

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
March 14, 2005 @ 1:30 p.m.

1. Call to Order

Ms. Paula Hess, Chairman of the Board, called the meeting to order at 1:30 p.m. and it was noted a quorum was present.

2. Roll Call

PRESENT

Paula Hess
Brenda Bossman
Michael Gravesen
Audrey Seay

ABSENT

Richard Galambos (excused)
Roseann Samson (comments by memorandum)

ATTENDING

Richard Browne, Assistant County Attorney
James Dossett, Development Review Manager
Inga Williams, Planner III
Jie Shao, Planner II
Jason Utley, Planner II
Gayle Moore, Secretary
Bonnie Blair, Secretary / Notary

3. APPROVAL OF MINUTES

Chair Hess called for comments on minutes of the February 11th and February 14th meetings. The minutes were approved as circulated. There were no comments about the February 11th minutes; however, **Chair Hess** (who was absent on February 14th) noted that she read with interest the discussion about the length of the minutes; she stated her perception that, to serve the purpose of the Planning and Zoning Board in its capacity as an advisory committee to the Board of County Commissioners, the minutes must be comprehensive, and should not be shortened, as was suggested. She also noted that a Board member abstained on one vote and she believed that, absent a personal fiduciary interest in a measure, it was not appropriate to abstain from a vote; she requested that the Assistant County Attorney **Mr. Browne** comment on when a member may abstain, and he agreed that it would be appropriate only in the case of a conflict; otherwise, everyone must vote.

4. ANNOUNCEMENTS

Chair Hess noted that there was a letter to the P&Z Board from the Director of the Community Development Department responsive to concerns expressed about the Department procedures, noting that funds had been budgeted for this year to bring in consultants to review the Community Development practices and procedures with the Department staff and recommend improvements. She called for any additional announcements from the Board; there were none. She asked that everyone present who intended to testify in a quasi-judicial hearing please rise and take the oath.

5. PETITIONS

Z-04-08-40 (quasi-judicial) CONTINUED District III

An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial General (CG) and Commercial Tourist (CT) to Planned Development (PD), for property located South of Esther Street, West of CR 775 (Placida Road), North of Panama Boulevard and East

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of Lemon Bay, containing 24.15+ acres more or less, in the Placida area; Petition No. Z-04-08-40; applicant, Bay Development Partners, LLP.

Chair Hess noted that this Petition had been continued to a future time and the meeting moved on to the next agenda item, a zoning matter which requires that everyone present who intends to speak shall rise and take the oath.

Z-04-12-71

An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Mobile Home Subdivision (MHS) to Mobile Home Conventional (MHC) for property located North of Aqui Esta Drive, East of Conecta Drive, South of Magdalena Drive, West of Banyan Way and Marlin Place, known as Charlotte Park Replat Partial Section 2, in the Punta Gorda area; 10.56 acres more or less; Petition No. Z-04-12-71; applicant, Charlotte County Board of County Commissioners.

Staff Presentation

Inga Williams, Planner III, presented the findings and analysis with a recommendation of *Approval* and to forward to the Board of County Commissioners based on the reasons stated in the staff report dated February 28, 2005.

Questions for Staff

Chair Hess noted that this rezoning will result in a mix of housing types which was not acceptable to the residents of the area prior to Hurricane Charley but since which the majority of residents agree that conventional house structures should be permitted in addition to mobile homes.

Applicant's Presentation

None.

Public Input

Mr. Joseph Johns asked if the conversion is approved to go to conventional houses from mobile homes, would the change be gradual or would there be a situation of a mandatory upgrade being required within a certain time frame. **Chair Hess** clarified that there would not be any time restraints. He then asked if there was any estimate of the time that would elapse before the community converted over to city sewer, citing the transition from mobile home to modular and a requirement that septic be moved from the back yard to the front yard. It was suggested that his question could best be answered by the City of Punta Gorda, since they supply the city services; clarification was offered that the community did not need to be annexed by the City for the City to provide the services. **Mr. Johns** then cited the presence of homes upended in the canal and the degradation of the water and asked if there would be tax rebate on account of that. That question was referred to the Board of Health; tax relief questions were referred to the Tax Assessor's office.

- **Mrs. Seay** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

None.

Recommendation

Mrs. Seay moved that Petition Z-04-12-71 be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the

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staff report dated February 28, 2005, along with the evidence presented at today's meeting and the findings of the Planning and Zoning Board that it is an inappropriate application of a Planned Development, second by **Mr. Gravesen** with a unanimous vote.

PA-05-01-02

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 Commercial Corridor to High Density Residential for property located South of Duncan Road, North of Bermont Road, East of Maize Drive, and West of Quail Drive; containing 8.08 acres more or less, in the Cleveland area; Petition No. PA-05-01-02; applicant, Beazer Homes, Inc.

Staff Presentation

Inga Williams, Planner III, presented the findings and analysis with a recommendation of Approval and to forward to the Board of County Commissioners, based on the reasons stated in the staff report dated March 4, 2005.

