

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
September 14, 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

James Marshall
Brenda Bossman

ABSENT

Michael Gravesen

ATTENDING

Richard Browne, Assistant County Attorney
Gayle Moore, Recording Secretary
Jerry Olivo, School Board

APPROVAL OF MINUTES

The minutes of July 13, 2009 were approved as circulated.

ANNOUNCEMENTS

Chair Hess announced an addition for the agenda, to address Mr. Ruggieri's report on the LPA designation.

PETITIONS

LDR Text Amendment (Certificate of Completion) Legislative County-wide

The purpose of this Text Amendment is to add a Certificate of Completion to the Charlotte County Land Development Regulations; Chapter 3-7, Subdivision Regulations; Article XI – Standard Forms; creating (new) Section 3-7-193 Certificate of Completion of Subdivision; and Article III – Standard Requirements for Subdivision Applications; at Section 3-7-69(a)(5) adding the word "percent" after "(90)"; at Section 3-7-69(b) adding "(20) Certificate of Completion" to the checklist; and creating (new) Section 3-7-70 adding language to describe the procedure.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis regarding the proposed amendment to the Land Development Regulations with a recommendation of *Approval*, based on the reasons stated in the staff report dated July 14, 2009. **Mr. Ellis** gave the Board background on the current process and noted that the certificate of completion was suggested by Mary Webster who was committed to finding ways to make the subdivision process work more efficiently for the participants.

Questions for Staff

None.

Public Input

None.

Minutes of Regular Meeting Continued

September 14, 2009 @ 1:30 P.M.

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

Discussion

Chair Hess noted that she had proof-read the material as best she could and found nothing of substance; she asked if Mr. Marshall had done the same, which he had.

Ms. Seay asked for clarification about where in the process this certificate appears. **Ms. Bossman** asked if this document makes any provision for inspection items that had been missed, and allows the county to go back and require completion.

Recommendation

Ms. Seay moved that the **LDR Text Amendment establishing a Certificate of Completion** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated July 14, 2009, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

The oath was administered to those wishing to testify on the following matter.

Z-09-07-09 Quasi-Judicial Commission District III

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Multi-family 5 (RMF-5) to Planned Development (PD), for property located north of Redwood Road, south and east of Rotonda Boulevard E, and west of Gasparilla Road (C.R. 771), in the Rotonda area, containing 34.12± acres; Commission District III; Petition No. Z-09-07-09; Applicant: Rotonda HG LLC.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis with a recommendation of *Approval with conditions "a" through "t"*, based on the reasons stated in the staff report dated August 25, 2009.

Questions for Staff

None.

Applicant's Presentation

Robert H. Berntsson, Esq., applicant's agent, spoke in support of the project, giving historical background. Regarding the density, he noted that even though the residential part of the project would require density be purchased, density will be reduced overall, since density had been eliminated from the commercial parcel. He also noted having communicated with the School Board over the concurrency issues with the agreement that the issue be reserved to a later time. **Chair Hess** confirmed with Mr. Berntsson that the applicant accepted the conditions.

Public Input

None.

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

Minutes of Regular Meeting ContinuedSeptember 14, 2009 @ 1:30 P.M.

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Discussion*None.***Recommendation**

Ms. Bossman moved that application **Z-09-07-09** be forwarded to the Board of County Commissioners with a recommendation of *Approval with conditions "a" through "t"*, based on the findings and analysis in the staff report dated August 25, 2009, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

Chair Hess invited Mr. Ruggieri to the podium to discuss the LPA designation of the Board, and gave some brief background on the matter. **Mr. Ruggieri** gave further history of the matter, particularly how the actual entity holding the designation of LPA has changed at various times throughout the County's history. He suggested that any decision for the future of the LPA lay in the hands of the Commissioners, whether they want to accept that role or assign it to some other body or to staff.

Chair Hess stated her thoughts on the matter, especially the cost effectiveness concerns. She noted that her primary concern was that the LPA had not been involved in the Comp Plan, noting there was no longer an opportunity to "rescue the program" and use the Board as the LPA; **Mr. Ruggieri** referenced the community outreach nature of this year's approach to the Plan, citing the web site and the numerous public workshops that were all meant to be inclusive rather than exclusive of the Board.

Chair Hess stated that the Board anticipates being involved in preparation of the Comp Plan, though, and not in reading and rubber-stamping completed work product. She suggested the Board make a motion to the Board of County Commissioners to remove the LPA designation from the Board. In response to a comment concerning the LPA designation being attached to various entities over time, **Mr. Ruggieri** offered the ordinances into the record that show the LPA designation has been conferred on different entities over the history.

Ms. Seay made the case that there was an advantage to having the P&Z Board as the LPA, which was that the Board was dedicated to the details of land use and therefore brings a greater amount of understanding of the issues than would otherwise exist.

