

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
January 12, 2009 @ 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

Michael Gravesen
James Marshall
Brenda Bossman

ABSENT

Audrey Seay

ATTENDING

Richard Browne, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of November 10, 2007 were approved as circulated.

ANNOUNCEMENTS

Chair Hess noted that the Board's annual election of officers would be added as an agenda item at the end of today's meeting. Upon the administration of the oath for the quasi-judicial matters, the meeting commenced.

PETITIONS

PA-08-11-43-LS

Legislative

Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments Report; the amendment request is to change the Future Land Use Map from Agriculture to Mineral Resource Extraction for property located north of Bermont Road, south of the DeSoto County line, east of Duncan Road (US 17), and west of SR 31, containing 140.71± acres, in the East County Planning District; Commission District I; Petition No. PA-08-11-43-LS; Applicant: George and Christina Davis.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated December 24, 2008.

Questions for Staff

Chair Hess spoke about receiving emails from the public which mistakenly assert that environmental surveys would never be required on the property, which is incorrect since they will be required during the permitting process, though they are not required at this stage. **Mr. Ellis** confirmed that this was correct.

Mr. Marshall asked if the reduction in acreage that had occurred since the original application was submitted would reduce the amount of material that could be extracted from the site; **Mr. Ellis** responded that it would. **Ms. Barbara Jefferies**, Excavation Administrator, commented on this matter also.

Applicant’s Presentation

Geri Waksler, Esq., applicant’s agent, spoke in support of the petition. She compared impacts from mining with impacts from agriculture, which is the current land use of the property; agricultural impacts are described in the Zoning Code as frequently involving noise, odors, dust, chemical spraying and “other activities generally incompatible with residential uses”. Therefore, she noted, any impacts from the proposed excavation are already anticipated as what would be expected due to agricultural uses of the property. She acknowledged the presence of wetlands on the property and confirmed that excavation would not take place near those wetlands. She also referred to the groundwater monitoring plan that would be in place.

Ms. Waksler emphasized that this was the first of numerous hearings that would take place on this petition as it goes through the large-scale plan amendment process, after which the property will go through both the quasi-judicial rezoning process and the quasi-judicial permit process which involves the longest list of requirements to be met.

Public Input

Mr. Darol Carr, addressed the Board in order to preserve his standing with regard to his property, to be able to object, if necessary, in the future.

Mr. Steven Brown, representing the Conservancy of Southwest Florida, asserted that the public notice regarding this matter was not in compliance with Florida Statute 125.66 4(b)(2), which he believed requires that the notice published in the newspaper requires a map. He also complained that the notification was too brief and imprecise.

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

Discussion

Chair Hess agrees with staff that petition meets all requirements of the Mineral Resource Extraction portion of the Comprehensive Plan. **Ms. Bossman** asked about the Statute; **Mr. Rich Browne**, Assistant County Attorney said he would investigate.

Recommendation

Mr. Gravesen moved that application **PA-08-11-43-LS** be forwarded to the Board of County Commissioners with a recommendation *to transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments Report*, based on the findings and analysis in the staff report dated December 24, 2008, along with the evidence presented at today’s meeting, second by **Mr. Marshall** with a unanimous vote.

PA-08-11-45-LS

Legislative

Commission District I

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments report, amending the Charlotte County Future Land Use Map from Agriculture to

Mining and Resource Extraction, for property located in the East County Planning District, containing 4083.93± acres; Commission District I; Petition No. PA-08-11-45-LS; applicant: Charlotte County Board of County Commissioners.

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 Dec. 29, 2008. He noted that of the 14 currently active mines in Charlotte County, four did not meet the standards of the new Mineral Resource Extraction future land use map designation, because they are in an Urban Service Area or are within one-half mile of the Special Surface Water Protection Overlay District. The ten sites addressed in this petition are the East and South County planning districts; the land use of all these sites is currently Agriculture and they all involve parcels included in previously-approved excavation permit applications.

Questions for Staff

Mr. Gravesen asked if staff had information about the range of expiration dates on the existing permits; **Mr. Smith** stated that he did not have the information.