Questions for Staff

None.

Applicant's Presentation

Applicant's agent, **Geri Waksler, Esq.**, spoke regarding the provision of the Zoning Code which states that when a piece of property is divided by two different zoning districts, the owner may petition the Board of Zoning Appeals to extend the one or the other of the two uses over the whole, and that is the process that the applicant concluded recently under the Special Exception process. She also noted that a buffer is intended to be included in the development between the remaining CI portions and the RMF-10 portion.

Public Input

None.

- **Mr. Seay** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Mrs. Bossman questioned whether there was any lack of CI zoning in the area. **Ms. Williams** responded that the Department does get requests frequently for CI, but that was not taken into consideration with regard to the subject application.

Recommendation

Mrs. Seay moved that Petition PA-05-01-02 be forwarded to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated March 4, 2005, along with the evidence presented at today's meeting, second by **Mr. Gravesen**, with a unanimous vote.

Mrs. Seay directed a last question to the applicant's agent, whether there was any intention to ever change the zoning, or just leave the Special Exception; **Ms. Waksler** said there was no such intention at this time, since the Special Exception did what was necessary.

Revision of the U.S. 41 Zoning District Overlay

Adopt revisions to the U.S. 41 Zoning District Overlay. Applicant: The Charlotte County Board of County Commissioners

Staff Presentation

Jie Shao, Planner II, presented the history of the project: the Board of County Commissioners directed staff to create regulations to achieve U.S. 41 corridor development and redevelopment goals, and in November 2004, the Board adopted the U.S. 41 Zoning District Overlay. The Boundary of the Overlay is one block on each side of U.S. 41 from the Sarasota County line to north of Charlotte Harbor Redevelopment Area, and excluding the Murdock Village Redevelopment Area and the Murdock DRI. During implementation of the Overlay, Community Development staff realized that the current overlay code does not fully achieve all the goals which had been set, and so the revision was required, as set forth in the draft Ordinance.

Questions for Staff

Chair Hess had a number of questions: Residential is allowed in OMI with a TDR but not in CG; in some areas people live above commercial general but that is not the intention here. What is the rationale? If there is a building with a store downstairs, can the owner live upstairs? **Ms. Shao** responded that there is the possibility to have multi-family on the second floor, but not with CG. There was some distinction made between the Zoning District and the uses; if the underlying zoning is CG, then follow the CG development standards.

Chair Hess questioned the “one block out from US 41” noting that there were occasional “bulges”-- are these areas that are already zoned OMI or CG? There was clarification that in certain areas the overlay was not restricted to the “one block from US 41” standard.

With regard to “Signs” **Chair Hess** raised an issue about the wording requiring that the “shape, color and position of a sign must blend in with the site and development and not stand out or dominate it.” She asked “in whose opinion?” noting that it seemed to be very subjective, along with other language regarding signs. Who is going to determine whether the sign meets the criteria? The language needs to set standards that are less subjective.

Chair Hess then asked for clarification regarding the language on page 7 citing the need for a Type D buffer between residential and commercial, but on page 10 it refers to a Type B buffer. This was clarified to be the difference in requirements for commercial or for residential development.

The next question concerned the requirement that if a commercial building in the overlay district extended in the rear into the residential area, it must resemble a residence. **Ms. Shao** said that this was only for commercial development on the rear lots. **Chair Hess** questioned why there would be concern with the appearance of the building, if the Type D buffer was required. The difference was between an structure that expanded into the rear lot from an existing structure on US 41 (in which case it would require the Type D buffer) and a free-standing structure newly created on a rear lot facing the residential area, in which case it would have to resemble a residence but would not be required to have the D buffer. **Ms. Williams** contributed to the explanation. Then the question arose what types of new businesses would be permitted under the Overlay on the rear residential-facing lots; the Board was directed to page 8, lines 4 through 14 of the Draft Ordinance.

Mr. Gravesen said that most of his questions had been answered by the presentation. **Mrs. Seay** had a question about the monument signs concerning where they would be placed; clarification was offered that they would be placed at the entrance to the businesses, and that this language referred to signs for businesses on the rear lots of US 41 only. **Chair Hess** indicated that she felt the Ordinance as written was difficult to interpret.

Public Input

Phillip Trejo, who lives across the street facing some of the rear lots on US 41. He expressed unhappiness with the process of writing the Overlay, commenting that he felt business people had been involved in the process but not residents of the area. He voiced his concern that the change would lead to another Depew Street, behind the post office at Conway and US 41. He also expressed concerns about property values, traffic generation. **Chair Hess** responded, first with regard to the assertion that prior discussions had excluded residents of the area, noting that while this is the first time the Revision matter has come before the Planning and Zoning Board, there have been other public discussions open to all residents. **Mr. Trejo** continued to disparage the public notification including the placement of signs in the area announcing the hearing; he did acknowledge that he had received his notice by mail. He expressed the hope that there would be more community involvement in the refinement of the Revision, but he felt people had not been paying attention due to recovery from the hurricanes.

