

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**September 8, 2008 @ 1:30 p.m.**

**Call to Order**

**Chair Hess** called the meeting to order at 1:30 p.m. and it was noted a quorum was present.

**Roll Call**

**PRESENT**

Paula Hess  
Audrey Seay  
Michael Gravesen  
James Marshall

**ABSENT**

Brenda Bossman

**ATTENDING**

Richard Browne, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of August 11, 2007 were approved as circulated.

**ANNOUNCEMENTS**

*None.*

Upon the administration of the oath for the quasi-judicial matters, the meeting commenced.

**PETITIONS**

**Z-08-07-33**

**Quasi-Judicial**

**Commission District I**

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture Estate (AE) to Excavation and Mining (EM), for property located south of Washington Loop Road (south side of the loop), east of Myrtle Slough, north of Bermont Road and west of Rustic Drive, in the Punta Gorda area, containing 166.1± acres; Commission District I; Petition No. Z-08-07-33; applicant: City of Punta Gorda.

**Staff Presentation**

**Tom Scott, Planner III**, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated July 30, 2008. **Mr. Scott** noted that much of the discussion regarding impacts of the excavation would be properly considered during the excavation permit hearing, not during this rezoning request.

**Questions for Staff**

*None.*

**Applicant's Presentation**

**David Levin, Esq.**, attorney for the City of Punta Gorda, spoke briefly in support of the petition, noting that the parcel was originally purchased with this purpose (reservoir) in mind and, under the rules at that time, the AE zoning of the parcel would have allowed the construction of the reservoir. The adoption in 2007 of the new EM zoning district has occasioned the present application. Applicant concurs with the staff report on this petition.

**Tom Jackson, City of Punta Gorda Utilities Director**, addressed the Board regarding the proposed project, giving a brief history of the City's water supply situation. The need for the reservoir was established during creation of the city's 10 year plan; this need includes plans for an interconnect supplying water to other Charlotte County citizens beyond the city limits of Punta Gorda. He discussed water quality and quantity during high flow times of the year, and the various options for water capture to serve the area during the dry season.

**Mr. Jackson** also spoke on the subject of the reservoir siting with regard to the County's Comprehensive Plan, and how the site location and transmission issues can affect the ultimate cost of the water to the end user. He also discussed the issue of water mineralization and the desirability of capturing water during times of high flow and low mineralization. The additional permitting still to be completed was also mentioned.

**Public Input**

**Mr. Lawrence Martin, homeowner on Washington Loop Rd.**, spoke about other excavations in the same area and indicated his opposition on the basis of traffic and the change that it will entail to neighboring property, noting that Washington Loop Rd. was not "sparsely populated" and was close to lots of recreational areas. There are potentially four mines in a half-mile stretch of road; he spoke of possible safety issues due to this concentration of mining activity. Mr. Martin went on to comment on what he felt was the history of the City's approach to this request for an excavation permit, the intent of the Commissioner's in limiting excavations through the 2007 ordinance, and structural concerns based on information on reservoirs in other parts of Florida.

**Chair Hess** explained the quasi-judicial nature of the hearing and noted that the gentleman's presentation was not fact-based. **Mr. Levin** asked to address some of Mr. Martin's points about the City's evolving plans concerning the use of the parcel, and the city's rationale for the permit process it pursued, as well as the city's tentative plans for the fill-dirt that could be extracted in advance of the actual reservoir construction, plans which have since been abandoned. He also emphasized the permit process still to be gone through, where many of the impact issues will be addressed. **Chair Hess** asked how the excavated material will be used; **Mr. Levin** said that wasn't settled yet.

**Chair Hess** addressed Mr. Martin about the process and the nature of the current hearing. **Mr. Martin** suggested there was preferential treatment for the city because they were calling the project a reservoir. At the request of the Chair, **Mr. Scott** addressed the process timeline; **Mr. Levin** addressed other issues and challenged the notion that the city got preferential treatment, calling attention to a previous recommendation of denial they had received.