Public Input

Mr. Steven Brown, Conservancy of Southwest Florida, objected to the public notice for this petition on the same grounds as the previous petition (e.g., no map was part of the public notice); additionally, he stated that Policy 22.18f of the Charlotte County Comp Plan required submittal of a concept plan, maps, illustration of the excavation and surveys. He noted that the previous applicant had supplied those elements that but they were not supplied in this staff-initiated petition. **Mr. Brown** focused on submittal requirements referred to in Item 21, where staff stated the items were not required because all these sites already had received permits to operate a mine. **Mr. Brown** also complained about what he described as a "bureaucratic sleight of hand" wherein the Environmental Impact Statement was removed from the Comp Plan Amendment submittal requirements. He stated that past environmental reviews in connection with the granting of the mining permits were insufficient and can't be relied on.

Ms. Waksler responded to Mr. Brown's contention regarding lack of maps in the public notice to point out that the statute he quoted only applies to zoning map changes and not to plan amendments. Mr. Rich Browne concurred with this finding.

Ms. Andrea Story, resident of the Washington Loop area, speaking for herself and other neighbors, showed two digital pictures depicting the posted sign providing public notice of the hearing, complaining about the alignment of the sign in relation to the roadway (though she stated she was nonetheless able to read the sign). Her second picture of the sign indicated that the hearing before the Commissioners would be at 9 p.m., which she felt was an error. **Department Director Jeff Ruggieri** spoke to the issue of the sign placement on the roadway, and apologies were made for any inconvenience.

Mr. William Gard of Swaying Palm Dr., turned in a petition against the mines which The Chair pointed out are already there; **Mr. Gard** noted that his neighbors are all against the mines and have fought them in the past. He detailed the on-going depredations of a couple of the mining companies currently working in the area. **Excavation Administrator Barbara Jefferies** clarified name of mine and noted where she and wildlife officers had done their recent investigation on land including the Mirror Lakes excavation site. **Chair Hess** noted that many of the details raised by Mr. Gard would not be considered until it was

time for a renewal of the excavation permit, which would be in about ten years. **Chair Hess** asks what do we do about the problems; **Ms. Jefferies** said the County investigates and requires submission of the mining company's required reports; it is being monitored. **Mr. Marshall** clarified that the Board is not permitting mines here, just considering a land use amendment. **Mr. Guard** offered additional information concerning the amount of active mines in the county; **Chair Hess** pointed out that the information really has nothing to do with the matter being considered here today.

Mr. Robert Boehm, resident of Washington Loop, also spoke in opposition to the existing mines, stating he would like to see one mine excluded from the group covered by this application, despite the fact that they already have a permit.

Chair Hess noted that the Board can tell monitoring staff to monitor more carefully, but can't exclude a mine from the land use "housekeeping" process.

Mr. Lawrence Martin, Charlotte County resident, asks if they will still have to be rezoned also. **Mr. Smith** responded that the mine owners will need to rezone when their existing permit expires or if they seek to modify or expand their existing permit. **Chair Hess** discusses the concept of "grandfathered in".

Ms. Nancy Haast, representing the group The Washington Loop Homeowners Against Mining Corp., expressed outrage over the County's favoritism toward the mining business and lack of concern for residents. She reviewed the environmental concerns, including the possible impacts on agriculture through dewatering the area. She stated that the group felt that the County had betrayed them, by short-circuiting the protections afforded by the 2007 amended mining ordinance. She characterized as a gift to the mining industry the fact that Charlotte County did not collect filing fees for this staff-initiated application.

Rob Berntsson, Esq., spoke in support of staff for moving forward. He described the situation with respect to existing mines with respect to the amended ordinance and noted that it was entirely proper to put the existing mines into the newly-established legal category for such activity.

Mr. Marshall noted the amount of objection to mining in the county and posed the question how action taken today will affect the actual mining. County Attorney Rich Browne stated there would be no effect on existing mines. **Mr. Marshall** clarified that no matter what takes place today with respect to this plan amendment, it won't shut any mine down nor will it open any new mines. **Ms. Bossman** asked if it would make it more difficult to renew an existing mine. **Mr. Browne** stated that if the plan amendment didn't pass, there might be renewal difficulties; he pointed out that this new MRE land designation was created to try and control mining more than it could be under the AG land use designation, and it has been successful in meeting that goal. **Mr. Smith** agreed.

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

Discussion

None.

Recommendation

Mr. Gravesen moved that application **PA-08-11-45-LS** be forwarded to the Board of County Commissioners with a recommendation *to transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments Report*, based on the findings and analysis in the staff report dated December 29, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

Z-07-11-84

Quasi-Judicial

Commission District III

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Multi-family 5 (RMF-5) to Commercial General (CG), for property located at 8399, 8389, and 8379 Cypress Road, in the Englewood area, containing 15.76± acres; Commission District III; Petition No. Z-07-11-84; Applicant: Jerry and Kristina Paul.

