

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
November 9, 2009 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:26 p.m. and it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Audrey Seay
Michael Gravesen
James Marshall
Brenda Bossman (arrived at 1:33)

ABSENT

ATTENDING

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

APPROVAL OF MINUTES

The minutes of October 12, 2009 were approved as circulated.

ANNOUNCEMENTS

None.

PETITIONS

PA-09-08-10-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 request is to amend the Charlotte County Future Land Use Map from Low Density Residential, Medium Density Residential, High Density Residential, Commercial Center, and Preservation to Mixed Use Development of Regional Impact [DRI], for property located west of Interstate 75, south of Harborview Road, east of Danforth Drive, and north of Peace River, containing 138.37± acres, in the Punta Gorda area; Commission District I; Petition No. PA-09-08-10-LS; Applicants: Peace River Associates, LLC, Will-Ridge Associates, LLC, and Randall Benderson and David H Baldauf as Trustees of the Ronald Benderson 1995 Trust.

Staff Presentation

Seann Smith, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval for transmittal*, based on the reasons stated in the staff report dated October 23, 2009. He summarized the requested change as being a proposal to increase the size of the existing DRI from 514 acres to 653 acres.

Ms. Seay recused herself, due to having a financial interest in the property under discussion.

Questions for Staff

None.

Applicant's Presentation

Minutes of Regular Meeting Continued

November 9, 2009 @ 1:30 P.M.

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

Geri L. Waksler, Esq., applicant's agent, spoke in support of the project, noting that the request was for a plan amendment to Mixed Use DRI over 137.37 acres. She began by providing historical information regarding the Harborview DRI, and noted that the present petition would not create any entitlements on the parcel beyond those that exist today. She also noted that the Mixed Use designation was the only designation allowed by the Comprehensive Plan for DRI's.

Public Input

None.

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

Discussion

Chair Hess said the matter seemed unexceptional, and called for the motion

Recommendation

Mr. Gravesen moved that application **PA-09-08-10-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 October 23, 2009, along with the evidence presented at today's meeting, second by **Mr. Marshall** with the unanimous vote of **Chair Hess, Mr. Gravesen** and **Mr. Marshall**, **Ms. Seay** having recused herself from the matter.

Ms. Bossman arrived at the meeting.

PA-09-09-13-LS

Legislative

Commission District IV

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Map Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments report, the amendment request is to change the Charlotte County Future Land Use Map from Low Density Residential to RV Park, for property located north of the Myakka River, east and south of Riverwood Development of Regional Impact, and west of State Road 776, in the El Jobean area, containing 20.53± acres; Commission District IV; Petition No. PA-09-09-13-LS; applicant: G2 ProVentures LLC.

Staff Presentation

Matt Trepal, Planner III, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated October 23, 2009. He handed out to the Board copies of a fax received late on Friday afternoon, sent by a resident of Riverwood. **Mr. Trepal** indicated that the applicant was requesting a number of home sites equal to what would be allowed if the parcel were developed to the current residential FLUM and zoning; the development process will entail a plat vacation which would result in the elimination of the existing platted lots and a reduction of 32 density units from the Coastal High Hazard Area. It was noted that a developers agreement also is contemplated by Growth Management and the applicant, with regard to access to the park via Myakka Ave, which applicant would improve to County standards in order to serve the development.

With regard to utilities that might serve the project, **Mr. Trepal** indicated that a portion of the site is served by Riverwood Utilities which could provide both water and sewer; another portion is served by El Jobean Water Association which could provide water service only, and by Charlotte County Utilities which could provide sewer service. He noted that the three

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

utilities have capacity to serve the project, and that the applicant has been working with these utilities to determine how best to provide services to the site.

Mr. Trepal also mentioned concerns of the Riverwood residents over this application; he noted that many of the outstanding questions are more appropriate to be resolved during the Site Plan Review portion of the process.

Questions for Staff

Chair Hess asked whether there wasn't some other type of development that could address the substandard lots issue, and **Mr. Trepal** agreed that there technically were alternatives but that the applicant was not currently contemplating those.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, first introduced applicant Mr. Ralf Gruenewald to discuss the family's plans to develop the property as a family business which will bring a unique attraction to Charlotte County, and he stated the family's intention to live on the property.

