

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119,**  
**Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**September 14, 2015 @ 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 Gravesen  
Ken Chandler  
Stephen Vieira  
Paul Bigness

**ABSENT**

**ATTENDING**

Joshua Moye, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of June 8, 2015 were approved as circulated. Upon the oath being administered, the presentation continued.

**ANNOUNCEMENTS**

At the request of Chair Hess, Principal Planner Jie Shao described the upcoming workshops for discussion of revisions to the County's Comprehensive Plan; one workshop will be held on September 16<sup>th</sup> from 9-noon in B-106, and the second one will take place on September 30<sup>th</sup>, same time and location. She invited the Board members and citizens to attend.

PETITIONS:

**PP-15-07-02**

**Quasi-judicial**

**Commission District III**

Edgewater Opportunity Fund II, LP has requested Preliminary Plat approval for a subdivision to be named, Island Lake Estates, consisting of 400 single-family lots. The site is 169.68 acres, more or less, and is located south of San Casa Drive, north of Cypress Road, east of Placida Road, and west of Winchester Boulevard, in Section 16, Township 41 S, Range 20 E, in Commission District III.

**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 August 25, 2015, which was amended after distribution to account for a late-arriving environmental report. Mr. Ellis passed out copies of that updated report to the Board members and the Recording Secretary, and a copy of the report is attached to these minutes; the additional report resulted in additional conditions for the requested plat approval. There were a total of nine conditions, which Mr. Ellis read into the record, and which are part of the updated staff report attached hereto.

**Questions for Staff**

**Mr. Bigness** asked about the planned access points for traffic in and out of the development; **Mr. Ellis** deferred to Mr. Rebol, applicant's agent.

**Applicant's Presentation**

**Mr. Todd Rebol**, Banks Engineering, applicant's agent, spoke to the question of the planned access points for traffic, noting two on the plat, the main one of which goes to CR 775 and the other, intended as an emergency access, going to 10<sup>th</sup> Street on the west side of the property. **Mr. Bigness** asked if there were any plans for a traffic light; **Mr. Rebol** indicated that none were found to be warranted by the traffic impact statement, but that there are turn lanes at the access point.

**Mr. Bigness** whether the property had been platted under a previous owner; **Mr. Rebol** responded that the parcel was rezoned under the previous ownership to RV and rezoned back to multi-family, but he said that to his knowledge it had never been platted before.

**Chair Hess** asked for a description of cluster subdivision, which **Mr. Rebol** provided, explaining that this designation allows the applicant to use existing features on the property to reduce lot standards (e.g., 80 x 120 lot size) to allow for more green space, and avoid environmental features. This property has lakes already; to maintain density, lot sizes were reduced. **Mr. Bigness** asked how many 40-ft. wide lots were being proposed; **Mr. Rebol** responded about 20% of the product was intended to be single-family attached villas, the remaining would be single-family detached homes with the smallest lot being 52-foot.

At the request of **Chair Hess**, **Mr. Rebol**, after taking a moment to review the staff report to see the 3 new conditions, stated that the applicant accepted and would abide by all the nine conditions.

**Public Input**

None.

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

**Discussion**

**Chair Hess** indicated that this cluster development complied with land use, zoning and size requirements in RMF-3.5; she asked Mr. Olivo whether he had any questions, and he said he did not.

**Mr. Bigness** commented on the request; he asked how many vehicles there were estimated to be per each of the 400 units. **Mr. Rebol** attempted to answer based on the traffic study submitted as part of the site development process; he recollected that it estimated on average 8-10 trips per day per unit. **Mr. Bigness** clarified that he was asking more like the number of vehicles associated with each household; Mr. Rebol said vehicles-per-unit was not usually a part of the traffic study. Further discussion ensued on the difference in these two measures.

**Recommendation**

**Mr. Bigness** moved that **PP-15-07-02** be sent to the Board of County Commissioners with a recommendation of *Approval with nine conditions*, based on the findings and analysis in the staff report dated August 25, 2015, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

**PP-07-05-09                      Quasi-judicial                      Commission District IV**

SRQ 999 Partners, LLC is requesting a two-year extension to the Preliminary Plat approval for Gramercy Street Development, which was originally approved by the Board of County Commissioners on August 21, 2007. The Planning and Zoning Board granted a one-year extension on July 13, 2009, a one-year extension on October 11, 2010, a two-year extension on September 12, 2011, and a two-year extension on October 21, 2013. The subdivision, consisting of fourteen (14) cluster housing lots on 4.66 acres, more or less, is located on the east side of Gramercy Street, west of Crestwood Waterway, and north of El Jobean Road, in Section 15, Township 40, Range 21, in Commission District IV.

