

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
June 8, 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
Audrey Seay
Michael Gravesen
James Marshall
Brenda Bossman (arrived later)

ABSENT

ATTENDING

Richard Browne, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of May 11, 2009 were approved as circulated.

ANNOUNCEMENTS

Chair Hess announced the appointment of Mr. Jerry Olivo to take the place of Dr. Donna Widmeyer, for the School Board. She also noted that she would not be present for the July meeting, and that Mr. Gravesen would likely also be absent.

Upon the oath being administered, **Chair Hess** announced that agenda item 1 had been withdrawn by applicant Infinity Lakes Investors. The meeting then commenced with item 2.

PETITIONS

PA-09-04-06-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 (MRE) for property located north of Bermont Road (CR 74), south of the DeSoto County line, east of Duncan Road (US 17), and west of SR 31, containing 121.17± acres, in the East County Planning District, Commission District I, Petition No. PA-09-04-06-LS; Applicant: George and Christina Davis.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated May 22, 2009. **Ms. Shao** gave a brief history of the prior petition from the same applicants and the circumstances surrounding its denial by the Commissioners, which led the applicants to make the current presentation.

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Questions for Staff

Chair Hess noted for the benefit of the audience that this request was for a transmittal to the Department of Community Affairs, not for a final approval of the matter; she invited further questions for the staff; there being none, she invited the applicant's agent to make her presentation.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke in support of the petition, touching on matters concerning how the applicant has met the requirements the Commissioners made when they considered the prior application, including the anticipated impact on water, adjacent property owners, and the outcomes of the studies applicants submitted in support of their request; she noted that there would be no rock-crushing or blasting and that the haul route would be over shell, not dirt, so there would be less dust. She noted that there were wetlands on the property but that the project posed no threat to those wetlands. She also addressed the element of a monitoring plan for groundwater levels that will be part of the process.

Ms. Bossman joined the meeting at 1:39 p.m.

Ms. Waksler reminded the P&Z Board members that they had approved the applicants' prior request because the application meets all the requirements of the Mineral Resource Extraction ordinance, and pointed out that this application comes with more supporting studies than the first application. She also stressed that the applicants had provided all the additional information that the Commissioners had requested over and above what the ordinance requires. Additional details of the various studies were provided by Ms. Waksler.

Ms. Seay had questions for the applicants' agent. First, concerning proximity of the project to the Babcock Ranch development, she asked if there would be any impact on that community or the nature preserve that is part of the land? **Ms. Waksler** said there would not be any impacts, noting specifically that the project would not change the LOS on Bermont Rd.

Ms. Seay next asked what happens to the land after the completion of the mining; **Ms. Waksler** described the lake that will remain and how the land will be handled to encourage home-building there in the future, given that the existing density will remain available.

Public Input

Mr. Rick Fried, Washington Loop Home Owners Preservation Assoc., had a question for staff, concerning the fact that the mining requests had no street address and therefore the people could not tell where it was, particularly because the notice published in the newspaper did not include a map. **Chair Hess** asked County Attorney Rich Browne and Department Director Jeff Ruggieri what the legal requirement was with regard to publishing a map; **Mr. Ruggieri** responded to this question, noting that there are no addressed (e.g., named streets) in this rural area and that street names are not assignable until the actual excavation is begun. He also noted that the public can call the Growth Management office for additional information.

Mr. Jim Story, Washington Loop resident, addressed the Board concerning mining in general and said that his group thought this was one mine that was in the appropriate location. But he said he had a problem with the overall number of mines which have been and still will be approved and he asked about the impact of mining on Charlotte compared to the surrounding counties. **Chair Hess** pointed out there are just 20 active mines in the

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county, referring him to the petition packet, and she also offered further statistical information about mining in the county. She asked him to describe his concern; **Mr. Story** responded that there was a hearing scheduled for June 19th for approval of a number of mines, and said he calculated it would lead to 750,000 truckloads of dirt being moved through the county over ten years, which would impact quality of life. He also stated that the land use level of one unit per 10 acres was because of the EPA-mandated protection of the watershed. Further discussion ensued regarding **Mr. Story's** suggestion that there should be a limit set to the total number of mines that would ultimately be allowed in Charlotte County, and **Chair Hess** suggested that he take this issue to the Board, as limitations on mining is part of what they do.

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

Applicant's Rebuttal

Ms. Waksler rebutted the trucks count, noting first that, over the ten years of the life of the mine, that represents just about 300 a day, and she also noted that it takes 50 truckloads to provide fill for a single house. She also noted that the applicants are mining to supply their own construction projects. She emphasized once again that the proposal meets all the requirements of the MRE ordinance.

Discussion

Ms. Seay challenged the LOS of B on Bermont Rd. and questions if that is current information. **Ms. Shao** noted that the calculation for LOS is updated every month, and that this LOS is current as of January 2009 and is still "B".

Recommendation

Ms. Seay moved that application **PA-09-04-06-LS** be forwarded to the Board of County Commissioners with a recommendation of *approval for transmittal to the Department of Community Affairs* for an Objections, Recommendations, and Comments Report., based on the findings and analysis in the staff report dated May 22, 2009, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a vote of four in favor. (**Ms. Bossman** stated that she chose not to vote since she missed a portion of the presentation.)

PP 07-01-01**Quasi Judicial****Commission District IV**

Venus Waterway Development Company has applied for a one (1) year extension to the Preliminary Plat for Venus Waterway Development, approved by the Board of County Commission on April 17, 2007. The site, consisting of 7 residential lots on 4.28 acres, more or less, is located in Section 7, Township 40 South, Range 21 East. The site is south of Hollow Avenue, east of Davenport Drive, north of Venus Waterway, and west of Butterfield Drive in a portion of the Port Charlotte Section 55 subdivision and a portion of the Plan of Garden Truck Farms El Jobean Subdivision, in Commission District IV.