Staff Presentation

Martina Kuche, Planner III, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated Dec. 17, 2008.

Questions for Staff

Mr. Gravesen asked about the impact of the Winchester Extension on lots to the east of the petition area; **Ms. Kuche** referred to a slide that showed the impact.

Applicant's Presentation

Robert H. Berntsson, Esq., applicant's agent, spoke briefly in support of the petition. In response to a question about the requirements of the Type C buffer, **Mr. Berntsson** responded generally about improvements in buffering requirements over the years, particularly as it concerns abutting commercial and residential properties. **Chair Hess** thanked him for helping her educate the public about the fact that the proposed project would be almost completely surrounded by walls or very dense landscaping.

Public Input

None.

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

Discussion

None.

Recommendation

Ms. Bossman moved that application **Z-07-11-84** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated Dec. 17, 2008, along with the evidence presented at today's meeting, second by Mr. Marshall with a unanimous vote.

Z-05-05-29

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) and Residential Single-Family 3.5 (RSF-3.5) to Commercial General (CG), for property located at 2351 and 3011 Duncan

Road, in the Punta Gorda area, containing 17.11± acres; Commission District I; Petition No. Z-05-05-29; Applicant: American Services of SW FL Inc.

Staff Presentation

Roxann Read, Planner II, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated December 19, 2008. **Ms. Read** also offered details about an agreement between the Department of Community Affairs and Charlotte County in July 2008 resolving outstanding issues about compliance.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke briefly in support of the petition, noting that there were very few commercially-designated parcels along 17 that could support a true commercial center, such as this one would.

Public Input

None.

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

Discussion

None.

Recommendation

Mr. Gravesen moved that application **Z-05-05-29** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 19, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

Z-08-01-12

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-Family 3.5 (RSF-3.5) to Commercial General (CG), for property located at 525 Bowman Terrance, in the Port Charlotte area, containing 12.42± acres; Commission District IV; Petition No. Z-08-01-12; Applicant: SW Florida Commercial Group, LLC.

Staff Presentation

Roxann Read, Planner II, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated December 19, 2008.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke briefly in support of the petition, noting that as part of the US 41 Overlay District, the property would be subject to additional development restrictions.

Public Input

None.

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

Discussion

None.

Recommendation

Mr. Marshall moved that application **Z-08-01-12** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 19, 2008, along with the evidence presented at today's meeting, second by *Mr. Gravesen* with a unanimous vote.

PA-08-11-41

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 High Density Residential to Commercial Corridor, for property located at 1010 Lavilla Road, in the Punta Gorda area, containing 0.85± acres; Commission District II; Petition No. PA-08-11-41; applicant: Mario Lopez.

Z-08-11-42

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66 and 166.41, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Multi-family 10 (RMF-10) to Office, Medical, and Institutional (OMI), for property located at 1010 Lavilla Road, in the Punta Gorda area, containing 0.85± acres; Commission District II; Petition No. Z-08-11-42; applicant: Mario Lopez.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis with a recommendation of *Denial* for the petition based on the reasons stated in the staff report dated December 19, 2008. She mentioned that the US 17 Corridor Study, currently in progress, had not heard from stakeholders that there was any need for more commercial uses in this area. She also noted that City of Punta Gorda Planning staff had no objection to staff's recommendation of denial.

Questions for Staff

None.

Applicant's Presentation

Mr. James Herston, applicant's agent, being duly sworn, spoke in support of the petition, noting that he disagreed with the planning staff conclusions. He stated that Dr. Lopez has "control" of the property adjacent; *Chair Hess* asked if this request was for the expansion of an existing business, which *Mr. Herston* said was a possibility, but the situation would require intermediate steps to reach that corporate decision. He noted that if the multi-family zoning remained and a developer did a multi-family project on the property, that residential unit would have its rear area, where people spend most of their leisure time, facing the commercial, so it would amount to the same thing that staff cited as one of the

reasons to deny. He observed that there is quite a great deal of multi-family residentially-zoned property available for which there is currently no demand.