**Staff Presentation**

**Steven Ellis, Planner II**, presented the request for extension with a recommendation of *Approval*, based on the reasons stated in the staff report dated June 23, 2015.

**Questions for Staff**

*None.*

**Applicant's Presentation**

*No one appeared on behalf of the applicant.*

**Public Input**

*None.*

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

**Discussion**

**Chair Hess** indicated that the matter was in Mr. Chandler's district and reminded that the Board gave final approval and the matter does not go forward to the Commission.

**Recommendation**

**Mr. Chandler** moved that **PP-07-05-09** be *Approved*, based on the findings and analysis in the staff report dated August 25, 2015, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

**PA-15-05-06-LS                      Legislative                      Commission District II**

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comments; the amendment request is to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Commercial (COM) (36.94± acres) and Agriculture (AG) (2.67± acres) to Low Density Residential (LDR) (39.61± acres) with an annotation to the 2030 Future Land Use Map stating that 1) the base density of the site is two units; and 2) the use of the site for a recreational vehicle park will be limited to 198 units and will not require a transfer of density, and from Agriculture (AG) (0.65± acres) to Preservation (PR) (0.65± acres); for property located at 26925 and 27005 Jones Loop Road, in the Punta Gorda area, containing 40.26± acres; Commission District II; Petition No. PA-15-05-06-LS; Applicant: TAG Creekside, LLC; providing an effective date.

**Z-15-05-07                      Quasi-Judicial                      Commission District II**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Commercial General (CG) (10± acres), Planned Development (PD) (26.94± acres), and Residential Estate (RE-1) (2.67± acres) to Recreational Vehicle Park (RVP) (39.61± acres), and from RE-1 (0.65± acres) and PD (3.29± acres) to Environmentally Sensitive (ES) (3.94± acres), for property located at 26925 and 27005 Jones Loop Road, in the Punta Gorda area, containing 43.55± acres; Commission District II; Petition No. Z-15-05-07; applicant: TAG Creekside, LLC; providing an effective date.

### **Staff Presentation**

**Jie Shao, Principal Planner**, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated July 24, 2015. A brief discussion ensued with Chair Hess regarding the presentation of the matter as a unified petition.

**Ms. Shao** noted that the request would not require any transfers of density, and she pointed out that part of the parcel along Alligator Creek would be designated for Preservation, in keeping with the intent of the County's Comprehensive Plan. She reminded the Board members that because the RV Park designation is not considered residential, no transfer of density would be required for the proposed use.

**Ms. Shao** then discussed the request for rezoning which would go forward with the plan amendment request once that had been approved by the DEO. The parcel would be changed to RVP and the buffer area along the creek would become ES.

### **Questions for Staff**

**Chair Hess** indicated no objection to this project but expressed her concern over what might happen if, once having been awarded the LDR land use, the owners later abandoned the RV Park project, because LDR is not suitable in this area. **Ms. Shao** referred to the annotation on the Future Land Use Map requiring the property to be used as an RV Park up to 198 units. **Chair Hess** also expressed concern about the people in the RV park who might later complain about noise from the (pre-existing) airport traffic, and said that an Avigation Easement should be required. Applicant's agent, Geri Waksler, then indicated that the avigation easement had already been obtained.

**Mr. Olivo** also had a concern about residential density on this parcel, indicating he had written to the applicant about it, and was seeking confirmation of limitations without which children might end up in our schools. **Ms. Shao** reminded the group that there is a County zoning regulation limiting each stay to 180 days. This was confirmed to meet Mr. Olivo's concerns. **Chair Hess** voiced her related concern that a transient RV Park is really a commercial operation, not a residential use, and she asked whether the Comp Plan should be amended to reflect that; **Ms. Shao** indicated that this was a matter the Department would look to the Board for direction on.

**Mr. Gravesen** had a comment about this location for an RV Park, from a planning standpoint; he also felt that commercial is more appropriate in this location. Ms. Shao agreed, but noted that the matter was for the Commission to direct, and the applicant should not have to wait 6 months for that change to be implemented.