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 May 11, 2009. He noted there was just one call from the public expressing disapproval of the extension.

Questions for Staff

Chair Hess asked for clarification on the one call expressing disapproval, seeking to learn the caller's reason; the reason was that "she just didn't think it was a good idea."

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Applicant's Presentation

Mr. Mike Hatfield, Weiler Engineering, applicant's agent, spoke in support of the request, noting that the request for extension on this project was due to the general economic downturn.

Mr. Marshall asked if any of the construction or land-clearing relating to this project had been done yet; **Mr. Hatfield** said he thought not, as the project was still in the permitting process.

Public Input

None.

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

Discussion

Chair Hess reminded that the matter does not go on to the Commissioners, but is decided by the vote of the Planning and Zoning Board.

Recommendation

Mr. Marshall moved that the proposed one-year extension request for **PP-07-01-01** be approved, based on the findings and analysis in the staff report dated May 11, 2009, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

PP 07-08-14

Quasi Judicial

Commission District III

Mr. Robert H. Berntsson, representing Ainger Creek Properties, LLC has applied for a two (2) year extension for the Preliminary Plat approval for Ainger Creek Development subdivision. The Board of County Commission approved the original Preliminary Plat on November 20, 2007 with five (5) conditions. The subdivision, consisting of 122 residential lots (for cluster housing) on 31.12 acres, more or less, is located in Section 5, Township 41 South, Range 20 East, more specifically north and west of the Catfish Waterway, east of Lammpp Drive, and south of the Sarasota County line, in Commission District III

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 May 11, 2009. The request is to extend for two years, to November 20, 2011, two years from the anticipated expiration of the existing preliminary plat approval. There have been a small number of communications to staff from the public on this matter; copies of the fax and email communications were provided to the Board.

Questions for Staff

None.

Applicant's Presentation

Robert H. Berntsson, Esq., applicant's agent, spoke in support of the request, giving a brief history of the original Special Exception request, and the preliminary plat. He said they came in early on this one because of the upcoming retirement of Mary Webster, who has been in charge of this process for the County for so long. The extension request is based on the impacts of the failing economy. With regard to the people who have come to

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this hearing to oppose the petition, he noted that this hearing is not on the merits of the project, but simply on the merits of the request for extension.

Ms. Seay asked how long the permitting usually takes; **Mr. Berntsson** answered that the time frame varies due to the conditions of the parcel, but that the normal process is that you have two years to get through the permitting and that time frame is usually sufficient.

Chair Hess asked about the five conditions that were attached to the original approval of the preliminary plat, specifically were the pertaining only to the make-up of the plat; he answered that they were specific to the make-up of the plat, and those conditions remain.

Mr. Marshall asked if there had been any activity to date; **Mr. Berntsson** responded that there has not been.

Public Input

Mr. Bob Segur, resident of 7th St., Englewood, spoke generally against the idea of project extensions for half-finished projects, noting his reference was the "Beirut East" structure in Englewood. **Mr. Segur** said that if approved, they should only get one year instead of two, which would be ample time. He stated he doesn't think there is the need at all, given the inventory available in the county.

Ms. Laura Kildahl, resident of Lampp Dr., asked what would happen if the current request isn't approved; **Chair Hess** stated that the applicant can come back and ask again. **Ms. Kildahl** spoke against approval because she felt the preliminary plat never should have been approved in the first place. It was pointed out that her feelings about the original plat approval did not speak to the issue of the extension request.

Mr. Victor Emmelkamp, resident of Manor Dr., also spoke against the request, also by stating opposition to the original plat approval. He stated that he thinks the county should acquire the property instead. **Chair Hess** again directed the comments to what is actually being decided at this hearing, and she also noted that the county is not likely to be able to raise the funding for such an acquisition. She suggested that Mr. Emmelkamp present that idea to the Commissioners for their comment.

Mr. Marshall asked about why this is a request for two-years instead of one; **Mr. Berntsson** referenced the permitting aspect on this parcel with its wetlands and also that the law changed to offer two years in recognition of the extensive permitting that various projects might require.

Mr. Jeremy Sprague, resident of Exeter St., asked if any permitting has taken place since the approval of the preliminary plat, and said he raised the question because he has seen "For Sale" signs on the property recently. He asked if the applicant was trying to sell it or to develop it. **Mr. Berntsson** commented that "you do whatever you can" in such an economy, indicating that the applicant would consider either approach. He stated that the County could still buy the property or another developer might buy it, and it would be closer to ready if applicant were to continue on with the permitting. **Mr. Sprague** also spoke against the project as originally approved especially given the available housing inventory.

Ms. Dawn Botelho of Clark St. also spoke against the project completion; alternatively, she suggested that the extension be limited to one year.

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

Applicant's Rebuttal

Mr. Berntsson noted that one year would be adequate if the economy could be counted on to turn around in that time, but that two years is more likely.

Ms. Seay asked if the Special Exception runs with the land or with the owner; the answer was that it runs with the land.

Discussion

None.

Recommendation

Ms. Bossman moved that the proposed extension request for **PP-07-08-14** be approved, based on the findings and analysis in the staff report dated May 11, 2009, along with the evidence presented at today's meeting, second by *Mr. Gravesen* with a unanimous vote.

Ms. Seay asked about SB 360 and whether staff was aware of that legislation; staff confirmed that the Bill is being closed watched. *Chair Hess* noted having read Mr. Ruggieri's comments on the Bill in the papers; *Mr. Browne* stated that it is premature to assess the ultimate effects on the county but noted that there was to be an online seminar on June 12th to discuss the possibilities with DCA Secretary Pelham.

There being no further business to come before the Board, meeting was adjourned at 2:26 p.m.