Chair Hess stressed the unfortunate legacy of the General Development approach to creating this area and the profound need to change that original plan while maintaining respect for individuals' property rights. Having Commercial General immediately adjoining residential areas was one of the major faults of the plan we have all inherited; ideally, there would be a step-down from CG through an intermediate, more intense use than single family, and then have residential, but that was not done initially. She then moved on to address the issues raised. First, that a business would be facing a residence across the street; **Ms. Shao** confirmed that this could be an outcome. The question then was, what would be a buffer between the residential and the commercial structure? The response was: the street and a Type B buffer.

Mr. Trejo returned to the issue of conditions on Depew Street, and the question of how likely was that to happen on his street, and that someone in his position might decide to get a variance for their house to make it commercial also, thus extending the depth of the Overlay yet more. **Chair Hess** agreed that was a possible outcome. She noted the change in Naples, where the business area of 41 now extends way back from the original US41 corridor, and it happened because that adjacent property was bought up over time and developed to commercial uses, and it turned into a commercial area with depth rather than just a strip.

Ms. Shao clarified that it wasn't just the street that was the buffer but also the requirement for the 25-foot setback and landscaping; there was no wall as a buffer. The topic returned to the issue of commercial traffic on the residential street, which exists even if there is no commercial usage on the rear lot facing the residential area. **Chair Hess** observed that homes in an area subject to this sort of traffic were probably originally sold for less than homes further away; **Mr. Trejo** disputed this but did acknowledge that he bought the property because it was in his price range. **Chair Hess** noted that the decision to buy that particular parcel near commercial development was ultimately his decision, and he replied that his property was zoned residential when he bought it. Discussion turned to the history of various efforts to deal with the strip nature of the US 41 commercial corridor.

Chair Hess noted that she has had communication from area residents who were in favor of the change since they saw an opportunity to be able to sell their property for a good profit since it would be able to have a commercial use; she noted there would always be some winners and some losers in a change of this nature.

Mr. Dan Darizio asked how the change would affect homeowners on the back lots who intend on remaining homeowners. **Chair Hess** said he would have the option of selling his property to someone who might want to use the commercial potential there. **Mr. Darizio** reiterated that he wondered how it would affect him since he did not intend to sell; he wondered if he would be

forced to sell at some point in the future. **Chair Hess** clarified that the overlay outlines where the rezonings would be considered; only willing sellers would be considering selling, it would not be forced. **Mr. Darizio** next inquired about how the change would affect taxes; **Chair Hess** clarified that a single family residence would continue to be taxed as a single family residence. He asked to have it clarified who had proposed the change, and was told that the Board of County Commissioners had initiated the project.

Ms. Cynthia Drawdy noted that the regulations nowhere stated that they were for the rear lots only. Property owners whose lots face U.S. 41 have already gone through a great deal regarding signs during the sign ordinance project. The document should make it clear that it pertains to the rear lots only, not the entire overlay. Then, on page 14, she referred to the requirement for 20-foot setbacks for any part of the rear lot that borders a residence; what happens when there is a home with a standard residential setback of 7.5 feet and that person has a buyer for his home for OMI uses. How will they handle the requirement for the greater setback without taking down the existing building? **Chair Hess** referred the questions to staff. **Ms. Shao** identified the place in the ordinance where it states that the sign requirements were only for the rear lots. As to the question about the setbacks, **Ms. Shao** said that if the zoning and the FLUM were correct, then the property owner could request a variance. **Mr. Gravesen** objected, saying that a new owner wanting to have commercial use in a single family residence structure would not be able to get an occupational license because of the setback issue, and there is no avenue made in the ordinance for allowing a Special Exception to occur. **Chair Hess** agreed that this point needed to be addressed; but the structure would no doubt have to be changed substantially in order to conform to the OMI code.

Mr. Don Coppola observed that General Development had created an old-fashioned main street commercial strip from Lee County to the Sarasota County line through poor planning; another problem was the over-abundance of platted lots. He noted that one cure for the problem would have been to change the zoning, eliminating the RSF-3.5 zoning and changing it to RSF-2.0, which would mean that future homebuilding would have to be on two lots, thereby reducing future infrastructure and services costs by 50%. He then referred to Murdock Village. **Chair Hess** asked what his suggestions were for the issue at hand. His suggestion was to rezone residential property to commercial so that people can sell their property and move elsewhere. **Chair Hess** countered that people's taxes go up when their property is rezoned as commercial. **Mr. Coppola** continued on in the same vein. **Chair Hess** invited those who would not want to have their property rezoned to speak.

Kathleen Smith identified herself as one who would not want to have her property rezoned. She said that even if neighboring house were to become commercial, that would affect her property. She anticipates traffic and parking problems if neighboring properties become commercial. **Chair Hess** pointed out that any business would have to provide its own parking. **Ms. Smith** said that there was no room for parking on these lots. Staff explained that the parking requirement must be met before someone can actually have a commercial enterprise on a given piece of property; if they cannot meet the parking code, then the business would not be possible, unless several lots were put together. **Ms. Smith** continued to express concern about traffic and parking. **Mrs. Seay** pointed out that despite the requirement to have rear lot businesses have the appearance of residential structures, the fact that they would be surrounded by empty lots providing parking would undercut the attempt to look residential.

