

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**October 10, 2011 @ 1:30 p.m.**

**Call to Order**

**Chair Hess** called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

**Roll Call**

**PRESENT**

Paula Hess

Michael Brown  
James Marshall  
Brenda Bossman

**ABSENT**

Michael Gravesen

**ATTENDING**

Derek Rooney, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of September 12, 2011 were approved as circulated.

**ANNOUNCEMENTS**

None.

**PETITIONS**

**Revision of Enterprise Charlotte**

**Airport Park (ECAP) Code**

**Legislative**

**Commission District II**

An ordinance amending Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, by amending Section 3-9-51, Enterprise Charlotte Airport Park district; providing for conflict with other ordinances; providing for severability; and, providing an effective date.

Applicant: Charlotte County Board of County Commissioners.

**Staff Presentation**

**Danny J. Quick, P.E., Director, Community Development Department,** made introductory remarks regarding future responsibility for the planning and zoning issues associated with ECAP, which have been handled in the past by Economic Development but, as presently agreed with that Department's new director, will be the responsibility of the Community Development Department. **Chair Hess** asked if additional changes were anticipated and **Mr. Quick** responded affirmatively. The Chair commented that she was happy to see a relaxation of the requirements, noting that there had been opposition to the original ECAP overlay on the basis that it tried to make the area's development too glamorous. **Chair Hess** also inquired whether, during the course of the current changes, any comparative studies had been done looking at other industrial parks and their costs compared to ECAP; **Mr. Quick** suggested that it would be appropriate at this point to turn the podium over to the presenter on this topic.

He next introduced **Lucienne Pears, Economic Development Department**, who presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated October 10, 2011 and the evidence presented at the public hearing on the application.

**Ms. Pears** introduced her PowerPoint presentation, giving a background to the ECAP development district as a mixed-used project intended as an economic development zone that also provided for quality and consistency in design, which is where the façade and landscape standards came from. She noted that some changes had been made in the intervening years, responsive to changing conditions.

She noted that the current changes arose from community input, including recommendations for enhancing economic development in the county; these suggestions included reducing the landscaping standards which are imposed within the ECAP in order to make development there less expensive.

**Ms. Pears** spoke about a concept plan map that was a guiding document although it was never adopted and never binding, which caused confusion for prospective developers. This document has been eliminated and replaced by a map showing the ECAP boundaries and locations of the major parks that have already been platted there.

She noted that prior changes also included added language regarding low-impact design standards, which is a planning concept gaining popularity; she stated she would return to this point later in the presentation. Creation of the ECAP landscape fund was also discussed; this would be money paid in lieu of installing required landscaping, and that money could then be used for any project within the ECAP that would enhance development, e.g., providing way-finding signage or the like.

The next change has been to create an ECAP industrial definition so that recruitment efforts would not fail due to zoning code prohibitions against certain industries. This has been an issue for Economic Development in the past. There is now a broader definition of industrial permitted within the ECAP.

With regard to the changes in the landscaping code, which was the primary focus, the following are being proposed:

- Buffering – remove minimum buffering requirement (examples were given, such as for properties abutting an agricultural parcel.)
- Native vegetation already on site to be retained and count towards the landscaping requirements, because it counter-productive to clear-cut a site and then replant. Allowing for payment into the existing ECAP landscape fund is still an option.
- The landscape matrix has undergone many changes, including: elimination of buffering between like uses and limited instead to public spaces such as along the roads bordering the ECAP; establishment of a uniform right-of-way buffer style for visual consistency; reduction of some types of buffering ("E"); and other changes.

**Ms. Pears** emphasized that the level of required landscaping has been reduced to what is common throughout the County, not lower than that level. **Chair Hess** questioned whether Ms. Pears was referred to the rest of industrial parks in the County; **Ms. Pears** acknowledged that the rest of the County had specific zoning districts whereas in the ECAP uses could be mixed, so they did a study looking at how scenarios within the ECAP (e.g., an office building next to industrial) would play out outside the ECAP. **Chair Hess** said that she still wonders if

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it goes far enough. Clarification was sought over the mention of buffering in the medians; **Ms. Pears** clarified that this is about not basing a buffer on the uses of neighboring properties across a street, but use whatever buffering is required for bordering a roadway. **Chair Hess** questioned whether things will be easily found, which she feels is an essential amenity of an industrial park.

**Ms. Pears** offered further comments regarding buffering in the public right-of-way rather than on the property of the business, in order to maximize developable square footage. The revisions also add a requirement for an I-75 buffer; they are currently proposing a Type "D", but **Ms. Pears** noted she will talk about this again later in her presentation.

Finally, she addressed the parking area design standards, particularly the requirement for continuous curbing, which was raised repeatedly as an issue of cost and design concerns, e.g. preventing run-off from serving as irrigation for plantings.