Ms. Waksler then spoke in support of the project, and specifically to the question raised by Chair Hess regarding alternative approaches to development of the property, noting that in general it is the aim of the County to reduce new residential development in the Coastal High Hazard Area; **Chair Hess** remarked that this particular form of development would not require evacuation during storm season. **Ms. Waksler** agreed, observing that the development would also meet the criteria of the Comp Plan regarding new recreational vehicle parks, as it would be located in the infill portion of the Urban Service Area and is accessible from an arterial roadway with adequate capacity, in adjacent to natural amenities such as the Myakka River, and other recreational opportunities.

Ms. Waksler then spoke to applicants' extensive efforts to work with residents in the area to discuss their plans, and she addressed the concerns of the Riverwood residents who have indicated their opposition to the development plan. She pointed out the ways in which this proposal differs from the prior proposals to come before the Board; among other differences, no financing is required, as the owners have purchased the site and have adequate cash for the project development; it is contemplated as a seasonal resort with an on-site caretaker living there year-round. **Ms. Waksler** spoke about the planned amenities of the project and the intended layout of the site, all of which would create additional buffering between the motor-coaches and residences on surrounding properties. She next spoke about the RV ownership demographic, seeking to dispel the notion that this is a 'low rent' segment of the vacationing population. She also emphasized the anticipated financial benefit to the County through bed tax receipts.

Chair Hess asked Ms. Waksler to address the concerns over possible tent camping; **Ms. Waksler** responded by referring to the anticipated Planned Development conditions which would specifically exclude tent camping. **Ms. Seay** asked about the claim there would not be evacuation concerns; **Ms. Waksler** addressed the seasonal nature of the residents, noting the laws limit residence to six months of the year in RV parks. **Chair Hess** asked for clarification on the seasonal nature of the residency and **Ms. Waksler** conceded that while the six-month limitation did not specify which six months the park could be occupied, available data suggested residency would be during the winter months.

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

Mr. Olivo asked about the six-month limit in terms of the school year; **Ms. Waksler** said she thought these residents would not qualify for schools because they couldn't establish permanent residency, but said that this would be confirmed as the project moved ahead.

Public Input

Warren Ross, Esq., on behalf of the Riverwood Community Assoc., noted that material in support of his comments was being passed out by Mr. Vic Turner. **Mr. Ross** first addressed the six-month rule, stating his understanding that the rule could be satisfied by driving off the property for an afternoon and then returning to resume another six months' residency. **Mr. Ross** disparaged the piecemeal approach to assurances, noting that once the land use is changed, an RV park is the only thing that can go there, so this is the time to stop it. He also commented on the existing deed restrictions which apply to Riverwood and noted that the applicant has not yet applied similar deed restrictions to his land, e.g., ones limiting the use to expensive motor coaches. He challenged the idea that RVs are a robust industry with a growing number of sales, citing news articles that indicate declining sales.

Mr. Ross next discussed Comp Plan language cited in the staff report, regarding requirements for judging the quality of the change being proposed, such as consistency with the type of uses and development established with the area of the proposed amendment; he noted that without subsequent restrictions, the site could end up with tents next to the Riverwood community. Turning next to the environmental report, **Mr. Ross** noted the disparity about the gopher tortoise presence reported this time (none) compared to the environmental report produced during the prior petition process.

Chair Hess interrupted Mr. Ross saying that though he had exceeded the time limit, she would extend his time since he is representing a group; she then asked him to address the staff's position that the application meets all requirements of the Comp Plan in terms of concurrency and density issues, because those are the issues that the staff's approval is based on. **Mr. Ross** responded that his comments about the environmental report touched on that, and also referred to the SR 776 Corridor Study Future Land Use map from a few years ago which does not show this area as becoming an RV park. Additionally, he noted that the study mentioned a river walk along River Beach Dr. and stated that if a project is proposed for a community bounded on one side by Riverwood and on the other by the Myakka River, where such an amenity has been proposed, it would be important for the project to take those proposals into account. **Mr. Ross** said that others in his group would also be talking about the roads issues; with regard to any anticipated economic benefit to the community, he mentioned that under FS 125.0168, RV parks would be paying special assessments that are less than equivalent residential units.

Ms. Joan Schneider, resident of Riverwood, spoke next regarding neighborhood opposition to the project, and displayed a petition which she said contained nearly 800 signatures of those opposed. She gave some historical review of petitions that had been presented and denied concerning the property, stating she felt nothing had changed, nor should the present petition be approved.

