

BOARD OF COUNTY COMMISSIONERS

JUNE 21, 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, Assistant County Administrator Shoemaker, Assistant County Attorney Rooney, and Deputy Clerk Lansing. The following members were absent: None. The meeting was called to Order at **9:00 AM**, followed by the Pledge of Allegiance.

**Changes to the Agenda:**

**Addition #1:** Item #8: Deny a request for a Street Vacation for Paul Hartt, Petition SV-08-004-10, requested by Building and Growth Management Change #1: Move Item #7 to Position #1, requested by requested by Building and Growth Management Change #2: Hear Item #3 and Item #5 consecutively.

**Commissioner Constance** requested Items #3 and #5 be heard together. Assistant County Attorney Rooney acknowledged both items are the same Applicant. **(Board Consensus)**

**COMMISSIONER SKIDMORE MOVED TO APPROVE CHANGES TO THE AGENDA AS READ INTO THE RECORD, SECONDED BY COMMISSIONER CONSTANCE**

**MOTION CARRIED 5:0.**

**A. PLANNING AND ZONING PUBLIC HEARING**

**(Chairman Starr polled the Board for Ex Parte Disclosures) (Chairman Starr acknowledged Ex Parte communications with Attorney Waksler) (Deputy Clerk Lansing administered the oath to prospective witnesses.)**

(7) RECOMMENDED ACTION: Approve an ordinance amending the Charlotte County Code, Section 3-9-52, U.S. 41 Zoning District Overlay, extending the existing U.S. 41 Zoning District boundary to include one lot located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S. 41), in the Port Charlotte area; Commission District IV; applicant: Jeffrey Fehr. BUDGETED ACTION: None

Jie Shao advised over the last ten months all applications and staff reports referred to both the new and old Comprehensive Plans, remarked that effective June 15, 2011 references to the old Comprehensive Plan were no longer necessary, explained the proposed amendment, paralleled visual slides and packet materials, advised staff recommendation for approval of this unified petition, confirmed access locations, and responded to Board inquiries. Attorney Waksler described the proposal in great detail, paralleled visual slides, and requested Board approval.

**(Deputy Clerk Lansing administered the oath to Gary Farina)** Mr. Farina questioned the location of the proposed amendment. Staff clarified.

**COMMISSIONER DUFFY MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER SKIDMORE**

**MOTION CARRIED 5:0.**

**Commissioner Duffy** moved Item #7. **Commissioner Skidmore** seconded the motion. Assistant County Attorney Rooney explained the order in which the Petitions should be heard and noted the Plan Amendment should be

moved first. No Vote was taken. **Commissioner Duffy** withdrew her motion in order to move Item #1 (Plan Amendment) first.

(1) RECOMMENDED ACTION: Approve an ordinance adopting Petition #PA-11-02-02, amending the Charlotte County 1997-2010 Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor and amending the 2030 Future Land Use Map from Low Density Residential (LDR) to Commercial (COM); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S.41), in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. PA-11-03-02; applicant: Jeffrey Fehr. BUDGETED ACTION: None

**COMMISSIONER DUFFY MOVED TO ENACT ORDINANCE 2011-018 ADOPTING PETITION #PA-11-02-02, AMENDING THE CHARLOTTE COUNTY 1997-2010 FUTURE LAND USE MAP OF THE CHARLOTTE COUNTY COMPREHENSIVE PLAN AND ADOPTING PETITION #PA-11-03-02 AMENDING THE 2030 FUTURE LAND USE MAP, SECONDED BY COMMISSIONER SKIDMORE**

**Commissioner Constance** inquired as to the Applicant's intent related to future building and questioned traffic flow issues. Attorney Waksler and Ms. Shao responded.

**MOTION CARRIED 5:0.**

**COMMISSIONER CONSTANCE MOVED TO ENACT ORDINANCE 2011-023 AMENDING CHARLOTTE COUNTY CODE, SECTION 3-9-52 ADOPTING PETITION PA-11-02-02, SECONDED BY COMMISSIONER DUFFY**

Mr. Farina asked additional questions related to the intersection. Attorney Rooney advised the Public Hearing was closed and Public Input was no longer allowed. **Commissioner Deutsch** explained the process for the record.