Staff responded by pointing out that the Code was written to encourage existing businesses facing US 41 to expand into the rear lots. Additionally, it gives a business owner the option to place a business on a rear lot; however, they still have to figure out how to make it work, e.g., how to provide adequate parking. In response to **Ms. Smith's** assertion that the process

seemed weighted toward business people, **Chair Hess** pointed out that it was a very difficult problem to address without making at least some people suffer, and that it might very well be that Mr. Coppola's idea of simply rezoning a number of blocks back from US 41 in order to get the desired depth for the commercial district was the right idea, provided the Tax Assessor could come up with a plan to continue to tax the property as a residence as long as it was in use that way; then eventually business people would come in and buy up entire blocks. **Ms. Smith's** response was, But then where would we go? We want to stay in our homes. **Chair Hess** observed that was probably why staff designed the revision in the way they did, so that people could remain in their homes if they want to. **Chair Hess** reminded her that there was no plan that would not affect somebody.

Kathleen Coppola asked why the Murdock Village Redevelopment Area was exempted from this new code. Staff responded that Murdock Village has its own separate development plan. **Ms. Coppola** continued to ask the same question, why there was a difference. **Chair Hess** pointed out that the County Commissioners decided these matters, which was within their powers as commissioners. She also pointed out that the Charlotte Harbor CRA was not included in the US 41 Overlay either, because it had its own separate plan. **Ms. Coppola** conceded that she had seen a similar plan work in Sarasota County, where commercial depth was added to the 41 corridor, and she believed people were able to get quite a bit of money for their property as a result. She then had a question about a specific address being included in the overlay, and staff agreed to discuss that with her separately.

Lisa Trejo asked about the plan allowing commercial buildings to be four stories high, and how will that look like a residence? Staff confirmed that the height limitation on the rear lot was 40 feet. **Chair Hess** commented that was about the height of a regular house on base flood elevation of ten feet; there was some dispute from the public on that estimate, and it was agreed that it would be at least a three-story building. **Ms. Trejo** asked who would be responsible for maintaining the buffer landscaping; staff replied that there was a landscaping code that would govern maintenance matters. **Ms. Trejo** raised the issue of Depew Ave., behind the post office, where there is no observation of the code. She also asked why large scale development wasn't encouraged out near I-75 and Port Charlotte residential neighborhoods left alone. She believed when she bought in her residential neighborhood that it would stay that way, not become commercial. **Chair Hess**, noting that a lot of commercial development is springing up around I-75, pointed out that the fact remains that US 41 is where it is, it is a commercial strip, and because it was poorly planned to begin with, it now needs to be fixed. And while it was a reasonable expectation that a residential neighborhood would remain residential, things change, including the huge numbers of people that have moved to the area creating pressure to improve the poorly-planned commercial strip. **Ms. Trejo** expressed the belief that the Revision project was being done in half-mile increments and therefore leaving lots of people "out of the loop" as far as changes that were being made. **Chair Hess** and **Mrs. Bossman** attempted to improve her understanding of the process.

Mr. Marty Lewis described a problem he was having with a neighboring commercial property which had a new business generating noise and trash. He was advised to contact the Sheriff's office with regard to the business disturbing the peace. **Chair Hess** noted that the intention of the restrictions on allowing businesses to expand into the rear lots was to encourage businesses that did not generate noise or trash and degrade the quality of the residential areas across the streets.

Mr. Ron Geraci invited Board members and staff to visit Depew Street (behind the post office) during the business day and see what actually happens during the day where, despite the parking regulations, cars are parking on the streets and on the lawns. **Chair Hess** noted that

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this had been raised with staff and the intention was to address this issue. **Mr. Geraci** also predicted that many people in the affected areas would apply for variances. **Chair Hess** responded that one alternative was to change the zoning, as Mr. Coppola had suggested, but then that left the issue of increased taxes to be resolved; she put the question out for comment, would the tax be based on the change in zoning or on the continued use of the property as residential? **Mr. Gravesen** thought the matter should be answered by the County Attorney's office. **Mr. Browne** responded that he was not able to answer that without research. **Chair Hess** recollected instances where citizens had been taxed on the basis of usage rather than zoning, and thought this might still be the case. **Mr Geraci** returned to the subject of an area becoming an eyesore due to a similar situation where rear lots were allowed to be commercial and then had a negative impact on the nearby residential area, asking if perhaps we could learn from the previous mistakes.