Mr. Jack Lyons, CDD Supervisor for Riverwood, who noted that he assists the Natural Resource Department by guiding nature walks in parks and preserves, and by locating gopher tortoise burrows, and other activities. Based on this experience, he expressed concerns over the W. Dexter Bender & Assoc. species assessment, noting it is in conflict with the 2008 EarthBalance survey, which documented gopher tortoise presence. **Mr. Lyons** also addressed exotic species management issues, requesting that the applicant produce a plan for managing this issue. **Mr. Lyons** stated that a mangrove tidal swamp is also part of the

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

property and asks the applicant to discuss how they will protect these four acres from human intrusion as well. In closing, he noted that this residential neighborhood is not the place for RV parks, campgrounds or campfires. **Chair Hess** noted that some of the environmental concerns he mentioned would be addressed later in the process as part of the PD / Site Plan Review activity. **Mr. Marshall** asked about his request that the applicant do certain things and wondered, if the applicant did these things, would that remove the gentleman's objections. **Mr. Lyons** responded by stating his concern was that everything be done properly; he then concluded by saying that the neighborhood was not appropriate for the use.

Ms. Patricia Staebler, a state-certified general appraiser and market analyst, spoke in support of the project, stating that the mangroves would not be involved in the project development. She challenged Mr. Ross's statement that Charlotte County doesn't need an RV park, noting that the luxury motor coach market is a secondary industry within the RV community. While RV sales are currently down due to the economy, luxury sales are in fact up 26 percent; she referred to the proposed project as the Ritz Carlton of RV accommodations.

Ms. Jenny Young, resident of Riverwood, also an RV owner. **Ms. Young** spoke about the road and traffic issues, saying "lots of things CAN be done, but SHOULD they be done?" She spoke at length with reference to a map of the street grid and raised safety issues regarding access, turn lanes and turning radius, and other issues.

Mr. Jim Martone, Riverwood CDD supervisor and chair of the sewer committee, spoke on the subject of the Riverwood treatment facility ERCs (equivalent residential credits), stating there are no ERCs available at this time. **Mr. Martone** noted that Centex, which has reserved ERCs, does not want to give up any. He was told there had been a request to expand the wastewater treatment plant, which he stated would be a bad idea, as the plant is poorly located and causes odor problems; it would also be difficult to get a permit from DEP at this time. Citing page six of the staff report, **Mr. Martone** said that it shows 75,000 gpd, and stated that the volume actually varies from that figure to over 200,000 gpd and questions the staff figures.

Chair Hess clarified that service is provided among three providers and asked staff if this is properly stated as "would" or "could". **Mr. Trepal** clarified "could" would be appropriate; he also stated that the staff report figures came from CCU reporting. Responding to the Chair, Mr. Trepal indicated that he disagreed with Mr. Martone's analysis, but indicated it would be more appropriate for the applicant to respond as to the particulars of securing the service.

Mr. Gravesen asked about certificated service covering the project area. Mr. Trepal responded that the area is divided between El Jobean and CCU and Riverwood. **Mr. Marshall** asked what happens if Riverwood just refuses to share their portion; **Mr. Trepal** responded that would have to be worked out between the applicant and the utilities. **Mr. Marshall** asked if there was a method for approaching the matter. **Ms. Waksler** responded, noting that certificated utilities have an obligation to serve where they have capacity, whether they like a particular project or not. She addressed the Centex reserved capacity, stating that if they want to keep theirs, then another approach would be to expand the sewer plant, or if the plant cannot be expanded, then Riverwood would have to give up the certificated area that they are unable and unwilling to serve. In that case, by default, it would go to CCU which does have the capacity to serve the entire project.

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

Chair Hess asked Mr. Trepal to comment on the traffic comments made by Ms. Young. **Ms. Young** disputed the Chair's representation of her remarks, saying she never said there wasn't room for the large vehicles to turn around, but that a turn lane would be needed. **Mr. Ruggieri** said the Transportation Planner would join the meeting and speak to that issue.