**MOTION CARRIED 5:0.**

(2) RECOMMENDED ACTION: Approve an ordinance adopting Petition #Z-11-02-03, amending the Charlotte County Zoning Atlas from Residential Single-Family 3.5 (RSF-3.5) to Commercial General (CG); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of U.S.41, in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. Z-11-02-03; applicant: Jeffrey Fehr. BUDGETED ACTION: None

**COMMISSIONER DUFFY MOVED TO ENACT ORDINANCE 2011-019 ADOPTING PETITION #Z-11-02-03, AMENDING THE CHARLOTTE COUNTY ZONING ATLAS AND ADOPTING REZONING PETITION #Z-11-02-03, SECONDED BY COMMISSIONER DEUTSCH**

**MOTION CARRIED 5:0.**

(3) RECOMMENDED ACTION: Approve an ordinance adopting Petition #Z-11-03-04, amending the Charlotte County Zoning Atlas from Planned Development (PD) to PD. This is a major modification of an existing PD to revise conditions of approval. The subject property is located north of South Jones Loop Road, south of North Jones Loop Road, east of Taylor Road and southwest of Interstate 75, in the Punta Gorda area, containing 87.4± acres; Applicant: KB Home Fort Myers, LLC; Commission District II. BUDGETED ACTION: None

**(Deputy Clerk Lansing administered the oath to prospective witnesses) (Chairman Starr acknowledged Ex Parte communications)**

Ms. Shao described the purpose of the proposed major modification, provided detail and related history, discussed requirements, paralleled visual slides and packet materials, and advised staff recommendation for approval. Dan Quick provided current subdivision build-out status, gave a breakdown of parcels, explained the monitoring

proposal, and responded to an email from a citizen expressing concern with the total nutrient analysis process. **Commissioner Constance** explained why he requested Items 3 and 5 be heard together and indicated the need for additional detail related to testing. Attorney Waksler explained the Petitioner's request for a major modification of its approved Planned Development for the Creekside community to amend one condition of approval, discussed the current and proposed monitoring process for potential impacts to Alligator Creek, noted related costs and responsibilities, requested approval, and replied to Board inquiries. Mr. Quick suggested another monitoring option to be considered. Attorney Waksler summarized the new option and responded to Board inquiries.

**COMMISSIONER DUFFY MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CONSTANCE**

**MOTION CARRIED 5:0.**

**COMMISSIONER CONSTANCE MOVED TO ENACT ORDINANCE 2011-020 ADOPTING PETITION #Z-11-03-04, AMENDING THE CHARLOTTE COUNTY ZONING ATLAS WITH MODIFICATIONS THAT THE MONITORING IS CURRENTLY SUSPENDED AT THE 30% LEVEL, THAT MONITORING WILL OCCUR AGAIN QUARTERLY FOR ONE YEAR AT THE 45% LEVEL, QUARTERLY FOR ONE YEAR AT THE 60% LEVEL, AND THEN CONTINUOUSLY AT THE 75% LEVEL QUARTERLY UNTIL TWO YEARS AFTER COMPLETION OF BUILD-OUT, SECONDED BY COMMISSIONER DEUTSCH**

**Commissioner Duffy** asked if the modification stated within the Motion is what staff had previously proposed. Mr. Quick and Attorney Rooney clarified. Attorney Waksler remarked further. Board discussion ensued. **(Original Vote not completed. Board Consensus to retake the Vote)**

**MOTION CARRIED 3:2. COMMISSIONER DUFFY, COMMISSIONER SKIDMORE OPPOSING.**

Ms. Shao made a sign in sheet available to anyone interested in being notified of the Date of Publication of the Notice of Intent on the Large Scale Plan Amendment and began to read Item 4 into the record but was reminded **Commissioner Constance** had requested Item 5 be heard after Item 3 as part of the Changes to the Agenda.

(5) RECOMMENDED ACTION: Approve an ordinance adopting Petition #PA-10-11-32-LS, amending the Charlotte County FLUM Series Map #1: 2030 Future Land Use from Agriculture (AG) to Low Density Residential (LDR) with an annotation 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

Ms. Shao presented the proposed Large Scale Plan Amendment to the 2030 Future Land Use Map (FLUM), provided related timeline, advised this is an Adoption Hearing, pointed out property location, noted there were no Department of Community Affairs (DCA) objections, mentioned staff recommendation for approval, and responded to Board inquiries. Attorney Waksler expressed frustration with how Item 3 had just been handled, remarked further on water quality testing, noted the proper process the applicant had adhered to, and moved on to explain the proposed Land Use Plan Amendment and the Applicant's intent, gave site location, advised development currently completed, noted no DCA objections were received, and requested approval.