**Ms. Pears** noted that all of the revisions proposed and discussed here were presented at one additional community meeting on September 28th, where there were many comments, especially regarding the high cost of development in ECAP as well as issues such as the elimination of the hospital and college uses in the ECAP (which was mandated by the Smart Charlotte 2050 Comp Plan.) This garnered a great deal of discussion when the matter came before the Board in May and at the September meeting; this is not being addressed in today's changes, it is just being noted for possible consideration going forward.

She also noted that there had been a lot of concern over inclusion of language relating to "low impact design, best development practices." People want to know what is included in this otherwise-undefined phrase – what does low-impact design look like, what does it cost, what does "encourage" mean, etc.

**Ms. Pears** next addressed the questions which had been raised about the ECAP industrial uses definition, specifically: What are we limiting when we limit bulk flammable and toxic chemicals, for instance. She offered the example of Blue Bell, a company which needs large amount of diesel to power their emergency generators; if they can't have that, they can't locate there. Thus they are proposing some changes to that language, but still limiting such storage as a primary use.

The next topic was a discussion of the definition of right-of-way (ROW); many platted ROWs are not built and never will be (as they are too small to permit vehicular access) but vacating all of them would be a huge undertaking. An alternative was suggested of revising the definition of ROW somewhat to specify County-standard ROWs that could provide vehicular access (because otherwise there would have to be ROW buffering for all ROW including the non-standard ones.)

Another item to receive a great deal of discussion was the proposed I-75 buffer, which was originally proposed to be a "D" buffer, felt to be appropriate for a "gateway" to the County; this level of buffering is now considered to be over-zealous, and the current revisions now step back to type "B" buffering. The differences, as discussed, are meant to complement but not to "hide" the ECAP.

Another aspect of the parking requirements discussed by **Ms. Pears** was the "maximum" parking requirements (which exist nowhere else in the County.) She then handed out a page of late changes to the language already distributed. Further discussion ensued on the language updates handed out to the Board by Ms. Pears.

**Questions for Staff**

**Chair Hess** said that she believes this is a good start, but that more still needs to be done. She again questioned whether the County had ever done a comparative study to determine whether the ECAP offerings were competitive with other industrial parks in the region.

**Ms. Pears** said that Economic Development had looked at North Port, where their requirements are on par with what we have today, actually somewhat higher; so the changes being proposed today would bring Charlotte County into a more competitive posture vis-à-vis North Port. No other comparisons were made. **Chair Hess** asked if the proposed changes were intended to make us competitive cost-wise; Ms. Pears agreed that was the point.

**Mr. Marshall** questioned item number six regarding native vegetation, asking that she define 'native vegetation'; Ms. Pears referred to existing County Code and Mr. Marshall asked specifically about grasses, but Ms. Pears said that she didn't know about grasses specifically. **Mr. Marshall** wondered if native grasses would be sufficient buffering; **Chair Hess** suggested that the definitions section would need to actually define what constitutes 'native vegetation'. **Ms. Bossman** noted that one option would be to reference where it is in the Code, since the definition already exists.

**Ms. Bossman** asked to go over the part where the low-impact design/best practices material was removed; she questioned why that would be taken out completely, rather than defining it to the level we feel necessary. **Ms. Pears** responded that this choice reflected the desires of the developers, businesses and property owners who pointed to this material as part of what makes ECAP less attractive to businesses. **Ms. Bossman** pointed out that there are affordable approaches, and that "you didn't have to throw out the baby with the bath water". Ms. Pears said that while it may be advisable to take that approach for the whole county as part of the LDR re-write, it was not felt appropriate for ECAP to be out in front on this issue. Further discussion ensued on these points.

**Public Input**

**Mr. Bucky McQueen**, one of the two largest property owners within ECAP, said that he has opposed this set of regulations since its inception. He suggested eliminating the entire ECAP development area and starting over. He then gave a history of the ECAP with emphasis on buffering in the ROWs that are private, county, federal and other roads, none of whom will let you plant in their ROWs. Mr. McQueen also commented on the following points:

- Property owners who wants restrictive design standards on his property can do it through deed restrictions; a new layer of regulation is not needed.
- Regarding hospitals and universities not being allowed within ECAP, he noted that nearby there is already a 205 acre college.
- Publix and the subject of aesthetics; their warehouse is 95 feet tall, it is a huge project, it doesn't have to buffer, it doesn't border I-75.
- Property adjacent to I-75 (Mr. McQueen owns property on both sides of I-75) – one side of I-75 is not adjacent and contiguous to the other side; there is a separate property owner between the two. The roads within ECAP are private, county, state and federal roads, and none of the owners will let you do landscaping within their rights-of-way.
- Road rights-of-way at the airport cannot be determined; this reflects the history of the property which was leased from the County by the War Department in 1941. After the war, the property was returned to the County, but the ownership of the roads remains in question, along with their rights-of-way.
- Uses. Tremron Mfg. left the ECAP and went to Arcadia where they are flourishing.