Mr. Dale Bertsch, Riverwood resident and planning professional, who stated that he also spoke against the last project, also spoke against this project on the same basis. He characterized the present petition as being basically the same as the last one, and stated that there is just as much in the Comp Plan against this project as there is in support of it. **Mr. Bertsch** spoke to the Natural Resources part of the review, noting the number of state agencies that would have to be satisfied before final approvals would be given. **Mr. Bertsch** also returned to the subject of the gopher tortoise study and the disparity with the previous study. Next, he raised the issue of wetlands and the reviews required on that subject. He challenged the idea of "no evacuation" noting that there would on-site storage structures than could not be removed in the event of a storm, although he agreed that berming around the site as well as landscaping and fencing could possible mitigate those concerns. **Mr. Bertsch** made the following additional point: That there is no access from the project site to a major highway; that the Comp Plan is meant to manage growth and development, and this petition doesn't meet that mandate, and finally that the land use change would permit campgrounds and tents, which he conceded could be addressed at the PD stage of the process. Next, **Mr. Bertsch** stated that an approval this time with no real difference in plan would have the effect of committing the County to other actions and capital investments. In closing, **Mr. Bertsch** objected to a previous speaker's contention that the people of Riverwood objected to the project because of the "quality of people" it might bring, stating this was not at all the issue for Riverwood residents, who simply believe it is a bad use of the land.

Mr. Vic Turner, Director of the Riverwood Community Assoc., noted that the association had approved funding for an attorney to oppose this project which they feel creates a dangerous traffic situation, and fails to address the issue that sewer capacity is not available from Riverwood. He challenged the applicant's statement they will get Centex approval, calling that statement false; he also felt the other suggestions, such as having Riverwood expand its plant, were unrealistic. Noting the taxes paid by Riverwood resident, **Mr. Turner** stated that the residents were only asking for fair treatment in return. He feels the visual aesthetics would be terrible – either a barren moonscape in the off-season or sea of vehicles on the site. **Mr. Turner** closed with a number of quotes from the Board members made during the last hearing at which this project was presented.

Ms. Mary Wright, owner of lot 213, stated she had not received notice or other outreach from the applicant. She is opposed to the project, though she would welcome other development on the site.

Ms. Gail Giles of El JoBean, discussed access issues for vehicular traffic in the area, noting that development on the opposite side of SR 776 also is an issue. She spoke about the sewers also stating that there never has been water granted to that property; historical info about the utilities in the area and which service serves which developments was also given. **Ms. Giles** emphasized that there is no capacity to be had at Riverwood and that the logistics to deliver services would be much more difficult than they may have thought.

Ms. Beverly Cutter, President of the El Jobean Community League and resident of El Jobean, spoke in support of the project, stating the applicant has done their homework. She stated that she opposed the last project, but feel that the present proposal is different.

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

Mr. Tony Parker, of Riverwood, spoke to put in perspective the issue of "Class A" motor coaches, their range of sizes and the turning radius of primary vehicle and vehicles in tow.

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

Applicant's Rebuttal

Ms. Waksler stated she would be calling Mr. Ian Vincent of W. Dexter Bender, Mr. Todd Rebol of Banks Engineering and the County's Transportation Planner, Venkat Vattikutti, to discuss traffic.

Chair Hess asked if there would actually be legal restrictions to Class A or limitations on tent camping or campgrounds. **Ms. Waksler** agreed it was the applicant's intention and that the restrictions would be incorporated in the PD conditions, and she also said that the Deed Restrictions approach mentioned by Mr. Ross would also be considered.

Referencing the many negative comments that had been made about traffic generation and environmental concerns, **Ms. Waksler** pointed out the currently platted 137 lots would certainly generate traffic that would be greater than this project would generate. Additionally, each lot could have a septic tank and there are very few restrictions on what could be done on each single-family lot, compared to the restrictions that could be imposed on the project by the PD conditions.

Mr. Ian Vincent of W. Dexter Bender discussed environmental issues specifically regarding the gopher tortoise survey which he clarified was a "70% survey"; he stated that a 100% survey would be done prior to any development. Responding to Warren Ross, **Mr. Vincent** said there could be no gopher tortoise permit without government approval. **Ms. Waksler** emphasized that the most recent survey was done last week with County staff.

Mr. Todd Rebol spoke to the issues of access points, turning radius, and other engineering issues. He stated that they looked at the Encore community access via Lee Circle and described the techniques used to measure the turning-radius difficulties there; the same techniques used on Kerrigan Circle gave better results. **Mr. Rebol** acknowledged the care that drivers of such vehicles have to exercise in all circumstances.