- **Mrs. Seay** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Chair Hess noted that there seemed to be numerous problems with the Revision as presented, and asked staff if they were prepared to work on the issues that had been raised; **Inga Williams** acknowledged the need to look again at the sections dealing with signage, buffering, landscaping, setbacks, parking, and the potential need to alter existing structures that would not meet the code requirements if they were rezoned. **Chair Hess** observed that much of the Revision seemed appropriate for expanding existing businesses but not necessarily for having a new business start on the rear lot. **Mr. Gravesen** agreed that the outcome here would be to open up a new commercial area as much as to expand the commercial corridor to accommodate larger projects; that was not the original intent. **Chair Hess** cited the Eckerd's property at Midway and U.S. 41 as an example of what was intended and how it could turn out to benefit the residential neighborhood.

Mrs. Seay also raised concerns that the Revision as presented would have unintended consequences; that rezoning might turn out to be the proper way to address it. It was agreed that a street did not constitute a buffer; a buffer was considered to be something like a wall. **Mrs. Bossman** asked what staff had in mind by taking this approach rather than just allowing existing businesses to expand into the rear lots. **Ms. Shao** said the intention was to give the businesses the opportunity to expand but to limit the type of business to less-intensive uses while deepening the corridor. **Ms. Williams** said part of the concern was that, since not every business would have a need or desire to expand into the rear lot, that would potentially create a number of isolated expansions; and the ordinance needed to have a mechanism to allow businesses to develop independently. **Chair Hess** asked what objection there would be to simply doing a massive rezoning. **Ms. Williams** said that there was no objection; that this limited area was being focused on because of the beautification project. **Chair Hess** asked her to consider the long view and the possibility of doing real step-down zoning for all of the 41 corridor, going from commercial to multi-family to single family residential; and to consider starting on it now while minimizing the tax penalty to the current residential area. She noted that this is the outcome in cities like Fort Myers.

It was determined that the Revision as presented was more of a patch that the Board members did not particularly like. **Mr. Gravesen** raised another issue, where the Revision is amending the mixed use to allow multi-family on top of OMI, but the Overlay did not provide for this. Staff clarified that the U.S. 41 Overlay Future Land Use will allow the development of residential, multi-family and commercial together; the businesses that are zoned OMI can develop commercial and multi-family residential now. In future, if someone doesn't want to have it

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limited to OMI, but wants CG uses on the bottom instead, they would have to rezone to PD in order to get residential on top and commercial on the bottom. **Chair Hess** asked the board members, given the many issues with the Revision as presented, would they want to see it again, and it was agreed that it would not be appropriate to forward this Revision or the related matters to the County Commissioners at this time. **Mr. Gravesen** reminded the audience that even if the Revision was not forwarded today, the Overlay does still exist and the rezonings that are later on the agenda can still be accomplished under the current Overlay.

Upon being asked for guidance, **Mr. Browne** offered that either the Community Development Department had to withdraw the matter or it would have to be acted on "as is" and forwarded to the Board of County Commissioners with a recommendation of Disapproval, if that was the consensus. There was some discussion whether the matters should come back before the Planning and Zoning Board or go directly to the BCC with changes; **Mr. Browne** said that if there were any changes, the matter would have to come back before the P&Z Board first. **Ms. Williams** expressed a different opinion and further discussion ensued about rescheduling the matters.

Mrs. Bossman raised an additional concern, that if a line of two blocks of multi-family residential is added, would that be in excess of what is actually needed? **Chair Hess** said that step would not be addressed at this stage, but should be considered. There was additional discussion of the rescheduling of these Overlay matters, including having a second P&Z hearing in April.

Recommendation

Mr. Gravesen moved that the Revision to the U.S. 41 Zoning District Overlay be continued until April 11, 2005 to be modified, second by **Mrs. Seay**, with a unanimous vote.

Mr. Gravesen moved that Petition PA-04-12-72, PA-04-12-73 and PA-05-01-03 all be continued until April 11, 2005 to be modified, second by **Mrs. Seay**, with a unanimous vote.

Mr. Gravesen moved that Petition Z-05-01-01 be continued until April 11, 2005 to be modified, second by **Mrs. Seay**, with a unanimous vote.

Chair Hess called for a brief break.

When the meeting resumed, **Mr. Toby Delbridge** complained about the continuance of SV-05-01-01 (Item M on the agenda) because he had been waiting to speak in support of it. He was advised to speak to Mr. Dossett about what measures the applicant would need to take to have the project recommended for approval. It was noted that the applicant had not yet indicated a date for the continuance.

PA-04-11-67-LS

Pursuant to 163.3181(1), Florida Statutes providing for public participation in the comprehensive planning process for the proposed Evaluation and Appraisal Report changes and pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs a Large Scale Plan Amendment to amend Objectives 1.1, 1.4, 1.6 of the Future Land Use Element pertaining to the Urban Service Area Strategy and create a new policy to provide for a report which assesses the correlation between growth and the availability of infrastructure.

Staff Presentation

Joan LeBeau, Planner III, presented the findings and analysis for the proposed Text Amendment to the Future Land Use Element of the 1977-2010 Comprehensive Plan with a

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recommendation of *Transmittal* to the Department of Community Affairs for an Objections. Recommendations and Comments report.

