

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
November 10, 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
Brenda Bossman

ABSENT

ATTENDING

Richard Browne, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of October 13, 2007 were approved as corrected.

ANNOUNCEMENTS

Chair Hess noted there would be no P&Z meeting in December, but that there would be a joint meeting of the Board and the Commissioners on Dec. 16th.

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

PETITIONS

NOPC-08-09-39

Quasi-Judicial

Commission District I

Charlotte Commons, LLC is requesting to amend the Development Order and Map H for the Sandhill Development of Regional Impact to permit development of additional uses in a portion of C-21 and C-25 in Tract 1; allow non-truck traffic to access onto Loveland Boulevard; relocate a mitigation area within C-25 in Tract 1; incorporate the terms of the transportation development agreement between Charlotte County and Charlotte Commons, LLC dated March 25, 2008; delete the requirement for the affordable housing study; and correct scrivener's errors. The property is generally located south of DeSoto County, west of the Deep Creek area, north of Rampart Boulevard, and east of Loveland Boulevard; Sections 7, Township 40 South, and Range 23 East in Port Charlotte, Florida; a complete legal description is on file.

Staff Presentation

Seann Smith, Planner II, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated Oct. 29, 2008, noting that an exhibit "D" had been added to the Development Order, moving some industrial uses to the center of the parcel so that there is use conflicts with the surrounding residential. Access onto Loveland Blvd. has been added with the understanding that there will be no truck traffic access onto Loveland. The mitigation area which will be affected is being

moved to the northern portion of the parcel; the affordable housing study is no longer required inasmuch as Charlotte County has completed its own study for the entire county and another one would be redundant.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke in support of the project, noting that the County had approved a Developer's Agreement with Charlotte Commons for transportation improvements on Veteran's Blvd. and Kings Highway. Since the existing Sandhill DRI Development Order (DO) requires that the terms of the Development Agreement be incorporated into the Sandhill DRI DO through this Notice of Proposed Change (NOPC) process; the applicant therefore took the opportunity to do three additional things as well:

- ❖ Eliminated language in the current DO that prohibits access from this commercial site onto Loveland Blvd., with the agreement of the Department of Public Works which believes that public safety will be enhanced; the agreement prohibits truck traffic.
- ❖ Revision of Map H to reflect the elimination of a remnant wetland which was located in the middle of the proposed commercial development site. A new wetland will be created along with upland mitigation, in the northwest corner.
- ❖ Added specified CI and light industrial uses at the request of end-users, limited to designated portions of the property.

In conclusion, Ms. Waksler noted that the changes had been approved by the Regional Planning Council.

Ms. Seay asked about the effect this would have on the nearby new development. ***Ms. Waksler*** responded that it is the same developer and he won't negatively impact his own residential development. ***Ms. Bossman*** had a question about language regarding wetland mitigation being paid for by Charlotte County; ***Ms. Waksler*** responded that this would refer to mitigation required due to widening of Veterans or intersection improvements, noting this had already been approved by the Commissioners in the Development Agreement previously mentioned.

Public Input

Mr. Albert Tiseo, who developed the strip center across the street from the proposed development, spoke about the DO and asked what whether there was a time specific given in the DO regarding intersection improvements. ***Ms. Waksler*** responded that rather than a time specific, the improvements were tied to the issuance of the CO's. ***Mr. Tiseo*** gave a lengthy description of the problems with his own project, noting that due to difficulties with the developer, Sabbia & Monti, it took four years to get the improvements, and he had to pay for it. He spoke of litigation over this matter.

County Attorney Rich Browne said if the matter was in litigation, it should not be being discussed at this meeting. ***Chair Hess*** asked what Mr. Tiseo was seeking; he said he was concerned that the taxpayers not be on the hook for these costs. He also complained about the access points given to the current project when his project couldn't get the same consideration. He disputed that the restriction on truck traffic would be enforceable.

Chair Hess asked again what the Board could do for Mr. Tiseo. **Ms. Waksler** rose to comment: She pointed out that the developer on this project is not Sabbia & Monti, it's a different developer, and she made further distinctions regarding this project. **Chair Hess** summed up for Mr. Tiseo, emphasizing the differences. **Mr. Smith** also commented on the road improvements, but noted he did not have details of the Development Agreement which governs some of these items.

Jeff Ruggieri, Director of the Growth Management Department, spoke next about the Development Agreement, saying they would need to be in place in order to win DRC approval. Further discussion ensued; **Ms. Bossman** clarified that she understood Ms. Waksler to say properties within the development could be sold, but that buyers would be put on notice about all restrictions under the Development Agreement. There was some disagreement between Mr. Tiseo and Ms. Waksler about statements she made before the Commission regarding whether a traffic light would be part of the improvements. Mr. Tiseo continued his questioning and **Mr. Ruggieri** responded regarding the "time certain" issue, noting that the Development Agreement calls for two phases of construction with two related phases of improvements: Phase I to be completed within 24 months from May 4, 2008, all linked to CO's which can't be issued until the improvements are completed. He noted that Mr. Tiseo's development was something of a "poster child" for what can go wrong when agreements are not solidified in the public record and there is no mechanism to trigger the completion of improvements. Those problems led to improvements within the County's system for tracking improvements through the system to avoid anything similar in the future.