Regarding the on-site sewer, **Mr. Rebol** noted that houses which could be built under the existing FLUM and zoning would be allowed to have septic systems, but under a PD that would not be allowed. Bringing in the CCU infrastructure would be an improvement for the whole neighborhood because it would allow some of the existing septic tanks to come off-line.

Chair Hess asked about the suggestion that the project would create more traffic than an ordinary residential development would generate; the question was answered by the Transportation Planner, Venkat Vattikutti, who gave comparative numbers, noting the project would actually generate one-third the amount of traffic compared to the outcome if the currently-permitted RSF dwellings were built on the available lots.

Chair Hess asked applicant's agent to distinguish this application from the ones previously denied. **Ms. Waksler** first addressed the notion that the project would be a commercial development rather than residential, reminding the Board that it will be residential in nature, with not greater than the density currently available (and thus not required to use TDUs.) The

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

residents will own their sites that they stay in and return to each year, just like other seasonal residents that choose single-family residential structures.

As to the differences between this and the prior application, **Ms. Waksler** noted that the prior petitions did not propose to limit the RV Park to motor coaches and there was the possibility of tent camping under those proposals. The prior petition wasn't going to have the project's owner live on-site; did not propose to improve a new access via Kerrigan Circle, but at imagined access via Sturkie instead. Finally, this proposal will be going through site plan review process where the Planned Development conditions will be "locked in". In short, this owner has tried much harder than the previous ones.

Discussion

Mr. Marshall disclosed he had attended a meeting at the community center where Mr. Gruenewald made a presentation about the project. He said he was dismayed at the statements being made here that seemed not to be quite true and that he especially disagree with the comments about driving and handling an RV, something that he has done for many years, including making the turn at Kerrigan Circle on many occasions.

The concern **Mr. Marshall** expressed is about the possibility the FLUM would be changed and then the PD would fall through and the community would then end up with a down-scale RV park with camping allowed. He asked whether the applicants would accept a condition that if the PD is not completed, the County can reinstate the former FLUM. While **Ms. Waksler** said that she thought that condition would be reasonable, **Mr. Trepal** responded that staff would not be willing to do that, based on the outcome of such efforts in the past, primarily extreme resistance from the property owners; **County Attorney Rich Browne** confirmed that this had been the case. **Mr. Marshall** pointed out that such a condition was in place with regard to Babcock Ranch but **Mr. Trepal** countered that at this point, it is unknown whether that would work but based on the past outcomes, there is concern that it would not.

Further discussion ensued about what would happen if the plan amendment when through but property was sold, or if PD didn't go through; the PD runs with the land. **Mr. Browne** offered comments on the subject of the possible inconsistency. **Ms. Waksler** pointed out that it is now possible to do both parts of a unified petition concurrently which should avoid the problem of creating an inconsistency.

Mr. Gravesen asked Mr. Browne whether this legislative hearing can include a restriction against tent camping now? **Mr. Browne** noted that this body can't rewrite the Comp Plan's RV Park definition but that such restrictions can and should be part of the PD conditions.

Ms. Seay asked for clarification regarding the ownership of the pad and whether that would prevent more than one vehicle occupancy over the course of the season; **Ms. Waksler** stated she thought the ownership wouldn't prevent more than one vehicle per pad over the season, but intended to go over this aspect with the applicant, for the purpose of adding conditions to the PD covering length of stay and related issues, with the intent to prevent daily changes in occupancy of the pad. **Mr. Marshall** asked if deed restrictions could prevent the owner from renting out the property; **Ms. Waksler** said that they could prevent it but limitations on stay would be more appropriate. **Chair Hess** asked if the six-month restriction would be over all possible residents during the course of the year, or would it be a separate six-month limitation for each resident of a particular pad. **Ms. Waksler** responded that she believed the restriction would be per each individual, but she felt these discussions really pertained to consideration of the zoning, not the land use. **Chair Hess** said that she felt this project will need lots of restrictions.

Chair Hess then called for the Board discussion, reminding those assembled that this legislative consideration was not bound by typical quasi-judicial constraints. She turned first to **Mr. Marshall**: **Mr. Marshall** stated the community is absolutely against creation of a transient RV park but is not against this type of upscale resort. He did express concerns about the park turning into transient sometime in the future, though. **Chair Hess** referenced the protections inherent in the PD. **Mr. Marshall** stated he was comfortable with the proposed access at Kerrigan Circle. **Chair Hess** stated she sees some advantages to this development over the RSF options as is, particularly with regard to the issue of septic tanks.