Questions for Staff

Mr. Gravesen referred to the platted lands strategy which is based on the data from 1997, suggesting that it might be more useful to include the actual number from 1997 because the actual number of vacant lots that need to be addressed is being reduced by other means in addition to the strategy itself. **Mrs. Bossman** asked if the lands under the Lemon Bay Conservancy were being included in consideration; the answer was that those lands were included.

Public Input

No one spoke for or against this request.

- **Mrs. Seay** moved to close the public hearing, second by **Mrs. Bossman** with a unanimous vote.

Discussion

There was no discussion.

Recommendation

Mr. Gravesen moved that Petition PA-04-11-67-LS be forwarded to the Board of County Commissioners with a recommendation to transmit to the Department of Community Affairs for an Objections, Recommendations and Comments report, second by **Mrs. Bossman** with a unanimous vote.

PA-04-11-68-LS

Pursuant to 163.3181(1), Florida Statutes providing for public participation in the comprehensive planning process for the proposed Evaluation and Appraisal Report changes and Pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs a Large Scale Plan Amendment to amend the Goals, Objectives, and Policies of the Housing Element, providing for the definition of substandard dwelling units.

Staff Presentation

Joan LeBeau, Planner III, presented the findings and analysis for the proposed Text Amendment to the Future Land Use Element of the 1977-2010 Comprehensive Plan with a recommendation of *Transmittal* to the Department of Community Affairs for an Objections. Recommendations and Comments report.

Questions for Staff

Chair Hess asked, with regard to substandard dwellings, are they condemned? **Ms. LeBeau** said that was a possible outcome; Code Enforcement would take action. **Chair Hess** asked whether people offering properties for rental had to meet any standard; **Mr. Gravesen** said there would be the Health Code, if the property was on septic, as well as some safety and fire codes that have to be met, although the properties were not inspected.

Public Input

No one spoke for or against this request.

- **Mrs. Seay** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

None.

Recommendation

Mr. Gravesen moved that *Petition PA-04-11-68-LS* be forwarded to the Board of County Commissioners with a recommendation to transmit to the Department of Community Affairs for an Objections, Recommendations and Comments report, second by **Mrs. Seay** with a unanimous vote.

PP-05-01-01

Robert Conley is requesting a Preliminary Plat for Old Oak Estates consisting of 6 residential lots. The site is in Commission District I, north of Nova Lane, east of Minneola Avenue, South of Tangerine Avenue and west of I-75. The site contains 7.68 acres. A complete legal description is on file.

Staff Presentation

James Dossett, Manager of Development Review Services Division, presented the findings and analysis for the Preliminary Plat with a recommendation of *Approval* and to forward to the Board of County Commissioners, based on the reasons stated in the staff report dated March 3, 2005.

Questions for Staff

Chair Hess confirmed that no other agencies had raised any issues about this project.

Applicant's Presentation

Geri Waksler, Esq., spoke on behalf of Robert Conley, concurring with the staff report.

Ms. Waksler went on to observe that there would likely be neighbors speaking against the project, and gave some history of the land which is included in this project, specifically the objection of neighbor Sherman Drawdy to the project. She noted that Mr. Drawdy had retained an attorney and during the previous year, the objections he raised had been considered by the County Attorney's office which concluded that there was no reason that the land could not be used as contemplated by the project; but the applicant chose to go ahead with the Preliminary Plat process. Any other issues at this point are simply issues between private property owners that have no bearing on the ability to plat this land.

Public Input

Ms. Cynthia Drawdy, who is the owner of the property next door and also a prior owner of the subject property, spoke in opposition to the project. She contended that property owners in the area had been told by Charlotte County for years that they could divide their property one time and one time only because they were on a private road (and, as an aside to Mr. Dossett, she asserted that the road there is not to County specifications in any way.) She feels that the quality of the community should not be changed from its historical nature of houses on acreage.

Mr. Dossett responded, pointing out that property owners may have asked about splitting property rather than asking about platting a subdivision, in which case they would have been told that the property could only be split one time. However, this project is a legitimate "by-right" subdivision, not a property split, and entails a much more complex and costly procedure. **Ms. Drawdy** returned to the subject of the road quality. **Mr. Dossett** responded that the developer would have build the road in their subdivision to county standards, or upgrade or replace any existing road; they would not have to improve roads outside his subdivision, even though those roads may be substandard.

Mr. Sherman Drawdy spoke in opposition to the project. He cited the previous correspondence between his attorney and the County Attorney and that he thought the matter had been dropped. He gave some of the history of the subject parcel and the roads, their condition, maintenance and ownership. He objected to projects that would change the nature of the Suncoast Ranches community. He believed he should have received notice of the hearing but he did not. **Mr. Dossett** said that he would investigate the matter, as he believed all persons were properly noticed.

