

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

Call to Order

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

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Michael Brown
James Marshall

ABSENT

Brenda Bossman

ATTENDING

Derek Rooney, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

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

ANNOUNCEMENTS

The oath was administered and, the first agenda item having been continued to a later date, the meeting commenced with agenda item two.

PETITIONS

Z-10-09-31

Quasi-Judicial

Commission District I

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas. The rezoning is from PD to PD. This is a major modification of an existing Planned Development (PD) to revise the site plan and conditions of approval; for property located at 25515 Old Landfill Road; containing 3.38± acres; Commission District I; Petition No. Z-10-09-31; Applicant: Waste Management, Inc. of Florida; providing an effective date.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval with conditions "a" through "q"*, based on the reasons stated in the staff report dated October 22, 2010.

Questions for Staff

Chair Hess asked for clarification of the meaning of bio-retention areas and rain gardens; the applicant's engineer, **Mr. Daniel Bond**, with WilsonMiller Stantec, described the nature and use of the bio-retention area which is a type of grassed storm water retention area. Rain garden is landscaping solution to help with percolation of rain water.

Mr. Marshall asked about the previous presentation by this applicant, where one of the conditions was no outside storage; **Ms. Shao** explained that's why this is a major modification. **Mr. Marshall** asked for more detail about the nature of the transfer station, specifically issues about odor from the transfer of garbage. **Ms. Shao** indicated that the

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facility is meant just for transfer of recycled items, not sorting or other activities involving garbage.

Applicant’s Presentation

Alan Parsons, WilsonMiller Stantec, and Mr. Eddie McManus of Waste Management Inc., of Florida, applicant’s agents, spoke in support of the project, noting that applicant’s business plan had changed since their last appearance before the Board. **Mr. McManus** clarified that this use was not for garbage but for household recycling materials. In answer to a question from the Chair about where this material was being handled now and why the change was necessary, **Mr. McManus** described the increase in recycling activity which necessitated a facility with greater capacity. This is a situation arising from the company’s commitment to meeting the state’s new mandates to significantly increase the total amount of material being recycled; the current facility on Harborview Rd. cannot be expanded to meet this increase in capacity, so this is their best option.

Public Input

None.

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

Discussion

Chair Hess suggested looking at page 10 to review findings by the staff prior to recommending approval on the matter. She reviewed these findings, noting that there have been no changed conditions to the PD but stating that the business conditions had changed. **Mr. Marshall** asked if the applicant agrees with the conditions, and the applicant’s agents noted that the applicant did accept the conditions.

Recommendation

Mr. Brown moved that application **Z-10-09-31** be forwarded to the Board of County Commissioners with a recommendation of *Approval with conditions “a” through “q”*, based on the findings and analysis in the staff report dated October 22, 2010, along with the evidence presented at today’s meeting, second by **Mr. Marshall** and carried by a unanimous vote.

SV-10-08-01

Legislative

Commission District IV

Victor A. Lucas has applied for a Street Vacation to vacate all that portion of Jackson Road (aka Jaycox Road) lying adjacent to and contiguous with Lots 930, 931, and 932, Plan No. 1 of a part of Ward 2 El Jobean, in Section 15, Township 40 South, Range 24 East, Section 28, Township 40S, Range 21E, according to the Plat thereof, as recorded in Plat Book 2, Page 39, of the Official Records of Charlotte County, Florida. The site is located southeast of Myakka Point Drive, northeast of Royal Pointe Drive, and southwest of Silver Lakes Circle, in Commission District IV.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis with a recommendation of *Denial*, based on the reasons stated in the staff report dated September 27, 2010. He gave a brief history of the subject and surrounding properties, including restrictions on access imposed by Riverwood. Because of these restrictions, staff concludes that the applicant cannot deny the same access to other affected parties which is specifically provided for in the Riverwood access language; granting the vacation would serve to deny that access. **Mr. Ellis** noted that because the applicant owns parcels to either side of the property covered by the

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vacation request, upon a vacation being granted they would then own an uninterrupted stretch of property. He also said that the applicant had proposed an access easement in executable form in exchange for the granting of the vacation; however, since the County will have abandoned all rights to the road, there'd be nothing to prevent the property owner from building on the property and thus effectively denying access across the property. Staff offered, in the event the Board chose to recommend approval, that there be the following condition: That the vacated portion must remain a private road to ensure access for the affected parties mentioned in Resolution 2010-056, that cannot be developed unless an adequate alternative form of access is provided. **Mr. Ellis** elaborated on this suggestion, noting that one form of access discussed, since Riverwood is a gated community, would be to grant these properties gate access through Riverwood; if granted, the department would recommend approval of the vacation request.

Questions for Staff

Details of the properties with reference to the aerials was requested by **Chair Hess**. **Mr. Marshall** also asked for clarification on the access issues.

Applicant's Presentation

Warren Ross, Esq., applicant's agent, discussed details of the negotiations that he has had with Mr. Ellis on behalf of the applicant, emphasizing that the applicant did not want the property for development purposes but rather to preserve it as a buffer area. He stated that the condition as proposed by Mr. Ellis, for the private road, was exactly what the applicant hoped to achieve. He also noted that if in the future the access issues with Riverwood are resolved, then the applicant might come back and ask that the status of the land as private road be revisited. **Mr. Ross** emphasized that it was very unlikely that the parcel would ever actually be used for access, given the existence of a stream and a mangrove patch on the land. **Mr. Ross** then turned to other details of the land and of the Zoning Division comments; his concluding remarks reviewed the access issues and the goals of the applicant which he felt could be met via the condition imposed by staff.

Chair Hess asked for Mr. Ross's comments about the Current Planning part of the staff report, noting that it says the application did not make any reference to Lot 10, and claims the vacation would leave a small remnant of land. **Mr. Ross** disputed one of the conclusions in that staff report.

Assistant County Attorney Derek Rooney commented, beginning with a question about how the County relinquishes rights to a vacated road, asking if that couldn't be changed by specific language; **Mr. Ellis** responded, noting that while an easement can address access, it cannot prevent development of the property – this was the reason for the proposed language of the condition, that the land become a private road that cannot be developed. **Mr. Ross** restated that the owners would agree with that condition; **Mr. Rooney** said that it seemed to be a matter which could be worked out. He suggested that the recommendation of approval reference the access language and prohibition against development.

Mr. Marshall asked about the part of Jaycox that contacts Myakka Pointe Rd., which it was said by the applicant from the audience belonged to Riverwood; he asked what would happen to that. **Mr. Ellis** said it would remain a paper street, but comment from a member of the audience led him to suggest that it would go away entirely. Further discussion ensued on this matter. **Mr. Rooney** suggested that the greater point was that the paper road could never be built, and it could be worked around.

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Public Input

Ms. Carol MacDougal, resident of Riverwood, spoke in favor of the street vacation, noting the several reasons why this road wouldn't ever be used (stream, G2 property, etc.)

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

Discussion

Chair Hess asked the County Attorney to help guide the verbiage of the recommendation for approval based on conditions that there be an easement for addressing access questions and that development be prohibited. **Mr. Rooney** offered that the recommendation of approval be conditioned on those things occurring.

Recommendation

Mr. Marshall moved that application **SV-10-08-01** be forwarded to the Board of County Commissioners with a recommendation of *Approval with the conditions that there be an easement for addressing access questions and that development be prohibited*, based on the findings and analysis in the staff report dated September 27, 2010, along with the evidence presented at today's meeting, second by **Mr. Gravesen** with a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:06 p.m.