Mr. Herston made additional comments on the staff analysis, including questioning the definition of strip commercial development and the negative impacts of traffic, given that the neighborhood has already been heavily impacted with the CG uses already there. Responding to a question from the Chair, Mr. Herston said it was his understanding that Charlotte County code allowed commercial access onto the residential multi-family roads. Ms. Shao characterized the local roads as residential single-family which led to a discussion regarding structures in place vs. actual zoning of the streets. **Chair Hess** recollected that OMI used to be allowed in residential multi-family areas; **Ms. Shao** said that was no longer the case, unless the OMI uses existed before 2003.

Chair Hess stated that if the proposed project was the expansion of the existing business, she would have no problem with it, assuming, for instance, that there would be roughly the same amount of traffic generated as by a multi-family development. She agreed that multi-family probably isn't suitable for the neighborhood, either. **The Chair** then asked Ms. Shao what is meant by "strip commercial", noting that the intended use isn't a 7-11 or some other CG use, it would be a doctor's office. **Ms. Shao** noted that there are other uses available under OMI.

Mr. Marshall asked for clarification that the owner doesn't know what the property will ultimately be used for; **Mr. Herston** responded, but was not able to say definitively what the use would be; he described a multi-part process of which this land change was merely the first step. **Ms. Bossman** noted that once the change was granted, the owners could sell the property to someone else, and then that new owner would be deciding the use. **Mr. Marshall** agreed that multi-family would not be suitable there; **Mr. Gravesen** pointed out that is how the property is currently zoned and also noted that such a development wouldn't have to be large scale with amenities, it could also be triplex or duplex affordable housing.

Public Input

None.

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

Discussion

Chair Hess stated she was ambivalent about the application and said that she can see the applicant's point, that the neighborhood is in transition and already impacted.

Mr. Marshall gave the opinion that the use on the subject property should be related to medical field. **Ms. Bossman** said she thought it was clear that the project would need to be an extension of the existing business in order to comply. **Mr. Gravesen** agreed that an extension would be appropriate but noted that would require a title change to one owner; he felt it would have been more effective to then vacate the plat to create a single property.

Recommendation

Mr. Marshall moved that application **PA-08-11-41** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 19, 2008, along with the evidence presented at today's meeting, second by **Ms. Hess** passed the gavel so that she could second the motion.

The vote being split, the Recording Secretary was requested to poll the Board:

- Chair Hess - Aye
- Mr. Marshall - Aye
- Ms. Bossman - Nay
- Mr. Gravesen – Nay

The Board rendered a split decision, therefore there is no recommendation for the Commissioners.

Mr. Marshall moved that application **Z-08-11-42** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated December 19, 2008, along with the evidence presented at today's meeting, second by **Ms. Hess**.

The vote being split, the Recording Secretary was requested to poll the Board:

- Chair Hess - Aye
- Mr. Marshall - Aye
- Ms. Bossman - Nay
- Mr. Gravesen – Nay

The Board rendered a split decision, therefore there is no recommendation for the Commissioners.

Amend Sec. 3-9.5.1

Legislative

Countywide

An ordinance amending Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, by amending Section 3-9.5.1 Site Plan Approval; by renaming the section, redrafting and reorganizing the applicability, initiation, application requirements, preliminary and final site plan review; providing for conflict with other ordinances; providing severability; and providing an effective date; Commission Districts I, II, III, IV and V; applicant Charlotte County Board of Commissioners.

Staff Presentation

Nicole Dozier, Zoning Official, presented the findings and analysis with a recommendation of *Approval* for the petition based on the reasons stated in the staff report dated December 24, 2008. Ms. Dozier discussed issues related to Development Review Committee (DRC) to streamline the process, noting that the amendment will support that effort. Changes to the site plan review process include new standards for which projects would be subject to review; how plan changes can be made and when they can be submitted; how site plan reviews are done, and that they cannot be conditional; and an increase in the period of validity from two years to three years. Overall, the changes have turned a quasi-judicial review board into a technical review staff process and streamlined the process.

Questions for Staff

Chair Hess stated that she agreed with need to streamline this process; however, she asked when the public will be able to register their issues if there is no longer a DRC meeting. **Ms. Dozier** responded that DRC isn't really where these complaints should get handled anyway; **Chair Hess** observed that questions like access are handled there and

noted that the P&Z Board often tells the public, we're just giving the project an OK, but you can get information on the details at DRC. When would that input be possible under the new system? **Ms. Dozier** responded that in terms of the particular issue mentioned (access) it is the Code that determines the answer; coming to DRC to comment would not change that. Going forward, the process will allow for public meetings, but they won't be scheduled for every week, but rather in response to particular projects, and it will be advertised. Therefore the opportunity for public input will remain available.