Chair Hess then addressed the issues he had raised, and asked Mr. Dossett to help explain what the process would be from this point forward. **Mr. Dossett** described what would be required as the project progressed, including that the stormwater drainage would have to be addressed and that the common easement shown on the preliminary plat was intended to accommodate a stormwater pond. He noted that detail of that nature is not usually shown on a preliminary plat, but would be required as part of the construction drawings.

Chair Hess then spoke about the fact that both Mr. Drawdy and the owner of the subject property had property rights in the matter, and the owner was complying completely with existing regulations about what he can do with his property. She tried to explain again the difference between being able to split a piece of property one time and having the right to plat a subdivision. **Mr. Drawdy** then returned to the issue of wanting to maintain the character of the neighborhood, which was five-acre estates, and stated his intention to fight the issue. **Chair Hess** advised him that it would be appropriate for him to appear with his attorney before the Board of County Commissioners at the time they consider the matter. **Mr. Drawdy** raised the issue of the road quality again; **Mr. Dossett** stated that the County did not currently have any requirement than an existing private road or public road be upgraded in these circumstances. Things that would be looked at when the construction plans come in are whether the traffic count warrants turning lanes, and things of that nature. **Chair Hess** noted that once construction starts, there would be a lot of traffic on Nova Lane with a lot dust, etc., and asked whether the County has any control over that. The response was that the permit is to monitor erosion, sediment control and tracking of mud, etc., but the best thing to do is to call if there is a specific problem that the County has not yet discovered.

Chair Hess reiterated to Mr. Drawdy that the project complies with all existing regulations; the County Attorney, the planners and all the departments that looked at the proposal said that the proposal met all the regulations, and therefore the thing for him to do was to take his case to the Commissioners. **Mr. Browne** confirmed that this advice was appropriate.

Mr. Chris Turner spoke against the project. He mentioned not having been notified about the proceedings. His concern about Nova Lane is that the paving was paid for by the property owners that had houses there at the time (ten years ago) and that owners of new houses would have the use of that paving without having contributed to paying the cost of it. And the road will likely suffer damage during the construction process that the builders would not be responsible to repair. **Chair Hess** asked Mr. Dossett to clarify what the responsibility might be, and his opinion was that the County really had no authority over that. **Chair Hess** then questioned who the actual owners of the private road were; **Mr. Turner** said that in the past the homeowners had learned that the road was owned by the Suncoast Peach Corporation which is a dissolved Florida corporation. **Chair Hess** asked Mr. Browne what recourse the property owners had in such a situation; **Mr. Browne** said that they would need to go to court and request that the title be quieted in themselves or assert adverse possession, that there were various options that an attorney could advise them on. **Mr. Turner** then returned to the subject of the potential damage to the road from trucks bringing fill onto the property in advance of construction. **Chair Hess** pointed out that the property owners had the option to complain about any damage done to the

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road once they were the owners of the road. There was some discussion of how the County can monitor the conditions in response to complaints.

Ruth Zanini spoke about the lack of notice for public hearings and the necessity to read the newspapers to find these things out. **Chair Hess** agreed that the process and procedures with regard to notice would be reviewed.

- **Mrs. Seay** moved to close the public hearing, second by **Mrs. Bossman** with a unanimous vote.

Discussion

Mrs. Seay questioned staff regarding the application and the history of the parcel; her opinion was that there seemed to be a large number of problems with the parcel for staff to be recommending approval of the project. **Chair Hess** offered clarification regarding the difference between splitting a property and subdividing a property, and pointed out that the homeowners got incomplete advice earlier in the history of the parcel. **Mr. Dossett** added that the review by various County Departments is based on the information presented and on the governing regulations and ordinances, and none of the Departments found any reason to deny this project. With regard to tying into inadequate roads, that would probably stop half the development in Charlotte County if that was not allowed. On an existing road that has public use, and particularly for a road with the low volume of Nova Lane, for the most part the County only looks at turning lanes and that type of thing; for higher volume roads, signals are considered. **Mrs. Seay** then asked for clarification on what rights the property owner has once the Preliminary Plat is approved. **Mr. Dossett** responded that then the construction plans commence; before the lots can be sold to build the houses, the developer comes back with their final plat for approval. Staff re-examines the project at that point. He acknowledged that at present there are some inconsistencies with the process that are being studied. **Mrs. Seay** asked, if the present homeowners did take possession of Nova Lane, what would that do to the applicant's plan for developing the property. **Mr. Dossett** pointed out that the impact on the applicant would depend on whether the homeowners took possession or whether they petitioned the County to take it over, which the County would only agree to after the road had been brought up to County standards. But in general there are roads all over the County that people build on and tie into, and all they have to do is bring the section of the road that they are using up to County standards. **Mrs. Bossman** asked whether it would be possible just to do an SBU and have all the property owners participate. **Mr. Dossett** agreed that there are processes in place that could be used. **Mrs. Seay** expressed additional concern over the idea that by the time the construction on this project was completed, the road might be so damaged that no one could use it, and that constituted a problem; with respect to Mr. Dossett's assertion if the similar conditions that existed all over the County had to be cured, there would be no building at all, she said maybe in that case there shouldn't be building going on if that was the case. **Mr. Drawdy** offered another comment from the audience, but it was not intelligible.