Further discussion ensued over the difference in the Board's being involved in creation rather than in review functions after the fact. **Chair Hess** reiterated the point made by Ms. Seay concerning the missed opportunity to incorporate the cumulative years of experience represented by the Board members into the creation of the new Comp Plan, and made clear that while there was no implied criticism of the professionalism of the Growth Management Department in this discussion, the fact remains that the Board members feel they have valuable insight to contribute to the process rather than merely rubber-stamping an outcome.

There was additional discussion over the prior changes of the LPA designation and the fact that the current Board had been the LPA continuously for 19 years at this point.

Mr. Marshall asked why there was no indication what the Commissioners wanted in this matter; he framed the discussion as the P&Z Board being shut out of its proper role in the process and expressed concern that the Commissioners should be advised of the situation. **Chair Hess** stated that she had already communicated the situation to Mr. Baltz and to the

Minutes of Regular Meeting ContinuedSeptember 14, 2009 @ 1:30 P.M.

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Commissioners, noting that the Comp Plan draft elements have already been presented to the Commissioners without benefit of the Board's intermediate review. **Mr. Marshall** noted that if the Board's review included the right to suggest changes to the draft, then they would need enough time to accomplish their review. **Ms. Seay** asked the County Attorney's staff to comment on the situation. **Assistant County Attorney Derek Rooney** spoke about the vagueness of the statute on the subject of exactly when and how much the LPA should be involved in the creation of the Comp Plan; he noted that as a practical matter, the process has generally been for staff to prepare the material and the P&Z Board to review it before sending it on to the Commissioners. This year, however, there has been a broader discussion (because of the public outreach option of the SmartCharlotte 2050 website); the elements that have gone before the Commission so far have not been for adoption but for public comment. **Chair Hess** responded by quoting the verbiage of the statute regarding the role of the LPA in Comp Plan preparation which says that "the agency shall be responsible for the preparation of the Comprehensive Plan."

Ms. Seay asked what effect there is on the adoption of a comp plan if the LPA had no hand in creating it. **Chair Hess** says it means that staff or the Commissioners has become the de facto LPA in that case.

Further discussion ensued about the timing of the availability of the elements including the fact that the draft plan, the prior plan and the data and analysis are all available online; staff can also supply a printed copy if required. **Ms. Bossman** asked if public input was also online, noting that she had not reviewed the material yet; **Mr. Ruggieri** noted that to date about 1,000 comments had been posted online regarding the draft Plan. **Chair Hess** pointed out that in the previous process, there was a public hearing in each respective district at which the P&Z Board members got to hear members of the public speak and got to ask the staff to explain how various individual decisions were arrived at, etc.

Ms. Seay asked how long it would take at the next meeting to review what is currently online; **Mr. Marshall** gave the opinion that it would require a long meeting. **Chair Hess** raised the question as to how many elements have gone before the BCC and have already been "sewed up" compared to the information which is still in flux; **Mr. Ruggieri** noted that there have been about six elements presented to the Commissioners so far in what he described as public hearings for review and comment.

Chair Hess called for consensus on what to do, noting that she would be just as happy to be left out of the process at this point; **Mr. Marshall** raised the issue of wanting a hard copy of the elements for ease of reading and a short discussion ensued about the option to print out the material, if that is the user's preference.

Chair Hess expressed a preference for the traditional approach of each individual element being discussed at a Board meeting, as they are completed by staff; she also stated her suggestion that the LPA designation to go to staff or Commission. **Ms. Seay** preferred to ask the Commissioners what they want in the matter, noting that some Commissioners had already told her that they want the Planning & Zoning Board to be the LPA; she expressed concern that only Commissioner Cummings and perhaps also Commissioner. Loftus know how much the P&Z contributed in the past as LPA. **Chair Hess** talked about her communication with the Commission, and that she had received only one reply (inviting her to be on Charter Review Committee); **Chair Hess** read her communication into the record.

Minutes of Regular Meeting Continued

September 14, 2009 @ 1:30 P.M.

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Ms. Bossman cites the loss of staff as a problem regarding a loss of continuity – new Commissioners suffer as well; she feels losing the P&Z is tantamount to losing historical continuity and all their accumulated knowledge.

Chair Hess asked for her suggestion; **Ms. Bossman** said she does not agree with asking to be removed as the LPA, and that she would still like to see a printed version of the Comp Plan. Further discussion ensued about the best way for the Board members to see all the material available at this point.

After a brief consultation with the County Attorney Rich Browne on how the Board can properly make its comments on the material, it was agreed to have Growth Management supply hard copies of the basic Comp Plan documents, and then the Board members will meet with Mr. Ruggieri to discuss whether they think they can make useful comments.

There was also an exchange with a member of the audience who commented on the proceedings and then went on to describe a zoning matter, asking for suggestions on the most effective way to deal with it; he was referred to his Commissioner and the County Administrator.

There being no further business to come before the Board, meeting was adjourned at 2:22 p.m.