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- Entrance to Punta Gorda from the airport goes past the jail, which is the largest building around; Mr. McQueen has asked the Sheriff to remove the word "jail" and instead call it the Public Safety Building, but was rebuffed.
- Buffering. It is possible to 'buy out' on the buffering requirement but it is still required to have the set-back, which he feels is unreasonable.

**Mr. McQueen** stated that the biggest shortcoming in ECAP concerns the utilities; it is in the certificated area for Punta Gorda Utilities, and they will not expand any of their lines to serve ECAP. The utilities that were put in for Publix have never been accepted by the utility or permitted by DEP, so there are no utilities there.

On the subject of bulk storage, **Mr. McQueen** commented that UPS and Blue Bell both have fuel for their delivery trucks; every airplane owner also has the right to 'self-fuel'. There is a gas company on the airport which exists to sell gas; it is not accessory to anything else; would this be made a non-conforming use? On the subject of structures in excess of 90 feet, **Mr. McQueen** cited the newly-built control tower which is over 90 feet and did not get a special exception; he felt that control towers were not exempt from that process.

**Mr. McQueen** also questioned the necessity for a 50-foot set-back when it borders a ROW. He also felt that it was questionable that property on one side of a road or highway could have one set of standards or regulations while the property on the other side of the road did not. As for parking requirements, he noted that commercial vehicles had to be in a completely-enclosed building with the only exception being the airport parking lot; he noted that it was unreasonable to expect USP, FedEx, Peace River Distributors and others to have all their vehicles inside buildings. He also pointed out the requirements for vinyl rather than galvanized chain link fencing, noting that vinyl was 70% more expensive.

**Chair Hess** took the opportunity to ask Mr. Quick why there is a special code for ECAP rather than just going by County Code. **Mr. Quick** responded that the ECAP ordinance was a product of its time, produced during a booming economy, and that since times have changed it's become appropriate to revisit the Code. **Chair Hess** asked why not just repeal it; **Mr. McQueen** agreed. **Mr. Quick** responded by reminding that there has been a change of responsibility on this project from Economic Development back to Community Development in hopes of on-going modification. **Chair Hess** indicated she intends to make a motion to repeal. **Ms. Bossman** asks if repeal would be legal, given that there are already occupants of ECAP and people who have developed to that standard. **Mr. Rooney** looked for pre-ECAP zoning on the computer and explained that there would be issues regarding who got additional uses, who got uses removed at the formation of ECAP.

**Mr. Gary Bayne, Southwest Engineering and Design**, spoke to some of the same issues already raised by **Mr. McQueen**, including the exclusion of hospital/college uses; restrictions of storage tanks for fuels eliminating possible occupants like Benjamin Moore Paints, who would have no storage for their products; exclusion of berms used as buffering; Type "D" to "B" buffering at I-75 – why hide the industrial park, when you pay extra money to be on that frontage. **Chair Hess** asked **Ms. Pears** to discuss why this is required; **Ms. Pears** said there was no intent to hide, but rather to beautify/enhance the corridor, which would be better than just a view of exposed building backs and sides. The Chair stated that this was going too far for an industrial park given there are houses along I-75 with no such buffering.

**Mr. Bayne** continued, noting that this version is much better than the code which currently exists. He also stated the maximum parking requirement really needs to be taken out, and gave as an example a distribution center of 100,000 sq. feet which would only be entitled to

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120 parking spots maximum. What happens if this distribution center has 300 employees? He also commented on the use of the word "encourage" in discussing low-impact design, saying that this is not what staff does, they can be persuaded that it is not necessary, but they will be looking for it. Further discussion ensued on this topic.

**Mr. Jim Sanders** representing some owners in the ECAP, stated that Mr. McQueen and Mr. Bayne had covered most of what he would have said, and that he would keep his comments brief. He was glad to see staff being flexible on the matter, but felt a master plan was needed for the area, based on input from property owners not consultants. He said that he agrees with the concept of repeal to recreate it with the property owners.

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

**Discussion**

**Chair Hess** passed the gavel to Ms. Bossman and then made the motion. for denial and to ask the Commission to repeal the entire ECAP code.

**Comment**

**Ms. Bossman** said she feared the repeal would lead to occupants being put into non-conforming status.

**Recommendation**

**Ms. Hess** moved that the amendment of the ECAP Code as presented today be forwarded to the Board of County Commissioners with a recommendation of *Denial and a request to have the entire ECAP code repealed*, based on the findings and analysis in the staff report dated October 10, 2011, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a vote of three to one, **Ms. Bossman** voting 'Nay'.

There being no further business to come before the Board, meeting was adjourned at 2:47 p.m.