

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Draft Minutes of Regular Meeting
October 13, 2008 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:29 p.m. and it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Audrey Seay
Michael Gravesen
James Marshall
Brenda Bossman (arrived after roll call)

ABSENT

ATTENDING

Dr. Donna Widmeyer, Charlotte County School Board
Richard Browne, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of September 8, 2007 were approved as corrected.

ANNOUNCEMENTS

Mr. Rich Browne noted that the matters on this agenda would not be heard by Board of County Commissioners until their December meeting, as there will be no land use session in November.

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

PETITIONS

PA-08-08-35

Legislative

Commission District II

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Center, for property located north of Dundee Road, south of US 17, east of Kentucky Avenue and west of Minnesota Avenue, in the Punta Gorda area; containing 1.9± acres; Commission District II; Petition No. PA-08-08-35; applicant: J & M Enterprise LLC.

Z-08-08-36

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Mobile Home Conventional (MHC) to Commercial Intensive (CI), for property located north of Dundee Road, south of US 17, east of Kentucky Avenue and west of Minnesota Avenue, in the Punta Gorda area; containing 1.9± acres; Commission District II; Petition No. Z-08-08-36; applicant: J & M Enterprise LLC.

Staff Presentation

Matt Trepal, Planner III, presented the findings and analysis with a recommendation of *Denial*, based on the reasons stated in the staff report dated September 8, 2008.

Questions for Staff

Chair Hess asked if the site fronted on Rt. 17 and Mr. Trepal responded that it did, but without having any direct access. In response to the question whether Rt. 17 was a commercial corridor and the request for further details about the on-going study of that road, staff, including Ms. Shao, responded, noting where in the planning process the study currently stood. **Chair Hess** asked if staff recognized the fact that Rt. 17 was going to be in transition to commercial because of recent changes in DeSoto County; **Ms. Shao** noted that the transition was not necessarily from residential to commercial but from rural area to semi-urban and urban area. **Chair Hess** next asked about previous staff stance on the area, and noted that the Planning and Zoning Board had previously voted unanimously for the area to be commercial. **Mr. Trepal** responded by noting the difference between the prior staff-initiated petition and the current applicant's petition. Regarding the solution that the prior petition offered to the inconsistency issues, he noted they reflected the wishes of the majority of property owners in the neighborhood at that time. Chair Hess stated for the record that in the prior hearing, the Board members had disagreed with the staff recommendation, and concluded that the land use (commercial) governed in this case.

Ms. Bossman joined the meeting at 1:38 p.m.

Mr. Marshall asked about the parcel of land separating the two properties; **Mr. Trepal** responded that he thought it was the extension of Maryland Ave., and the possible vacation of that parcel was discussed. **Mr. Marshall** then asked, with regard to the US 17 study, if staff anticipated that the commercial corridor would extend to include some of this property so that it would have access to US 17. **Mr. Trepal** said he doubted that the state would give access from the property to US 17; **Ms. Shao** clarified that the study area was about 1 mile on each side of the roadway. She noted that the subject of the study was planning options for the future and not expansion of the roadway. **Chair Hess** returned to the issue of the 5-0 vote to keep it commercial and indicated that she would like to revisit this decision.

Applicant's Presentation

Mr. Jeff Crocker, applicant, handed out material for the Board to review as he spoke in support of his petition. He stated that the property was purchased specifically for its commercial potential; he noted that, as shown by pictures in his packet, the structure he proposed was meant to be a workshop with living quarters, which he thought would fit well in the neighborhood since it already is a mix of residential and commercial. **Mr. Crocker** contrasted his plan with what could be placed on the land under current FLUM and zoning, e.g., a mobile home park. He had letters of support from surrounding property owners, who said they would rather see a small owner-occupied business than nine mobile home rental units on the property, which he said he could do under current zoning. **Chair Hess** observed that these results contradict what Mr. Trepal had reported about the outcome of the survey in 2005; there was a discussion about how the county staff collected their information. Mr. Trepal noted that Mr. Crocker was one of the respondents to staff's 2005 survey; the majority of respondents in 2005 voted to have the FLUM change rather than the rezoning.