Ms. Bossman would like this particular kind of park if one has to be there; she stated it was a that shame the County didn't buy this property for preservation. The plan as proposed is not a bad one, and though it does have drawbacks, these can be addressed via the PD conditions.

Ms. Seay expressed the same concerns as Mr. Marshall had; she stated that she doesn't want to see a transient mobile home park. She also stated that improvements to access would be vital. She felt that the major concern is delivery of water/sewer services.

Mr. Gravesen stated that intent is admirable, and there are certainly many improvements in this plan compared to the last petition. Most objections mentioned were less in the nature of objections than conditions that would be desirable to have included in the PD; he noted that no conditions go along with the FLUM change. He also pointed out staff's testimony that attempts to change FLUMs back when rezonings fail to go forward have been a problem in the past, and stated he wouldn't want to have to depend on a PD to provide the necessary limitations.

Chair Hess stated that she had asked applicant's agent to compare the current and former proposals in order to emphasize the differences; this is much better than previous plan or the way it could turn out if developed now as residential single-family dwellings.

Recommendation

Mr. Marshall moved that application **PA-09-09-13-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 October 23, 2009, along with the evidence presented at today's meeting, second by **Ms. Seay** with a vote of 4-1. The secretary polled the Board:

Chair Hess	Aye
Mr. Gravesen	Nay
Ms. Seay	Aye
Ms. Bossman	Aye
Mr. Marshall	Aye

A recess was called while the audience vacated the chambers. The meeting recommenced at 3:46 p.m.

PA-09-09-14-LS

Legislative

Commission District II

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

Minutes of Regular Meeting Continued

November 9, 2009 @ 1:30 P.M.

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

Comments Report; the amendment request is to change the Charlotte County Future Land Use Map from Limited Development to Village Residential, for property located north of the Lee County line, south of Zemel Road, west of US 41, and east of Burnt Store Road, in the Burnt Store area, containing 101.44± acres; Commission District II; Petition No. PA-09-09-14-LS; Applicant: Hawks Landing of Punta Gorda and Newfoundland Six, Inc.

Staff Presentation

Seann Smith, Planner II, presented the findings and analysis with a recommendation of *Approval for transmittal*, based on the reasons stated in the staff report dated October 23, 2009. He noted that completion of the request would be delayed until after the Urban Service Area boundary had been extended to include this area.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke in support of the project, and specifically with regard to the effect of the new Comprehensive Plan which would incorporate both parcels into the Urban Service Area, acknowledging that the amendment to Village Residential is contingent upon the adoption of that 2050 Future Land Use Map. **Ms. Waksler** also discussed provision of services to this area, its proximity to a major transportation route, and the limited development designation, which no longer exists on this property. She mentioned the findings of the gopher tortoise survey, noting that mitigation would be required and would be addressed through the conditions of the required PD. Finally, she noted the land uses and densities permitted on the adjacent properties.

Public Input

Mr. Richard Symon, resident of the area, expressed concern about the traffic that will be on Harborside Blvd. once the development goes forward, especially the heavy equipment required for the development phase. **Chair Hess** asked staff to comment about the traffic concerns related to this and prior developments. **Mr. Smith** noted he had spoken with Mr. Symon previously and discussed the concern; he felt the property will eventually be accessed directly from Burnt Store Rd., and would therefore eventually offer an alternative to Harborside taking all the traffic. He referred to the proportionate fair share solution to the impacts of such developments. Further discussion ensued on these matters. **Mr. Symon** then raised a question about the "little strip" near the subject property, which is still labeled "limited development" and he was advised that there is no current request concerning the property.

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

Discussion

None.

Recommendation

Mr. Gravesen moved that application **PA-09-09-14-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 October 23, 2009, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

PA-09-09-15-LS

Legislative

Countywide

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 replace the 1997-2010 Charlotte County Comprehensive Plan with the Smart Charlotte 2050 Comprehensive Plan. Applicant: Charlotte County Board of County Commissioners.

Staff Presentation

Jim Fendrick, Concurrency Manager, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated October 30, 2009. He gave a brief overview of the process and invited questions.

