

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
Minutes of Regular Meeting
March 8, 2010 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:29 p.m. and it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess

Michael Gravesen

James Marshall

ABSENT

Audrey Seay

Brenda Bossman

ATTENDING

Rich Browne, Assistant County Attorney

Gayle Moore, Recording Secretary

Upon the oath being administered to those in attendance, the minutes were approved.

APPROVAL OF MINUTES

The minutes of February 8, 2009 were approved as circulated.

ANNOUNCEMENTS

None.

PETITIONS

PA-10-01-02

Legislative

Commission District IV

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 Low Density Residential to Commercial Corridor, for property located at 448 N. Spring Lake Boulevard, in the Port Charlotte area, containing 0.23± acres; Commission District IV; Petition No. PA-10-01-02; Applicant: MTL Real Estate Investment, LLC.

Z-10-01-03

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66, 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 448 N. Spring Lake Boulevard, in the Port Charlotte area, containing 0.23± acres; Commission District IV; Petition No. Z-10-01-03; Applicant: MTL Real Estate Investment, LLC.

Staff Presentation

Roxann Read, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated Feb. 19, 2010. She described the proposed amendments in terms of the standards of the US 41 Overlay Code under which they were submitted.

Questions for Staff

None.

Applicant’s Presentation

Robert H. Berntsson, Esq., applicant’s agent, spoke in support of the project, noting that applicant joined in the staff recommendation. He updated the information shown in the available aerial with regard to parking now available for the subject property on two other lots the applicant has also purchased on the same street. **Mr. Berntsson** noted that the area was in transition, with other properties already having expanded into the rear lot, and he acknowledged that while this transition may cause some pangs for remaining homeowners, it is the appropriate direction for this neighborhood.

Mr. Marshall asked if the existing non-commercial driveway to the house will remain, despite there being no commercial access allowed from the residential street. **Mr. Berntsson** responded that the applicant will be putting a gate in the existing fence to provide access. **Mr. Marshall** asked if the driveway to the house would be maintained; **Mr. Berntsson** said that was not yet settled but that applicant would work within the existing code. Further discussion ensued on this point.

Public Input

None.

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

Discussion

Chair Hess stated that the staff recommendation made sense and solicited comments from the other Board members; all were in agreement.

Recommendation

Mr. Marshall moved that application **PA-10-01-02** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today’s meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

Mr. Marshall moved that application **Z-10-01-03** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today’s meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

PA-10-01-04

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 Commercial Corridor to Medium Density Residential; for property located northeast of Taylor Road, northwest of Tuscany Isles Drive, and southeast of Technology Boulevard, in the Punta Gorda area, containing 9.99± acres; Commission District II; Petition No. PA-10-01-04; Applicant: Newfoundland Five, Inc.

Z-10-01-05-TDU

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Commercial General (CG) and Agriculture Estates (AE) to Residential Multi-family 10 (RMF-10); for property located northeast of Taylor Road, northwest of Tuscany Isles Drive, and southeast of Technology Boulevard, in the Punta Gorda area, containing

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

19.64± acres; Commission District II; Petition No. Z-10-01-05; Applicant: Newfoundland Five, Inc.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated February 24, 2010. He described the existing inconsistencies that would be corrected as part of the outcome of this land use and zoning change request; Mr. Ellis also noted the rules concerning the completion of the TDU aspect of the request.

Questions for Staff

Mr. Marshall asked if Mr. Ellis was able to address the public's expressed concerns; **Mr. Ellis** responded that he believed he was able to address that with reference to the traffic study.

Applicant's Presentation

Geri L. Waksler, Esq., applicant's agent, spoke in support of the project, noting that applicant and staff had worked closely together. She noted that the applicant had originally contacted her simply to correct the inconsistency on the site, and she handed out a map graphic to better explicate the situation. **Ms. Waksler** also provided details about the intended uses and their impacts, speaking specifically to the traffic concerns expressed to the planner by the public, noting that the intended use would actually reduce traffic to and from the site compared with what might be expected under the current FLUM and zoning.