**Mr. Robert Boehm, resident of Washington Loop Rd.**, asked Mr. Jackson questions regarding the injection wells in the neighborhood, the liner for the reservoir, and whether it would go below the mean water level; **Mr. Jackson** responded to the questions where he had the information available and indicated where he did not. **Mr. Levin** rose to respond, noting there is not currently a detailed engineering study of the ultimate construction, and

thus it was not possible to answer all of Mr. Boehm's questions with accuracy. **Chair Hess** asked when during the process citizens like Mr. Boehm would have a chance to ask these questions and get answers; **Mr. Levin** said: during the permit hearing. **Mr. Boehm** continued with his questions despite this proviso, and receiving answers where the information was available. He went on to talk about planned residential developments in the area, noting that residents had been fighting mines there. He stated that residents are concerned about the hydrology and potential truck traffic due to the number of mines already in place. **Mr. Levin** responded, noting that the City has to pay for excavation and does not make money on it, so they won't excavate more than they need to.

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

### **Discussion**

**Chair Hess** noted that the permitting process offered the chance to oppose the excavation. **Ms. Seay** said she had confidence that the city would observe all county and state laws about excavation permitting, and that there was great value to be had for city and county residents.

### **Recommendation**

**Ms. Seay** moved that application Z-08-07-33 be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated July 31, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

**Barbara Jefferies, Land Development Supervisor**, addressed the Board, to clear the record concerning Mr. Martin's incorrect comment regarding the prior recommendation of denial given to the City, which was for a variance request.

### **PP 06-04-03**

### **Legislative**

### **Commission District I**

Mr. Barry Karpay, Vice President of Land Operations of Standard Pacific of SW FL has applied for a one year extension of the Preliminary Plat approval for Kensington Lakes subdivision. The Preliminary Plat was approved by the Planning and Zoning Board on August 14, 2006 and the Board of County Commissioners on September 19, 2006. The subdivision, consisting of a 255 lot residential subdivision in a Planned Development, is located in Sections 25 and 26, Township 40 South, Range 23 East. The site, consisting of 90.46 acres, more or less, is located on the North side of Duncan Road in Commission District I in Charlotte County, Florida.

### **Staff Presentation**

**Barbara Jefferies, Land Development Supervisor**, presented the findings and analysis with a recommendation of *Approval* for the petition based on the reasons stated in the staff report dated August 25, 2008.

### **Questions for Staff**

**Ms. Seay** asked about the reason for the delay; Ms. Jefferies said she felt it was due to the economy. **Mr. Bob Hutchinson**, employed by Mr. Karpay, confirmed that the economy was at issue, and that the preliminary plat was set to expire shortly. **Ms. Jefferies** confirmed there were no conditions involved in the recommendation of Approval.

## Applicant's Presentation

None.

## Public Input

None.

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

## Discussion

None.

## Recommendation

**Ms. Seay** moved that application Z-08-05-28 be approved, based on the findings and analysis in the staff report dated August 25, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

### **PP-08-07-02**

### **Quasi Judicial**

### **Commission District IV**

Smith & Wester, Inc. has applied for a Preliminary Plat for a commercial subdivision, Tippecanoe Business Park, consisting of 10 commercial lots in Section 15, Township 40 South, Range 21 East. The site, consisting of 17.03 acres, more or less, is located southwest of Biscayne Drive, northeast of El Jobean Road, and west of Eastwind Waterway in Commission District IV.

## Staff Presentation

**Barbara Jefferies, Land Development Supervisor**, presented the findings and analysis with a recommendation of *Approval with conditions* for the petition based on the reasons stated in the staff report dated Aug. 15, 2008.

## Questions for Staff

None.

## Applicant's Presentation

**Ed Wotitzky, Esq.**, applicant's agent, spoke briefly in support of the petition, noting that Mr. Wester was also available to answer questions. He stated that the applicant accepted the conditions.

**Mr. Marshall** asked what kind of commercial development would be on the parcel; **Mr. Wotitzky** mentioned a bank, hotel, professional offices, and other typical components of a mixed-use type of development.