Questions for Staff

Chair Hess asked about the half-mile buffer on water sources still being there after the had Commission expressed concern; **Mr. Fendrick** confirmed that further research was done in response to the concern, and it has been established that the buffer size is based on scientific research and that this is not a taking; it's now simply a buffer area of uniform size.

Chair Hess next mentioned a talk on the widening of Panama Canal which is to be completed in 2014 and how local business leaders are wondering about potential business coming on account of this. She asked if there was anything in the plan which would preclude the establishment of free trade zones or road-to-rail transportation systems; Mr. Fendrick responded by indicating that the transportation element has language strengthening the County's ability to offer these options.

Ms. Seay asked about language on page 38, FLUE 5.4.1, where it talks about strengthening character, she notes a reference to the US 41 corridor and points out that the northern part is complete but southern part is not, it is currently under discussion.

Mr. Gravesen stated he had no input.

Mr. Marshall stated he had no problems with the document and found it to be well written.

Ms. Bossman stated she thought staff had done an excellent job; she also noted that she had done research on conservation lands which she'll share with staff but does not need to discuss at this time.

Ms. Seay also commented on the reference to bicycle paths, noting she believes it can't be done in such a huge county. **Mr. Fendrick** responded, noting that the state is required to put such bike paths in on state roads and stating that the County will be doing a Bicycle / Pedestrian Master Plan which will prioritize those improvements. They agreed that the County didn't just plan to pave a bike path on every roadway. **Ms. Seay** stated she had a concern about cost.

Chair Hess returned to the half-mile buffer issue, wondering if anyone's density would be changed to less than the allowed one unit per ten acres; **Principal Planner Inga Williams** indicated it would not.

Ms. Seay raised an issue regarding page 3 of the section on Coastal planning, asking whether the county is taking a position of opposing off-shore drilling, asking what would happen if the State indicates they want to do it. **Mr. Fendrick** responded that the County

Minutes of Regular Meeting ContinuedNovember 9, 2009 @ 1:30 P.M.

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

can continue to oppose regardless of what the State decides, as long as it is not precluded by state laws. **Chair Hess** asked whether this requires the individual commissioners to take this stance because it's in the Comp Plan, noting it would be odd to dictate a political position in the Comprehensive Plan.

Public Input

Mr. Larry Hudson, DeSoto County landowner, offered praise for the staff process in the visioning process. **Chair Hess** thanking them for participating and also thanked the Berntsson law firm for their level of participation.

Mr. Hudson addressed the anticipated Heartland Toll Road running from Port Manatee and the super airport with five-mile runway, which are in the planning stages. **Mr. Hudson** said that while he can see the changes with Charlotte County being more business friendly in recent time, he noted that the proposed toll road route completely avoids Charlotte County. He stated that he believes this is due to past projects that ran into trouble (gas line in east county, etc.) and noted that the resistance might change if the County is more business-friendly. Further discussion ensued on this topic.

Mr. Andy Dodd, representing the Eastern Charlotte County Land Group, complimented staff, and mentioned that he has found some issues to meet on with staff before the matter moves head to the Commissioners. The areas of concern he mentioned are the move toward increasing regulation in uplands and in wetlands, and the expansion of the overlay so that it now includes tributaries; he stated that the overlay was formerly less than 10,000 acres but now covers over 30,000 acres, or as much as 96,000 acres. **Mr. Dodd** asked for consideration of incentives, e.g., transferring density out or other strategies to preclude the buffering becoming a taking. Further discussion ensued on these points. In response to question from Chair Hess, **Mr. Dodd** stated his group's opinion that the buffer not scientifically justifiable. Among suggestions he made was to for a landowner's ability to demonstrate that their activities won't have an impact which would then exempt them from the buffer limitations.

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

Discussion

Mr. Marshall raised one issue regarding a typographical error, at FLU 5.3.2. **Chair Hess** suggested adding support for Mr. Dodd's language to exempt those who can demonstrate scientifically their activity will not negatively impact the water supply; **Mr. Fendrick** agreed that this would be discussed before the Commissioners.

Recommendation

Mr. Gravesen moved that application **PA-09-09-15-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 October 30, 2009, along with the evidence presented at today's meeting, second by **Ms. Seay** with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 4:29 p.m.