**Mr. Vieira** asked about the ownership of the rest area; **Mr. Cullinan** spoke to that issue, noting that state and local agencies are looking into that issue, but no one has made an offer, and it's still in play.

**Applicant's Presentation**

**Geri Waksler, Esq.**, applicant's agent, spoken next, addressing the basics of the location background. She commented first on the 2050 Comp Plan changes that resulted in the current RV designation of Low Density Residential; she said that while she agreed with the comments about Commercial being more appropriate, she did want to point out that there are two different kinds of RV parks. There is the transient park (which the current request would be) but there is also the fee simple title, platted-lot model, such as was done in El Jobean, which has more of a residential neighborhood feel. She also noted that transient RVP designation does not permit permanent residence, nor do the state statutes. The site does have water and sewer; there will be no school impacts because no permanent residence is allowed. **Ms. Waksler** also made additional comments regarding the avigation easement and the ES buffer along Alligator Creek.

**Chair Hess** also provided some comments on the nature of a typical avigation easement, for the general education of the audience.

**Public Input**

None.

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

**Discussion**

**Chair Hess** indicated that members can comment based on their opinion on the legislative part of the request; none were offered.

**Recommendation**

**Mr. Gravesen** moved that **PA-15-05-06-LS** be sent to the Board of County Commissioners with a recommendation for transmittal to the Department of Economic Opportunity, based on the findings and analysis in the staff report dated July 24, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

**Mr. Gravesen** moved that **Z-15-05-07** be sent to the Board of County Commissioners with a recommendation of *Approval*, contingent upon the acceptance of the plan amendment, based on the findings and analysis in the staff report dated July 24, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

**Agenda items 5 and 6, Applicant Tim Verwiebe, were continued at the request of applicant's agent, and were not heard at this meeting.**

**Sec. 3-9-10. Amendment**

**Legislative**

**Countywide**

An Ordinance amending Charlotte County Code Chapter 3-9, Zoning, by revising Section 3-9-10, Amendments; providing for requirements and procedure that Land Development Regulations and the Office Zoning Atlas may be amended or repealed; providing for standards for approval;

providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: Charlotte County Board of County Commissioners.

**Staff Presentation**

**Jie Shao, Principal Planner**, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated August 20, 2015. **Ms. Shao** noted that there were four major parts to this revision:

1. revise the section on initiation of proposals for amendments, to allow anyone with a legal interest in the property or this chapter, instead of just the owner of the land;
2. add the mailed and posted notice as constructive notice, to be consistent with the existing process;
3. to modify the standards of approval to be consistent with the Snyder ruling;
4. to add notice of decisions, the procedure of withdrawal of applications, and postponement of scheduled public hearings, again to be consistent with the existing process.

**Questions for Staff**

**Chair Hess** discussed the material at (h) "Standards of Approval" as being of most interest to this Board. She indicated that discussion on this part had to refer to the Snyder ruling; now, the burden is on the landowner to demonstrate that the item is consistent with the Comp Plan, and that the property has adequate services to support the requested use. If the landowner proves that burden, then it would be incumbent upon the Board to approve it **unless** the Board can demonstrate a legitimate public purpose, which is a heavy burden on the Board's action.

Chair Hess noted that under the prior set of standards to deny, some (such as whether there are substantial reasons why the property could not be used in accordance with existing zoning) amounted merely to opinion; but a rezoning request is quasi-judicial and cannot entertain opinions, only facts. Given that, she asked whether the other Board members felt it was sufficiently clear that it is the landowner's burden to prove items (a) through (e) and it's not the Board's burden to prove it doesn't meet the standard.

**Public Input**

**Geri Waksler** indicated her feeling that this change was long-overdue, approximately 24 years after the Snyder ruling. Ms. Waksler also spoke about the old standards of approval such as former (h) discussion of "can't use the property in its current zoning" which came in for particular negative comment.

**Chair Hess** noted that both Ms. Waksler and Mr. Berntsson devoted much time to getting these changes pushed through.

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

**Discussion**

*None offered.*

**Recommendation**

**Mr. Gravesen** moved that **Sec. 3-9-10. Amendment** be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff

report dated August 20, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

There being no further business to come before the Board, the meeting was adjourned at 2:17 p.m.