**Ms. Seay** asked about access off of El Jobean Rd., there didn't appear to be any access other than from Biscayne. **Ms. Jefferies** noted that limitation to access was a requirement for approval.

## Public Input

None.

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

*Minutes of Regular Meeting* Continued

September 8, 2008 @ 1:30 P.M.

These minutes have been approved by the Charlotte County Planning and Zoning Board.

### **Discussion**

*None.*

### **Recommendation**

**Mr. Marshall** moved that application PP-08-07-02 be forwarded to the Board of County Commissioners with a recommendation of *Approval with nine conditions*, based on the findings and analysis in the staff report dated August 15, 2008, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

### **PP-08-07-03**

### **Quasi Judicial**

### **Commission District IV**

MCD, LLC has applied for a Preliminary Plat for a commercial subdivision, MCD Commons, consisting of 2 commercial lots in Section 7, Township 41 South, Range 22 East. The site currently has one commercial building and the applicant has applied to split the parcel into 2 commercial sites. The subject property, consisting of 3.366 acres, more or less, is located on the southeast corner of the Education Way and Murdock Circle intersection in Commission District IV.

### **Staff Presentation**

**Barbara Jefferies, Land Development Supervisor**, presented the findings and analysis with a recommendation of *Approval with conditions* for the petition based on the reasons stated in the staff report dated August 15, 2008. She noted that one problem is that Lot 2 of the project, as stipulated in the permit, is supposed to be environmental preserve parcel, and may not be able to be built upon; this issue is addressed in one of the conditions which must be met for applicant to go forward.

### **Questions for Staff**

*None.*

### **Applicant's Presentation**

**James W. Herston**, applicant's agent, spoke briefly in support of the petition, noting that the special preservation requirements established came about during the DRC hearing as part of the landscape plan that concerned the building of the first unit owned by the developer. He interpreted the requirement as evidence that the staff was concerned that the application not strip the adjacent property during the building activity on the first parcel, rather than a true preservation issue; he said the applicant's intent has always been that the entire parcel would be developed. **Chair Hess** asked about the situation and **Ms. Jefferies** noted that staff and Mr. Herston are in disagreement.

**Mr. Marshall** asked what the intended building would be; **Ms. Jefferies** was unable to comment. **Mr. Herston** did not respond to Mr. Marshall's question but returned to the question of how the conditions were interpreted, restating that they had always contemplated further development, and that he was prepared to present conclusive evidence to support his contention. **Chair Hess** asked County Attorney Rich Browne to address the applicant's proposed evidence in support of their position; **Mr. Browne** said he would recommend approval with the condition stated and work to resolve the issues outside this meeting.

### **Public Input**

*None.*

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

## Discussion

**Mr. Browne** asked Mr. Herston to state on record that he approved the condition and that it needed to be resolved, which he did.

## Recommendation

**Mr. Marshall** moved that application PP-08-07-03 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 August 15, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

## **SV-08-07-14**

## **Legislative**

## **Commission District II**

Taher Shriteh has applied for a Street Vacation to vacate a portion of an un-named street in the LaVilla Subdivision as recorded in Plat Book 1, Page 6 of the Public Records of Charlotte County, more specifically described as the 20 foot right of way running from the easterly line of Cooper Street northeast to the eastern property line of Lot 5 of Block G of La Villa subdivision. The site, consisting of 0.0713 acres, more or less, is located east of Cooper Street, west of Scott Street, south of E. Helen Street, and north of the Railroad Right of Way, in Commission District II.

## Staff Presentation

**Mr. Steve Reager, Right of Way Supervisor**, presented the findings and analysis with a recommendation of *Approval with conditions* for the petition based on the reasons stated in the staff report dated August 15, 2008.

## Questions for Staff

*None.*

## Applicant's Presentation

*None.*

## Public Input

*None.*

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

## Discussion

**Chair Hess** noted that the property might as well go back on the tax rolls. **Mr. Gravesen** mentioned the conditions, **Mr. Reager** responded that one condition had been met (the survey) and the applicant has agreed to meet the other conditions.