Mr. Crocker claimed that the prior process was skewed and that there was misinformation surrounding the project; he made a case against residential land use, based on existing neighboring commercial and the highway. Referring to the pictures included in his packet, he pointed out an industrial-like junk yard on that he said had been on Dundee Rd. for 30 years, and which he said was never mentioned in previous deliberations. He concluded that there are intense commercial uses surrounding his property and the residential uses in the area are really large vehicle storage and other commercial uses, all as shown in the pictures in his packet. He felt that all staff had achieved was a 10-acre parcel of low-density residential surrounded by commercial uses, therefore creating an inconsistency.

Mr. Crocker went on to give details of his proposed business and had an exchange with Chair Hess about the boat restoration trade. **Chair Hess** asked staff if boat repair taking place in a residence's accessory structure was considered Commercial Intensive; **Mr. Trepal** responded that boat repair is CI, according to code. Further discussion ensued on the applicant's business expectations. **Chair Hess** stated that this is the kind of entrepreneurship that should be encouraged; she felt it was wrong to strip away this opportunity based on the inconsistency issue.

Mr. Crocker then played a recording which he described as a montage of moments from the Board meeting from several years ago when the inconsistency question was decided. Further discussion ensued as Mr. Crocker described his activities in pursuing this matter during the time since that original hearing; he noted that there had seemed to be progress toward a compromise, but then he was advised by letter from the Growth Management Department earlier this year that regulations of Florida's Department of Community Affairs (DCA) governing density in the Coastal High Hazard Area would not permit the matter to be reversed.

Chair Hess asked Mr. Ruggieri to comment on the substance of his communications with the applicant and why staff is opposing the application. **Mr. Ruggieri** described the effort undertaken to reverse the prior decision and the response from DCA which concerned the density previously stripped off the property which could not be restored regardless of whether the original decision was incorrect. **Mr. Ruggieri** emphasized that the application for Mr. Crocker's specific parcel just doesn't meet the criteria for the change, regardless of his personal sympathies with Mr. Crocker's situation. Further discussion ensued regarding the density issues.

Chair Hess stated that she felt the applicant had been deprived of his rights by the prior decision and challenged whether staff believed this was an appropriate location for single-family residential; **Mr. Ruggieri** noted he had not been here at the time of the decision but stated he would agree with the 5-0 decision of the Commissioners.

Mr. Crocker added he tried to sell the property under the residential designation and it was not possible, as everyone who looked at the property pointed out the CG/CI uses in the neighborhood. Further discussion ensued including a question from **Mr. Gravesen** about density. **Mr. Ruggieri** noted that he had concluded it would not be an appropriate precedent to set, to go back and change a staff-initiated change to something he personally felt was more appropriate. **Mr. Gravesen** restated his question to focus on the density issue; **Mr. Ruggieri** said the exact figures to answer Mr. Gravesen would have to be researched.

Chair Hess put the question to County Attorney Rich Browne: If the Board addresses the FLUM first under the less restrictive rules for legislative decisions, then the appropriate decision on the zoning part of the petition would be to follow the FLUM as just decided, is that right? **Mr. Browne** responded that was essentially correct.

Public Input

None.

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

Discussion

Chair Hess stated that she believes this area is suitable for commercial; low-density residential is not appropriate, regardless of any mistake made at a prior meeting. **Ms. Seay** said she agreed but questioned whether the applicants would be able live and work in the same structure; **Mr. Trepal** said they could actually do that under available "owner-occupied" options. **Mr. Gravesen** said he agreed with the points made, but felt that difficulties surround the location of the structure in the center of a non-conforming land surrounding it; so it would be an anomaly. **Mr. Marshall** agreed with everyone else and wondered why Commissioners voted the way they did; he speculated that they did not fully understand what they were voting on. **Ms. Bossman** agreed, particularly from the viewpoint of writing a mortgage, which you could not get for residential in such a neighborhood. **Chair Hess** moved the discussion toward the vote.

