DEUTSCH MOVED TO AMEND THE ORIGINAL MOTION TO INCLUDE THREE (3) CONDITIONS ORIGINALLY OMITTED, REQUIRE THE DEVELOPERS AGREEMENT TO RETURN WITHIN A 12 MONTH PERIOD AND ALLOW IT TO REVERT BACK TO THE COUNTY IF NOT SUCCESSFUL, NO SECOND REQUIRED

Attorney Berntsson clarified the amendment by reading the revised language (Paragraph 2C) into the record. County Attorney Knowlton confirmed its content was acceptable. **Chairman Starr** mentioned the inclusion of the three (3) conditions.

MOTION CARRIED 4:1. CHAIRMAN STARR OPPOSING.

COMMISSIONER CONSTANCE MOVED TO TABLE THE RESOLUTION TO VACATE A PORTION OF THE PLAT OF SOLANA SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 5, OF THE OFFICIAL RECORDS OF CHARLOTTE COUNTY, FLORIDA, SECONDED BY CHAIRMAN STARR

There was Board discussion associated with the request to table. **Chairman Starr** requested a Point of Order, expressed his understanding of the Motions, and opined the last vote should have ended any additional discussion. Attorney Knowlton advised the 4 to 1 vote to approve the amended motion and conditions disposed of the matter. **Commissioner Constance** disagreed. Attorney Berntsson opined the vote was on the Amendment, suggested the main motion still stands, requested the item not be tabled, and explained why. **Commissioner Skidmore** disagreed with the suggestion to table and commented further.

MOTION FAILED 2:3.

COMMISSIONER DUFFY MOVED TO AMEND HER ORIGINAL MOTION BY REQUIRING THE DEVELOPERS AGREEMENT TO RETURN WITHIN A 12 MONTH PERIOD, REQUIRE IT TO REVERT BACK TO THE COUNTY IF NOT SUCCESSFUL, AND INCLUDE THREE (3) CONDITIONS ORIGINALLY OMITTED, SECONDED BY COMMISSIONER DEUTSCH

MOTION CARRIED 3:2. CHAIRMAN STARR, COMMISSIONER CONSTANCE OPPOSING.

Attorney Berntsson asked for clarification of the motion, confirmed the item would be removed from the next Consent Agenda, and indicated he would schedule appointments to meet with the Commissioner's to address the Developers Agreement.

B. CITIZEN INPUT - ANY SUBJECT

Bob Jason suggested the Board reduce changes to the Agenda, opined revisions become confusing, and asked the Board to follow the Agenda as originally written.

AA. County Administrator: None

BB. County Attorney:

Attorney Knowlton announced Dr. Mark O. Asperilla's request to use the Loveland Facility of the Health Department after hours and asked for Board direction. There was related discussion and Board Consensus to request additional location information.

CC. Commissioner Comments:

Commissioner Skidmore mentioned the Englewood Clinic and directed Administration to address lighting issues, suggested flutter flags be allowed on the Access Road on SR 776, opined flutter flags are a basic function of being Open for Business, and expressed the need to amend the code to allow the flags. **Commissioner Duffy** mentioned her concern with safety, allowing the flags throughout the County, and noted that staff is working on a sign ordinance. **Commissioner Deutsch** commented on the issue and suggested once approved, the flags should be taken down each night at closing. **Chairman Starr** agreed with the need to create a reasonable and enforceable policy. Erin Mullen-

Travis provided current code compliance regulations, mentioned a new Commercial Business Guide for business owners, and responded to additional inquiries. Attorney Knowlton commented on past direction related to signage. There was **Board Consensus** to revisit the issue in the near future. Nicole Dozier provided additional sign code information, gave related background detail, and responded to inquiries. **Commissioner Duffy** announced future meetings. **Chairman Starr** addressed Mr. Jason's comments and noted agenda deadline amendments recently approved.

ADJOURNED: 10:56 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

j1