## Recommendation

**Mr. Gravesen** moved that application SV-08-07-14 be forwarded to the Board of County Commissioners with a recommendation of *Approval with conditions*, based on the findings and analysis in the staff report dated August 15, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

**SV-08-06-12****Legislative****Commission District III**

Bernard Bruns has applied for a Street Vacation to vacate an un-named six foot (6') alley between Lot 3 and Lot 4 of Block 4 of Bay Heights subdivision as recorded in Plat Book 1, Page 79 of the Public Records of Charlotte County, Florida. The site is bounded on the northeast by Bay Street, on the northwest by Lot 3, on the southeast by Lot 4, and on the south by Lemon Bay. The six foot wide alley is 174.6 feet long, and consists of 1,047.57 square feet or 0.024 acres, located in Section 6, Township 41, Range 20, in Commission District III.

**Staff Presentation**

**Barbara Jefferies, Land Development Supervisor**, presented the findings and analysis with a recommendation of *Denial* for the petition based on the reasons stated in the staff report dated July 21, 2008. **Ms. Jefferies** gave detailed information regarding the parcel and the petition request, noting its proximity to the proposed West County Boat Ramp. She noted the vacation would remove existing public access to the water via the existing alley.

**Questions for Staff**

**Chair Hess** had several questions regarding the project. She asked if the alley was maintained by the County and if it was marked in any way; **Ms. Jefferies** said that it was marked by the Parks Department, noting that the Department had also recommended denial of the petition, probably due to the proximity of the boat ramp and the desire to retain citizens' access to the water. **Chair Hess** noted that the applicant has claimed they have provided alternate access, but apparently has failed to provide the replacement easement to staff, which Ms. Jefferies confirmed. It was noted by the Chair that the applicant was not present to speak in support of their petition. **Ms. Jefferies** noted that there had been extensive communication from residents in the neighborhood, objecting to the project. She stated that the petition had originally been scheduled for an earlier Board meeting, but that the applicant had requested it be continued; however, no new material had been submitted in support of the petition, and no meetings had been held. She confirmed that if the applicant had tendered the alternative easement, then Land Development would no longer have an objection to the petition. It was agreed that County policy was not to give up existing public access to the water. **Mr. Browne** noted that as far as he knew, the County Attorney's office had not been contacted by the applicant with regard to the easement.

**Applicant's Presentation**

*None.*

**Public Input**

**Mr. Don Schneider and Mr. Chalaire, residents of the neighborhood**, spoke in opposition to the project, stating their support for continuing public access to the water in this neighborhood. He spoke about the type of roads serving the applicant's project, which he felt were inadequate for the proposed restaurant use. **Chair Hess** again agreed that it was against county policy to deny access to the water, but noted that the land was zoned commercial and that a restaurant use would be permitted.

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

**Discussion**

*None.*

**Mr. Gravesen** noted that there was public access near to the alleyway vacation request and said he didn't see why the alleyway was needed; **Ms. Jefferies** responded that the residents in the area had immediate access without going on McCall Rd., and that the way was maintained by the residents. **Mr. Marshall** stated his agreement with Mr. Gravesen and also commented on the fact that that the alleyway divides their property; he said he found it strange the applicant wasn't present to support their petition. There was further discussion of the fact that the applicant has claimed that they have an easement but have not produced it, and they have claimed that they have met with staff and Real Estate Services, but staff says that is not correct.

**Recommendation**

**Mr. Gravesen** moved that application SV-08-06-12 be forwarded to the Board of County Commissioners with a recommendation of *Denial*, based on the findings and analysis in the staff report dated July 21, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

**Grove City Walking Park Legislative****Commission District III**

Mr. Danny J. Quick, P.E., Interim Director of Public Works/County Engineer, is requesting special approval for construction of the Grove City Walking Park within the County right-of-way known as Colorado Avenue in Grove City. The request is made so that building permits for the Grove City Walking Park can be issued. The site is located in Section 17, Township 41, Range 20 in Commission District III.