**COMMISSIONER CONSTANCE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER SKIDMORE**

**MOTION CARRIED 5:0.**

**COMMISSIONER CONSTANCE MOVED TO ENACT ORDINANCE 2011-022 AND ADOPT PETITION #PA-10-11-32-LS, AMENDING THE CHARLOTTE COUNTY FLUM SERIES MAP #1, SECONDED BY COMMISSIONER DUFFY**

**MOTION CARRIED 5:0.**

(4) RECOMMENDED ACTION: Approve an ordinance adopting Petition #PA-10-02-10-LS, amending the Charlotte County FLUM Series Map #1: 2030 Future Land Use from Agriculture (AG) to Rural Community Mixed Use (RCMU), including adoption of a Master Development Plan into FLU Appendix VIII; for property located north of Bermont Road (CR 74), south of Washington Loop Road, east of Duncan Road (US 17) and west of CR 31, in the East County area, containing 740± acres; Applicant: Bermont Road Partnership; Commission District I. BUDGETED ACTION: None

Ms. Shao explained the proposed Large Scale Plan Amendment to the 2030 Land Use Map, provided its progression to date, paralleled visual slides, identified two DCA objections, and noted staff recommendation for approval. Attorney Waksler described the adoption request, noted its purpose, mentioned Florida Department of Transportation (FDOT) assumptions and read their comments into the record, requested approval, and responded to density inquiries.

Gary Bayne of Southwest Engineering discussed the existing Southwest Florida Water Management District (SWFWMD) Water Use Permit and responded to related inquiries.

Jim Story expressed opposition, discussed water runoff and water quality, opined significant deterioration will occur if approved, and requested Board denial.

Jeremy Frantz represented Conservancy of Southwest Florida, detailed their opposition, and handed out a map depicting vacant housing near the proposed location.

Rick Fried expressed opposition, commented on the volume of traffic in the associated area, opined an increase in traffic would be detrimental, and discussed zoning and density.

**COMMISSIONER SKIDMORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY**

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO ENACT ORDINANCE 2011-021 ADOPTING PETITION #PA-10-02-10-LS, AMENDING THE CHARLOTTE COUNTY FLUM SERIES MAP #1, SECONDED BY COMMISSIONER DUFFY**

**Commissioner Constance** summarized related citizen emails received and expressed opposition to the amendment. Attorney Waksler addressed citizen concerns and responded to additional inquiries. **Chairman Starr** pointed out several reasons for his opposition. **Commissioner Duffy** commented that the County should have these types of development and that the Comprehensive Plan allows for them, expressed confidence in staff, noted her support of the project, and questioned current Bermont Road projects. Mr. Quick responded and commented further.

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

**RECESS: 10:55 AM - 11:11 AM**

(6) RECOMMENDED ACTION: Open the first public hearing to review amendments to the Land Development Regulations to include pain management clinics as a special exception use in the Office, Medical and Institutional zoning district and set the second public hearing for July 12,2011 at 10 AM or as soon thereafter as the matter may be heard. BUDGETED ACTION: None

Inga Williams explained each of the proposed amendments to the Land Development Regulations and noted this is the first of two Public Hearings. Assistant County Attorney Kira Honse responded to inquiries.

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

MOTION CARRIED 5:0.

COMMISSIONER DUFFY MOVED TO SET THE SECOND PUBLIC HEARING FOR JULY 12, 2011 AT 10:00 AM OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD, SECONDED BY COMMISSIONER DEUTSCH

MOTION CARRIED 5:0.

(8) RECOMMENDED ACTION: Deny a request for a Street Vacation for Paul Hartt, for Petition SV-08-04-10. Commission District Applicant Paul Hartt/Broad Street. BUDGETED ACTION: None

(Chairman Starr polled the Board for Ex Parte Disclosures and there were none) (Deputy Clerk Lansing administered the oath to Steve Ellis)

Mr. Ellis explained the proposed Street Vacation, gave its history, location, zoning, and density, limited his comments to two major issues, pointed out an objection letter could be found in the packet materials, noted this item had been tabled at the last meeting, and indicated staff recommendation for denial.

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

MOTION CARRIED 5:0.

COMMISSIONER SKIDMORE MOVED TO DENY A REQUEST FOR A STREET VACATION FOR PAUL HARTT, FOR PEITIION SV-08-04-10, SECONDED BY COMMISSIONER CONSTANCE

MOTION CARRIED 5:0.

B. CITIZEN INPUT - ANY SUBJECT - None

AA. County Administrator: None

BB. County Attorney: None

CC. Commissioner Comments: None

ADJOURNED: 11:16 AM

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Chairman

ATTEST:

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

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

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