Mr. Gravesen asked if the standards that the applicant needs to meet during the review are still readily available to the applicant; **Ms. Dozier** described the packages that applicants receive which explain all the requirements. **Mr. Gravesen** asked about those requirements, specifically can they be easily changed to meet the specifics of the project – that is, if the applicant met the requirements, could they then be told there were still more requirements to meet? **Ms. Dozier** responded that it would not be that sort of change; it's about when there is a change in the law or code and we need to meet those new requirements. Further discussion ensued.

Mr. Gravesen inquired about fees, specifically if someone withdraws a plan, is there a refund less, for instance, a 10% administration fee. He wanted to know what the magnitude of proposed fees was, and expressed concern about large fees in such a case. **Ms. Dozier** responded that the size of the fee would depend on the amount of work that had been done, if a matter had already been advertised or something of that nature. **Mr. Gravesen** noted that in the new language, there's no ability to waive the fee, just the statement that there will be a 10% charge. **Ms. Dozier** said that language would be revisited.

Mr. Marshall said that it seems that the DRC is being replaced with a single individual. **Ms. Dozier** pointed out that the process is under her control as matters currently exist; under the change, the Zoning Official will sign off on the final decision, but that decision will be reached via input from each of the utilities, which make their own recommendations, and if they deny the application, then her job is to convey the denial. **Mr. Browne** further clarified that the change will mean that there are no longer four voting members and a meeting at which they cast their vote; the final decision will be the Zoning Official's based on the technical staff reviews submitted for each project. **Mr. Marshall** expressed concern that one person could create problems by simple being a bad person; he felt this issue had been raised before, possibly as part of the PD code rewrite. **Chair Hess** stated she would be interested to hear the opinions of the engineers in the meeting today, as to whether the changes represented improvements.

Mr. Gravesen then asked, what are the steps or process to appeal? **Ms. Dozier** responded that the matter would go to the Board of Zoning Appeals (BZA) which is the same option offered to the public for any decision of the Zoning Official that the public disagrees with.

Public Input

Mr. Herston said he thought the same people would be involved in the new process as in the old. He then raised a question about item E-2, noting that over the course of his experience with DRC, it always seems there may be hold-up from one of the utilities. The new language calls for a decision to be either "approve", "approval with modifications" or "denial" and he asked about the possibility of a decision of "approval with conditions". **Ms. Dozier** said that the objective requested by stakeholders and others involved in the rewrite process was to get site plans to go through the process with no conditions being added.

This goal reflects the reality that the Building Department can't necessarily track all of those conditions and their completion, so conditions are a problem that needs to be solved. Further discussion ensued on this issue. **Ms. Dozier** emphasized that the intent of the new language was to encourage both staff and applicants to "get it right the first time", which would require staff and applicants to work closely together to define all issues prior to submittal. **Mr. Herston** asked about review comments also providing the regulation that is being violated, rather than simply making "staff comments" as is common now; **Ms. Dozier** noted that while she can reference Zoning Code regulations, it would be up to each commenting department to cite their own regulation if they were making a rejection.

Chair Hess said she felt the intent of the new language was to make Charlotte County more friendly to building projects. She asked if the rewrite left us with basically the same process under different names; **Ms. Dozier** stated that the elimination of the meeting and voting element was a significant change that allows the actual review of projects to move forward more efficiently while still allowing comments from the public.

Mr. Marshall wanted to know if Mr. Herston had experienced any problems with the current process; **Mr. Herston** urged approval with conditions, instead of modifications.

Mr. Marshall continued to express concern about voting going away and giving power to one individual; **Mr. Herston** points out the vote is always unanimous regardless.

Mr. Jeff Ruggieri, Director of Growth Management, sought to address some of the concerns being expressed. He noted that it is the same process with the same people doing the reviewing. Under the current system, everybody already knows a week before the meeting where they stand; under the new language an applicant would not have to wait for the meeting, they would just get the approval letter. Also, under the new system, there would be no more "zingers" at the last meeting; all questions would be covered at the preliminary stage, and the applicant can feel confident about going forward unless their site plan changes. **Mr. Ruggieri** also noted that this new language represents a consensus of the working group with all area professionals; the majority did not want conditional approvals, recognizing that's where the problems arise. Modifications precede approval, they aren't things that linger after approval is given.