**Staff Presentation**

**Barbara Jefferies, Land Development Supervisor**, presented the findings and analysis with a recommendation of *Approval* for the petition based on the reasons stated in the staff report dated August 25, 2008. This revolves around an obscure provision of the law calling for special approval from the P&Z Board, and is brought forward to clarify records. The building permit is required specifically because Public Works wants to put a gazebo there.

**Questions for Staff**

**Mr. Marshall** asked if the matter had to go to BCC; he was advised that it does not.

**Public Input**

*None.*

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

**Discussion**

*None.*

**Recommendation**

**Mr. Gravesen** moved that the request be approved, based on the findings and analysis in the staff report dated August 25, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

**Temporary Uses Ordinance****Legislative****Countywide**

An Ordinance amending Section 3-9-95.1, Temporary Uses, of the Code of Laws and Ordinances of Charlotte County, Florida; providing for general provisions; providing for

applicability; providing for types of temporary use permits; providing for procedures and fees for temporary use permits; providing for severability; and providing an effective date.

## **Staff Presentation**

**Kenneth Quillen, Planner III**, presented the findings and analysis with a recommendation of *Approval* for the petition based on the reasons stated in the staff report dated August 22, 2008.

## **Questions for Staff**

**Chair Hess** noted that some places might not have enough parking to meet the requirements of part 1; Mr. Quillen made the distinction between public places that have minimal parking that just meets their needs, and other places (like Wal-Mart) that have parking that exceeds the basic amount required by Code for their businesses, and noted that the excess spaces in their lot would be available for these temporary uses. **Assistant County Attorney Derek Rooney** responded also, noting it might depend on whether the parking area being used had adequate spaces for whatever normal use was in progress at the same time as the temporary use; for businesses that overbuild parking like Wal-Mart, this would probably never be an issue. **Chair Hess** noted that the language might suggest to the layman that these parking requirements simply made temporary uses impossible. Further discussion ensued.

**Ms. Seay** asked about church festivals; Mr. Rooney responded that the new language was meant to focus on the impacts, rather than the type of uses. A church pumpkin sale likely would have the same impacts as a commercial pumpkin sale; the code changes look just at the impact to neighboring uses.

**Chair Hess** asked about how vacant properties figure into this, since there are no impacts from a vacant parcel; **Mr. Rooney** said the uses would have to meet the zoning, for one thing, and users would have to show how they would accommodate for parking, ingress/egress, sanitation, etc. **Mr. Gravesen** asked about Christmas tree sales, which he said would be wiped out because the limit is for only five days; **Mr. Rooney** said that was being addressed due to comments which had already come in, and new language would tier the time limits as well as the uses. He apologized that the changes being discussed came up after the distribution of the paperwork; he offered to put in any changes of language that the Board suggested. **Mr. Gravesen** said what about 30 days; **Mr. Rooney** suggested that they remember it was impact-based so all similar impacts would get 30 days; maybe Christmas tree sales could get 15 days and renew but they'd have to pay a new fee. **Mr. Gravesen** said there isn't the profit margin in trees sales, though, to make that workable. Further discussion ensued.

**Chair Hess** recommended the language be recrafted and represented.

## **Public Input**

*None.*

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

## **Discussion**

**Chair Hess** asked **Mr. Gravesen** to continue it so that P&Z would get to hear it again.

# CHARLOTTE COUNTY PLANNING AND ZONING BOARD

10/13/2008 4:45 PM

*Minutes of Regular Meeting* Continued

September 8, 2008 @ 1:30 P.M.

These minutes have been approved by the Charlotte County Planning and Zoning Board.

## **Recommendation**

**Ms. Gravesen** moved that amendment of the Temporary Use Ordinance be continued to a later meeting pending updating of the language in response to numerous suggestions, based on the findings and analysis in the staff report dated August 22, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 3:10 p.m.