Recommendation

Mr. Gravesen moved that application **PA-08-08-35** be forwarded to the Board of County Commissioners with a recommendation of *Approval for adoption*, based on the findings and analysis in the staff report dated Sept. 8, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

Mr. Gravesen moved that application **Z-08-08-36** be forwarded to the Board of County Commissioners with a recommendation of *Approval for adoption*, based on the findings and analysis in the staff report dated Sept. 8, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

PA-08-08-37

Legislative

Commission District III

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor, for property located north of S. McCall Road., south of Grouse Avenue, east of David Boulevard, and west of Meadow Lane, in the Englewood Area, containing 1.45± acres; Commission District III; Petition No. PA-08-08-36; applicant: David Street, LLC.

Z-08-08-38

Quasi-Judicial

Commission District III

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Office, Medical, Institutional (OMI) and Residential Single Family 3.5 (RSF-3.5) to Commercial General (CG), for property located north of S. McCall Road, south of Grouse Avenue, east of David Boulevard, and west of Meadow Lane, in the Englewood Area, containing 1.7± acres; Commission District III; Petition No. Z-08-08-37; Applicant: David Street, LLC.

Staff Presentation

Jeffrey Crimer, Planner II, presented the findings and analysis with a recommendation of *Approval* for the petition based on the reasons stated in the staff report dated September 26, 2008.

Questions for Staff

None.

Applicant's Presentation

Robert H. Berntsson, Esq., *applicant's agent*, spoke in support of the petition, noting that the intention was to create a deeper commercial footprint rather than the typically narrow strip along the road. He stated that the site would most likely be developed with the stormwater retention feature to the rear of the parcel where it would serve as a buffer for the adjacent residential uses. He noted there was a companion plat vacation to be heard later on the agenda.

Public Input

None.

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

Discussion

Chair Hess noted the project seemed to be in the current spirit of encouraging depth to commercial parcels.

Recommendation

Ms. Bossman moved that application **PA-08-08-37** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated September 26, 2008, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

Ms. Bossman moved that application **Z-08-08-38** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated September 26, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

PP-08-06-01

Quasi Judicial

Commission District II

Robert N. McQueen Trustee and John D. McQueen Trustee have applied for a Preliminary Plat for a subdivision, Interstate Commerce Park, consisting of 16 commercial lots in Section 21, Township 41, Range 23. The site is currently partially developed under land leases. The site, consisting of 41.35 acres, more or less, is located west of I-75, east of the horse arena and Indian Spring Drive, and north of Jones Loop Road, in Commission District II.

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 September 12, 2008. She noted that the petition was interesting in that the development was already built. **Ms. Jefferies** indicated that there was also a suggestion to change the "lot" (Lot 11) with the stormwater basin to a "tract" dedicated to stormwater management; **Ms. Jefferies** indicated that Ms. Waksler would

address the compromise in this matter in her presentation. **Ms. Jefferies** also noted that some conditions of the 12 total have been changed, and she read the conditions into the record:

1. Applicant must provide original signed documentation from the City of Punta Gorda that all water and sewer connections to the individual properties will be connected directly to the City system prior to final plat approval.
2. Must provide written proof from the City of Punta Gorda that all septic tanks have been properly abandoned and the existing buildings have connected to the central sewer system prior to final plat approval.
3. Applicant must provide proof of Preliminary DRC approval and Final DRC approval, or equivalent, prior to submitting for Final Plat, and proof that all conditions have been met.
4. Applicant must provide proof of County stormwater approval for this subdivision prior to submitting for Final Plat.
5. Applicant must provide SWFWMD Transfer of Operation prior to Final Plat approval.
6. All property corners and all monumentation must be installed prior to submitting for final plat.
7. Applicant must provide all necessary documentation on the construction of the private roadway, prior to submitting for final plat. This includes testing results, density reports on sub base and base, and mix designs for asphalt and concrete for the private roadway. In the event this documentation is no longer available, applicant must reach an agreement with Public Works that the roadway construction is acceptable.
8. Tract C must have a designated use and appear in the dedication portion of the mylar.
9. Proof of ownership of Tract C must be provided.
10. Lot 11 must be changed from a "lot" to a "tract" on the final plat and the use of this tract restricted to stormwater drainage and future access to adjacent property, and appear in the dedication on the mylar.
11. Tract D must be incorporated into Lot 15 as was done with Lots 13 and 14.
12. Correct 2' difference in survey calculations vs. plat map calculations on west side of plat.