Ms. Sue Reske, Chair, Greater Charlotte Harbor Group of Sierra Club, spoke against the changes, calling this a very bad precedent. She agreed with Mr. Marshall's reference to the PD ordinance rewrite, and the "one person's decision" issue, which is the same here. She characterized the new process as being a "one person review" and suggested that the Board vote this down and bring back DRC meetings.

Ms. Geri Waksler, who participated in the monthly meetings, supports the ordinance. She emphasized that, in fact, approval isn't being delegated to one person making a decision in a vacuum; she compared that idea to saying that Jim Evetts, the Building Department Supervisor whose signature appears on building permits, is the only person in the Building Department to have looked at a project. **Ms. Waksler** also provided a detailed review of what the new process intends to achieve and what some of the historical problems have been.

Mr. Herston returned to the podium to say that he does support the proposed change but just wanted to express the point about "conditions".

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

Discussion

None.

Recommendation

Mr. Gravesen moved that the amendment of **Sec. 3-9.5.1, Site Plan Review** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, with the addition of language about fee waiver, based on the findings and analysis in the staff report dated December 24, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

PV-08-11-17**Legislative****Commission District II**

Cesna, LLC has applied for a Plat Vacation for a portion of Solona Subdivision, namely Parcel P2 of Block A, and Lots 1, 2 and 7 of Block 6 along with the 66' wide right of way between Lot 7 of Block 6 and Parcel P2 of Block A known as Acacia Street, as recorded in Plat Book 1, Page 5 of the Public Records of Charlotte County, Florida. The site is located in Section 33, Township 40, Range 23 and consists of 3.16 acres, more or less, in Commission District II.

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 December 22, 2008. This petition has been heard before (in the January / February 2008 hearing cycle) and was denied by BCC; the applicant has elected to bring the matter back. **Ms. Jefferies** gave a review of the history of the application and the issues involved which called for a recommendation of Denial.

Questions for Staff

Chair Hess asked Mr. Browne about a comment by Ken Quillan, Zoning Planner, stating that a rezoning should precede the plat vacation. **Chair Hess** raised the question that if this application was doomed to failure on that basis, then when Land Development took in his application and his money, it was "under false pretenses", and the application shouldn't have been accepted to begin with.

Applicant's Presentation

Mr. James Herston, applicant's agent, spoke on behalf of the project. He briefly reviewed the application history and noted that he had not been present at the first hearing before the Commissioners, and because he wasn't there to answer their questions, the petition failed. He also noted that he has already found out from Growth Management staff that a rezoning was not needed. **Chair Hess** stated that she remembered the first hearing on the petition, but disputed whether there was any mention of multifamily residences at that time; **Mr. Herston** stated that it was discussed with staff member Tom Scott. Recollections varied as to what had been discussed at the prior hearing; **Ms. Jefferies** asked if the applicant was interested in having a continuance to resolve the issues and return to P&Z next month; **Mr. Herston** declined.

Minutes of Regular Meeting Continued

January 12, 2009 @ 1:30 P.M.

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

Chair Hess asked Mr. Browne whether it was necessary for an applicant requesting a plat vacation to state what they intend to do with the property afterward; **Mr. Browne** said that it would be good to know, noting that this present application is somewhat backward, since normally if you didn't achieve the rezoning you needed, you would be just as happy to still have the plat in place. **Mr. Herston** stated that the applicant was satisfied with the current zoning, so a rezoning request was unnecessary. There was an extended discussion of what had happened at the prior Board of County Commissioners hearing on the matter, with reference to the minutes of that meeting, which Mr. Herston had not attended, and also about whether the plat vacation should have been processed before a rezoning request.

Public Input

Mr. John Hayse, resident of the area, spoke against the request, as he had done at the prior hearing. Mr. Hayse's objections concerned the ultimate plans for multi-family dwellings on the parcel, the effect of traffic on the street, the effect on property values, the potential loss of vegetation that currently buffers noises from I-75, and the fact that the stated need for access is not accurate. **Chair Hess** pointed out that most of these issues would be addressed at a rezoning hearing; **Mr. Hayse** suggested that this plat vacation request was a tactic to get around the rezoning request. Further discussion ensued.

Ms. Diane Miller, spoke in objection to the project, based on anticipated impacts and anticipated decrease in property values; she was concerned about the environment and traffic.