Mr. Gravesen asked about the two very close ingress/egress points for this property and the KB Home property next door; **Ms. Waksler** said she thought there would be a chance for a shared access to serve both sites and that she would raise the issue with her clients. **Mr. Marshall** asked about environmentally sensitive lands on the site; **Ms. Waksler** acknowledged that there were wetlands on the site and said those areas would be addressed during the permitting process. **Mr. Gravesen** had a question about capacity at Charlotte High; **Ms. Waksler** said those concerns are best to be addressed closer to final plan approval and to actual build-out so they would be more relevant, given the possibility for changes in economic conditions and population changes, rather than end up with an obsolete study.

Public Input

Mr. Paul Cartwright described himself as the owner of buildings on adjacent property, and stated he disagreed with the applicant's agent's presentation with regard to buffering. He spoke about the responsibility for buffering noting that he had already buffered to the required CG but now that the neighboring zoning will be residential, he expressed concerns that he will have to re-buffer to meet the increased requirements for being adjacent to residential. **Mr. Cartwright** asked why this responsibility should not be on the petitioner and indicated that he wants parity on this matter. **Ms. Shao** stated that code for residential zoning does not require the residential builder to do the buffering but that since Mr. Cartwright already buffered as required when he developed his property, he doesn't have to do it again. **Mr. Cartwright** objected to her interpretation, stating his understanding of the code requirements. Further discussion ensued on the topic, and **County Attorney Rich Browne** agreed that Mr. Cartwright would not be required to place any additional buffering. **Mr. Cartwright** stated he was not concerned he would have to place further buffering, he just wanted to know why the applicant would not be required to do it, now that they are changing the land use. Discussion on the matter continued.

Chair Hess asked what the department's response to Mr. Cartwright was; **Mr. Ruggieri** responded by saying that the applicant cannot be subject to standards that don't exist, and

there is no requirement in the code in that regard. Both **Mr. Browne** and **Mr. Ruggieri** confirmed that buffering is not something that can be required of the applicant during the process; the existing greenbelt is considered the buffer. **Ms. Waksler** responded, noting that you buffer against what is existing at the time you develop; she also referenced the additional code-required set-backs which would be in addition to the existing 50 feet of greenbelt. She also noted that despite Mr. Cartwright's characterization of his property and his business as "industrial" the actual zoning on the land is Commercial Intensive (CI), not Industrial, and CI does not allow for industrial uses, but only for outside storage and limited manufacturing in a fully-enclosed building, which would itself provide buffering.

Chair Hess expressed doubt that the intended condo development would be saleable looking down on CI without some additional buffering; **Ms. Waksler** acknowledged that would be taken into account when the developer designs the site. **Chair Hess** told the gentleman he would not be responsible for any additional buffering in the future, as long as he is operating within the requirements of the zoning on his land.

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

Discussion

Chair Hess stated that she agreed with the staff recommendation and felt the developer would be the one to put in the buffer.

Recommendation

Mr. Gravesen moved that application **PA-10-01-04** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

Mr. Gravesen moved that application **Z-10-01-05-TDU** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

PA-10-01-06

Legislative

Commission District III

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 Low Density Residential to Commercial Corridor, for property located north of Maryknoll Road, south of the Sarasota County Line, east of Orange Street and west of Pine Street, in the Englewood area, containing 0.33± acres; Commission District III; Petition No. PA-10-01-06; Applicant: Everett W. Munsell

Z-10-01-07

Quasi-Judicial

Commission District III

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 5 (RSF-5) to Office Medical Institutional (OMI), for property located north of Maryknoll Road, south of the Sarasota County Line, east of Orange Street and west of Pine Street, in the Englewood area, containing 0.33± acres; Commission District III; Petition No. Z-10-01-07; Applicant: Everett W. Munsell.

Staff Presentation

Roxann Read, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated February 19, 2010.

Questions for Staff

None.