Ms. Jefferies indicated applicant expects to have all conditions met by the December land use meeting of the Commission.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, Esq., *applicant's agent*, spoke in support of the project. Applicant accepts the 12 conditions at this time, but expects to have them modified.

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 application **PP-08-06-01** be forwarded to the Board of County Commissioners with a recommendation of *Approval with 12 conditions*, based on the findings and analysis in the staff report dated September 12, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

PV-08-07-13

Legislative

Commission District II

Omni Airport, LLC, 4 Charlotte LLC, Environmental Underground, Inc., and Rick Treworgy, LLC have applied for a Plat Vacation to vacate a portion of Woodland Acres and a portion of Woodland Estates subdivisions, more specifically Lots 1 and 3 of Block A in Woodland Estates, together with Lots 1 and 2 of Block I and Lots 1 and 2 of Block J in Woodland Acres, and a portion of North Boundary Boulevard, Foye Boulevard, Palmetto Road and Central Drive. The site, consisting of 14.67 acres, more or less, is located in Section 14, Township 41 South, Range 23 East in Commission District II.

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 September 18, 2008.

Questions for Staff

None.

Applicant's Presentation

Geri Waskler, Esq., applicants' agent, spoke in support of the project, concurring with the staff report.

Public Input

None.

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

Discussion

Ms. Seay asked what purpose the lots would be put to; **Ms. Waksler** noted it was basically to eliminate the roads, making larger development tracts for each developer.

Recommendation

Mr. Gravesen moved that application **PV-08-07-13** 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 September 18, 2008, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

PV-08-08-15

Legislative

Commission Dist. III

David Street LLC has applied for a Plat Vacation to vacate Lots 1, 2 and 3 of Block 3984 of Port Charlotte Subdivision Section 72 as recorded in Plat Book 6, Page 28 of the Public Records of Charlotte County, Florida, along with Lots 6, 7, 8 and 9 of Block 5199 of Port

Charlotte Subdivision Section 95, as recorded in Plat Book 10, Page 1A of the Public Records of Charlotte County, Florida. The site, consisting of 1.69 acres, more or less, is located north of the North Access Road (north of McCall Road), east of David Boulevard, and west of Meadow Lane, in Commission District III.

Staff Presentation

Barbara Jefferies, Land Development Supervisor, presented the findings and analysis with a recommendation of *Approval with 2 conditions* for the petition based on the reasons stated in the staff report dated September 18, 2008.

Questions for Staff

None.

Applicant's Presentation

Robert Berntsson, Esq., *applicant's agent*, spoke briefly in support of the project; he noted for the record that with regard to the easement required from Embarq, apparently all their facilities are the in the right-of-way and since this is a plat, not a street, vacation, if there are no facilities upon the property, there will be no easement provided, and Embarq will supply a supporting letter indicating they do not need the easement.

Public Input

None.

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

Discussion

None.