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

Applicant's Rebuttal

Mr. Herston used his rebuttal time to speak about the hammerhead, noting it was a recommendation of the Department of Public Works.

Discussion

Chair Hess expressed concerned that a lot of extraneous concerns are being injected and asked whether that was appropriate; **Mr. Browne** noted that as a legislative action, anything can be taken into account. The future need to replat the deplatted parcel was also discussed.

Mr. Gravesen noted that even with the current zoning, it would be necessary to replat it after vacating the existing plat. **Mr. Marshall** though the previous decision was a good one: vacate and put in the hammerhead. **Ms. Bossman** stated she found the applicant's intention confusing. **Mr. Herston** stated the intent that the vacated land become part of the larger parcel also owned by the applicant; responding to questions from Ms. Jefferies, he agreed that once the parcels were combined, the density would be increased. Ultimately, a Planned Development request would be submitted, at which point there would be more control over the siting of structures on the property. **Mr. Gravesen** noted that traffic would still need to come down Acacia to access the development; **Mr. Herston** responded that under the PD request, there would probably be a requirement to increase the street width.

Recommendation

Mr. Gravesen moved that application **PV-08-11-17** be forwarded to the Board of County Commissioners with a recommendation of *Approval with two conditions*, based on the

findings and analysis in the staff report dated December 24, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

PP-06-07-05**Quasi-Judicial****Commission District I**

Mr. Todd Helt, Project Manager for Palmetto Plantation, has requested a one-year extension of the preliminary plat for Palmetto Plantation. Preliminary Plat approval was granted by the Board of County Commissioners on October 17, 2006 with six (6) conditions. The preliminary approval was for 89 residential lots and a clubhouse. The site, consisting of 25.62 acres ±, located in Sections 25 & 26, Township 40 south, Range 23 East lies north of Riverside Drive, east of the Seaboard Coastline Railroad right-of-way, south and southeast of Shell Creek, and west of a drainage ditch and residential property in Commission District I. The original applicant, Argosy Advisors, LLC is no longer involved in the project, and the new owner, Palmetto Plantation LLC and Palmetto Plantation Punta Gorda, LLC has taken over the project.

Staff Presentation

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

Questions for Staff

None.

Public Input

None.

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

Discussion

None.

Recommendation

Mr. Gravesen moved that the request for extension of **PP-06-07-05** be *Approved for a one year extension*, based on the findings and analysis in the staff report dated November 2, 2008, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

Grove City Community Plan**Commission District III**

Pursuant to Objective 2.9 (Community Planning) of the Future Land Use Element of the 1997-2010 Comprehensive Plan, a public presentation is being made by the Growth Management Department and the Grove City Planning Committee regarding the Grove City Community Plan. The Grove City Community Planning Committee is seeking acceptance of the Community Plan and formation of the Grove City Advisory Board by the County.

Staff Presentation

Martina Kuche, Planner III, presented the findings and analysis with a recommendation of *Acceptance of the Community Plan*, based on the reasons stated in the draft plan.

Questions for Staff

None.

Public Input

Ms. Audrey Shinske, Chair of the Grove City Planning Committee, spoke in support of the Community Plan, and to congratulate the planning group for their hard work and achievements.

Mr. Philip Dober, resident of Grove City, spoke in support of the group's efforts in creating the plan.

Ms. Christine Perry, member of the Grove City Planning Committee and commercial property owner, spoke in appreciation of the group's efforts and also stated, with regard to the establishment of an Advisory Board, that merely owning commercial property is not enough to be represented on the Advisory Board; she felt that representatives on the Board should have to be running an active business.

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

Discussion

Recommendation

Ms. Bossman moved that **The Grove City Community Plan** be forwarded to the Board of County Commissioners with a recommendation for *Acceptance*, and a recommendation that the business owner representative on the proposed Advisory Committee should be required to be the owner of an active business, based on the draft plan, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

The members then turned to the annual election of officers of the Planning and Zoning Board. **Chair Hess** appointed Mr. Browne Chairman Pro Tem of the Board in order to conduct the election.

Mr. Gravesen nominated Paula Hess to continue as Chairperson, seconded by **Mr. Marshall**, with a unanimous vote.

Ms. Hess nominated Michael Gravesen to continue as Vice-Chair, seconded by **Mr. Marshall**, with a unanimous vote.

Ms. Hess nominated Audrey Seay to continue as Secretary, seconded by **Mr. Marshall**, with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 4:40 p.m.