Applicant's Presentation

Mr. Thomas Smith, applicant's agent, spoke in support of the project, noting that applicant's intention for the five parcels he owns is to have a single project sited there. He noted that the current trend along Pine Street has been toward medical and professional office buildings, and the site is an idea location near to the hospital. **Mr. Smith** handed out a copy of correspondence he had with the neighbor to the south, who fully supports the project.

Public Input

None.

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

Discussion

Chair Hess stated that the staff recommendation made sense and solicited comments from the other Board members; all were in agreement.

Recommendation

Mr. Gravesen moved that application **PA-10-01-06** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

Mr. Gravesen moved that application **Z-10-01-07** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

Z-10-01-08

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial Neighborhood (CN) for property located at 16954 Toledo Blade Boulevard, in the Port Charlotte area, containing 0.7± acres; Commission District IV; Petition No. Z-10-01-08; Applicant: Dr. Laura Korman.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis with a recommendation of *Approval*, based on the reasons stated in the staff report dated February 19, 2009. **Chair Hess** asked why the change would be to Commercial Neighborhood rather than to OMI; **Ms. Shao** responded that was because the FLUM did not support OMI and no request was being made to change the FLUM. **Chair Hess** asked whether Commercial Neighborhood was no longer part of the Comprehensive Plan; **Ms. Shao** noted that CN was a zoning designation, not a land use designation.

The presentation included a video showing the composition of the neighborhood in the vicinity of the subject parcel, which **Ms. Shao** suggested supports the view that the neighborhood was in transition from residential to more commercial uses.

Questions for Staff

Chair Hess returned to the question of the zoning designation vs. the FLUM. **Ms. Shao** clarified that the new FLUM designation will be "Office and Institutional" which will align with the zoning designation of OMI and, in particular, will not permit retail commercial uses.

Applicant's Presentation

Ms. Alexis Crespo of EnSite, applicant's agent, spoke in support of the project. She also referenced the recent four-laning of Toledo Blade as an example of the changing of the neighborhood away from residential and toward professional office uses. **Ms. Crespo** also spoke about the intentions of the applicant, Dr. Korman and the fact that this site offered the ideal location for these purposes (close to the hospital, on a major road, etc.) **Ms. Crespo** also emphasized that siting her business on Toledo Blade spoke to Dr. Korman's investment in Charlotte County; she also referenced the buffering that would be placed around the site, and the fact that one adjacent lot owned by the applicant would remain in RSF use.

Public Input

None.

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

Discussion

Ms. Hess stated that with proper buffering there should be no negative impact on neighbors.

Recommendation

Mr. Marshall moved that application **Z-10-01-08** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 19, 2010, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

Amendment of Article XXIII Legislative Countywide

An Ordinance of The Board of County Commissioners of Charlotte County, Florida, amending Chapter 3-5, Article XXIII, Excavation and Earthmoving; providing for revised reclamation standards; providing for other necessary clarifications; providing for conflict with other ordinances; providing for severability; and providing for an effective date.

Staff Presentation

Jeff Ruggieri, Director of Growth Management Department, presented the recommended text changes to the existing ordinance, specifically pertaining to the reclamation plan required for Group III excavation or in a large-scale Group IV that ceases its agricultural activities for one year, which requires buffering and landscaping to a particular standard while providing a certain amount of flexibility where determined by the Excavation Administrator.

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

Questions for Staff

Chair Hess asked which employee would be the Excavation Administrator; **Mr. Ruggieri** responded that he was the Excavation Administrator, and clarified that any future Director of Growth Management will also be the administrator, as required in the job description.

Public Input

None.

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

Discussion

Ms. Hess stated that with proper buffering there should be no negative impact on neighbors.

Recommendation

Mr. Gravesen moved that the proposed amendment of Chapter 3-5, Article XXIII, Excavation and Earthmoving, be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated February 23, 2010, along with the evidence presented at today's meeting, second by **Mr. Marshall** with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:31 p.m.