Ms. Waksler commented further about the history of the parcel, and the illegal creation of lots by the original owner; she contrasted that history with the efforts of the current applicant to proceed with the framework of existing County rules and regulations. She noted that no one had yet approached the applicant about his willingness to contribute to the cost of repairs on Nova Lane, and said that she would initiate that conversation with the applicant herself; given that improving the road would be in the applicant's self interest, she expected he would be agreeable to contributing, even though there were no rules that required it.

Chair Hess urged the current homeowners to proceed with getting ownership of the road. She called for any other comments prior to the Motion. **Mr. Gravesen** expressed some concern

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about the change to the neighborhood that would result from the project; but since all regulations have been met, it would be difficult to go against that. He observed that it behooves the homeowners to look at the documentation that they should be bringing before the Board of County Commissioners to support their opposition to the project, and that the documentation should meet the standards required in a quasi-judicial hearing.

Recommendation

Mrs. Seay moved that Petition PP-05-01-01 be forwarded to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated March 3, 2005, along with the evidence presented at today’s meeting, second by **Mr. Gravesen**, with a unanimous vote.

PP-05-01-02

Flagship Builders and developers, Inc. is requesting a Preliminary Plat for River Haven Estates consisting of 32 residential lots. The site is in Commission District IV, north of Markham Avenue, east of Apollo Waterway, south of Hughes Avenue and west of Casper Street. The site contains 22.5 acres. A complete legal description is on file.

Staff Presentation

James Dossett, Manager of Development Review Services Division, presented the findings and analysis for the Preliminary Plat with a recommendation of Approval with one condition and to forward to the Board of County Commissioners, based on the reasons stated in the staff report dated March 3, 2005.

Questions for Staff

Chair Hess confirmed that no other agencies had raised any issues about this project.

Applicant’s Presentation

Mary Sprague spoke on behalf of Giffels-Webster Engineers, Inc., concurring with the staff report. **Ms. Sprague** observed that the project had been through the DRC process and received a full technical review. She questioned the condition for the easement on the tidal canal, and mentioned that SWFMD requires a 25-foot average buffer along the canal which is meant to maintain the natural state. This is a typical buffer required on any surface water other than man-made canals and lakes, and nothing can be done within the buffer other than removing pepper trees and other similar nuisance species. There was a brief discussion about the maintenance and purpose of these buffers. **Mr. Dossett** clarified that the condition for the easement pertained to the man-made Apollo Waterway, not the tidal waterway, and that this was intended to be used for e.g., the removal of debris following storms. Discussion ensued as to where the easement could be located on the property (e.g., on a common area versus in between two home sites.) **Mr. Dossett** suggested the wording could be changed to “suitable ingress/egress” which was acceptable to the agent.

Public Input

None.

- **Mrs. Seay** moved to close the public hearing, second by **Mrs. Bossman** with a unanimous vote.

Discussion

None.

Recommendation

Mr. Gravesen moved that Petition PP-05-01-02 be forwarded to the Board of County Commissioners with a recommendation of Approval with one condition with modified language to refer to "suitable ingress/egress" for the canal maintenance easement, based on the findings and analysis in the staff report dated March 3, 2005, along with the evidence presented at today's meeting, second by **Mrs. Seay**, with a unanimous vote.

The next agenda item, SV-05-01-01, has been continued.

PP-04-08-17

Michael Hovey is requesting a Preliminary Plat for The Brooks at Collingswood Point consisting of 19 residential lots. The site is in Commission District IV, north of Wing Avenue, east of Joseph Street, south of Lake Worth Boulevard, and west of Collingswood Boulevard. A complete legal description is on file.

Staff Presentation

James Dossett, Manager of Development Review Services Division, presented the findings and analysis for the Preliminary Plat with a recommendation of Approval with one condition and to forward to the Board of County Commissioners, based on the reasons stated in the staff report dated March 3, 2005.

Questions for Staff

Mr. Dossett noted that the one condition was that the applicant resolve survey plat issues with the County Surveyor before proceeding.

Applicant's Presentation

John Cavoli, Agent, spoke on behalf of applicant Michael Hovey, concurring with the staff report and agreeing with the one condition.

Mr. Gravesen asked if applicant was aware of a bald eagle's nest in the vicinity. **Mr. Cavoli** said that clearance had already been requested and received to proceed with construction adjacent to the nest.

Public Input

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mrs. Bossman** with a unanimous vote.

Discussion

None.

Recommendation

Mr. Gravesen moved that Petition PP-04-08-17 be forwarded to the Board of County Commissioners with a recommendation of Approval with one condition, based on the findings and analysis in the staff report dated March 3, 2005, along with the evidence presented at today's meeting, second by **Mrs. Seay**, with a unanimous vote.

Meeting adjourned: 5:20 p.m.