Recommendation

Ms. Bossman moved that application **PV-08-08-15** be forwarded to the Board of County Commissioners with a recommendation of *Approval with 2 conditions*, based on the findings and analysis in the staff report dated September 18, 2008, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

PV-08-08-16**Legislative****Commission District I**

Patricia Roebuck Swindle and Mark Stephen Roebuck, as Trustees, have applied for a plat vacation to vacate a portion of Resubdivision of Tamiami Subdivision as recorded in Plat Book 2, Page 24 of the Public Records of Charlotte County, Florida, lying within the northwest corner of Section 34, Township 40 South, Range 27 East, Charlotte County, Florida, more particularly described as the northwest 1/4 of Section 34, Township 40 South, Range 27 East, less and except Lot 24 of Block 39; Lots 30 and 31 of Block 27; Lots 1, 2 and 3 of Block 29; Lots 1 and 2 of Block 30; Lots 1, 2, 16, and 17 of Block 44; Lot 8 of Block 44, and Lots 31 and 32 of Block 40, along with that portion of Carlinda Street bound by the south line of said plat to the north right of way line for Tamiami Avenue, that portion of Tamiami Avenue running from the west right of way line of Carlinda Street to the east boundary of Penobscot Street, that portion of Penobscot Street from the south boundary of Tamiami Avenue to the north boundary of Florida Avenue, as well as that portion of Penobscot Street from the south boundary of Tamiami Avenue to the south boundary line of Lot 32 of Block 40 and the south boundary line of Lot 2 of Block 41, and that portion of

Florida Avenue from the west boundary of Penobscot Street to the east boundary of Samoset Street, that portion of Samoset Street from the south boundary of Florida Street to the south boundary of Sarasota Avenue. The site, located north of Bermont Road and east of S.R. 31, consists of 159.199 acres, more or less and is located in Commission District I.

Staff Presentation

Barbara Jefferies, Land Development Supervisor, presented the findings and analysis with a recommendation of *Approval with two conditions* for the petition based on the reasons stated in the staff report dated September 23, 2008. She noted this vacation was for purposes of shedding density for the TDU process.

Questions for Staff

Chair Hess asked what the use of the lot not being vacated is; **Ms. Jefferies** noted that the parcel has been landlocked since a road vacation prior to 1991. **Chair Hess** asked to be reminded how the land be used after having the density stripped off it; **Principal Planner Inga Williams** spoke to this issue, noting that the wetlands on the property will be preserved via a conservation easement and the remainder can still be used for agriculture, and the owners retain one acre per ten acres of density.

Mr. Marshall asked about the individual lots that retain access, whether they could be built on, and **Ms. Williams** said they would retain their development rights. **Ms. Bossman** asked about the calculation of the density. **Ms. Williams** pointed out the lots were vested to that plat; there were over 1,000 platted lots with one unit of density per platted lot. The total density units on the entire plat is 1,546. **Chair Hess** asked how the owners would be compensated for the density; **Ms. Williams** stated they would receive a certificate that enables them to sell the units.

Ms. Seay asked whether the applicants owned the single unvacated lot; the answer was no. She also said a lot without access didn't make sense, and wondered about the situation.

Ms. Jefferies said the owner had been contacted about the petition but had not responded. **Ms. Seay** asked Mr. Browne about the isolated lot, what is the significance of being landlocked; **Mr. Browne** noted the owners have a statutory remedy. **Chair Hess** asked to revisit the density calculation, which was one unit per platted lot to 1 unit per 10 acres, as explained by Ms. Williams.

Applicant's Presentation

Mr. Jeff Krauskopf, agent for applicants, spoke about the extensive but unsuccessful attempts to contact other owners. In answer to a question from Chair Hess, he stated that the applicant had clear title to the property, and that the applicant agrees with the conditions. **Mr. Browne** said the conservation easement (one of the conditions) had been reviewed and was acceptable.

Public Input

None.

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

Discussion

None.

CHARLOTTE COUNTY PLANNING AND ZONING BOARD

11/10/2008 3:26 PM

Draft Minutes of Regular Meeting Continued

October 13, 2008 @ 1:30 P.M.

These minutes are not official until they have been approved by the Charlotte County Planning and Zoning Board.

Recommendation

Ms. Seay moved that application **PV-08-08-16** 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 September 23, 2008, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:59 p.m.