Mr. Tiseo continued his objections, asking what penalties will be applied other than denying the CO; **Mr. Ruggieri** offered to meet with Mr. Tiseo separately to discuss that kind of details, noting the questions were beyond the scope of the present hearing. **Ms. Waksler** pointed out that the improvements are in response to development, and if there is no development accomplished, there don't need to be the improvements. She described the difficulties encountered in Mr. Tiseo's project and noted how it was different than the current project; she also noted that the Development Agreement runs with the land, and applies to all successors and assigns. Further discussion ensued.

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

Discussion

Mr. Gravesen asked about the number of access points on Veterans Blvd. and whether there were any objections from Public Works; he said there were three when there could be just one, and noted that the road is heavily traveled. **Mr. Smith** responded that Public Works had reviewed the matter and there was no objection. **Ms. Waksler** noted this section is not within the limited access area and she spoke about what cut-throughs they lined up with. **Mr. Gravesen** continued to express concern about the approval; **Chair Hess** noted that as non-experts the Board must accept the review of Public Works. **Mr. Steve Reager**, Charlotte County Right-of-Way Supervisor, rose to address this aspect, saying that the suggestions received from Public Works would be covered in the presentation on the next agenda item number. **Ms. Bossman** said she had concerns about the three access points also; she also raised the issue of what bonds are required on projects to ensure completion of improvements. Further discussion ensued.

Ms. Seay asked if the County is satisfied with the proposed change; Mr. Smith responded affirmatively.

Recommendation

Ms. Seay moved that application **NOPC-08-09-39** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated Oct. 29, 2008, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

PP 08-09-05 Quasi Judicial Commission District I

Charlotte Commons, LLC has applied for a Preliminary Plat for a subdivision, Charlotte Commons, consisting of 15 commercial lots in Section 6, Township 40 South, Range 23 East, within Planned Development 80-4. The site, consisting of 51.073 acres more or less, is located west of Veteran's Boulevard, north of Peachland Boulevard, and east of Loveland Boulevard in Commission District I.

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 Oct. 10, 2008. The 16 conditions are:

1. Legal description on plat must be changed, wrong Section Number (change from 4 to 6);
2. Permanent Bench Marks must be on plat and on site;
3. Tabular data must appear on the sheet to which it applies;
4. Provide proof that all 57 conditions of the Development Review Committee (DRC) recommended approval have been met prior to final plat application;
5. Applicant must provide Addressing with a list of names in writing for verification and approval prior to applying for final plat;
6. Change County Surveyor Block identification to Gerald L. Bruening, Professional Surveyor and Mapper;
7. Names of all streets must appear on the plat;
8. Correct the spelling of dedication on the last line of the dedication;
9. Section 1.(g) of the Sandhill DRI Development Order does not allow access from this site onto Loveland Boulevard (as proposed in the plans). Applicant must either:
 - a. Provide a recorded Resolution approved by the BCC amending Sandhill Development of Regional Impact to allow access to this commercial development from Loveland Boulevard only one access road which is to be aligned with Nelson Boulevard; or
 - b. Remove access onto Loveland Boulevard from the plans and provide a note on the Final Plat mylar stating that "No lots in this subdivision shall be allowed direct access to Loveland Boulevard;
10. Provide approved County Stormwater permit; and
11. Provide proof that Sabbia and Monti Property Owners Association, Inc. accepts the dedication and maintenance of the roadways known as Tract A;
12. Provide proof that all utility right of way permits required in the DRC approval letter have been obtained prior to final plat approval, including for the relocation of the lighting and other lighting installations, and A Traffic Signal permit;
13. Provide proof from Public Works Transportation Engineer that the directional access to Lot 14 from Veterans Boulevard has been approved prior to final plat approval;

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

14. Project must adhere to all Sandhill DRI Development Orders;
15. Must have BCC approval for Final Detail Plan prior to applying for final plat; and
16. Double frontage and reverse frontage lots shall be prohibited, and all access to lots must be from Tract A (private roadway). The final plat mylar shall be clearly marked with a dashed line and note the affected lots, with a statement of no access allowed to such traffic arteries.

Questions for Staff

None.

Applicant's Presentation

Ms. Waksler said the applicant accepts all outstanding conditions.

Public Input

None.

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

Discussion

Mr. Gravesen asked about the three access points; *Mr. Todd Rebol* of Banks Engineering responded on this issue, noting the reduction in speed limit at this point and other aspects that support the three access points. *Ms. Seay* asked about the access between 3 and 4 on Peachland Blvd.; *Mr. Rebol* said that lines up directly opposite the Publix access and will have a left-turn lane associated with it also.

Recommendation

Ms. Seay moved that application **PP 08-09-05** be forwarded to the Board of County Commissioners with a recommendation of *Approval with 16 conditions*, based on the findings and analysis in the staff report dated October 10, 2008, along with the evidence presented at today's meeting, second by *Mr. Marshall* with a unanimous vote.

Mr. Gravesen stated he continues to have concerns about the access points but won't vote against the project on account of that.

There being no further business to come before the Board, meeting was adjourned at 2:16 p.m.