

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Regular Meeting
October 12, 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

Ken Chandler
Stephen Vieira
Paul Bigness

ABSENT

Michael Gravesen

ATTENDING

Joshua Moye, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of September 14, 2015 were approved as circulated. Upon the oath being administered, the presentation continued.

ANNOUNCEMENTS

None.

PETITIONS:

PP-06-04-03

Quasi-judicial

Commission District I

Banks Engineering, on behalf of their client, Standard Pacific of Florida GP, Inc., has applied for a two-year extension of the Preliminary Plat approval for Kensington Lakes, a subdivision consisting of 255 lots in a Planned Development in Sections 25 and 26, Township 40S, Range 23E. The site, consisting of 90.46 acres, more or less, is located west of Lanier Road, east of Fairfield Avenue, south of Riverside Drive, south of Riverside Drive, and north of Duncan Road in Commission District I.

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 August 20, 2015.

Questions for Staff

None.

Applicant's Presentation

Todd Rebol, *Banks Engineering*, appeared on behalf of the applicant and joined in the request for approval of the extension.

Public Input

None.

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

Discussion

Chair Hess stated that she agreed with staff's recommendation of approval.

Recommendation

Mr. Vieira moved that **PP-06-04-03** be *Approved*, 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. Chandler** and carried by a unanimous vote.

PP-07-08-14

Quasi-judicial

Commission District III

Banks Engineering, on behalf of their client, Ainger Creek Properties, LLC, is requesting a three-year extension for the Preliminary Plat approval for Ainger Creek Development subdivision. The Board of County Commissioners originally granted Preliminary Plat approval on November 20, 2007. The Planning and Zoning board allowed a two-year extension in 2009. Another extension was provided by the State Legislature in 2011, under the terms of Section 73, Chapter 2011-139, Laws of Florida. The subdivision, consisting of 122 residential lots (for cluster housing) on 31.12 acres, more or less, is located north and west of the Catfish Waterway, east of Lampp Drive, and south of the Sarasota County line, in Section 5, Township 41 South, Range 20 East, in Commission District III.

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 September 22, 2015.

Questions for Staff

None.

Applicant's Presentation

Todd Rebol, Banks Engineering, appeared on behalf of the applicant and joined in the request for approval of the extension.

Public Input

None.

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

Discussion

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

Recommendation

Mr. Bigness moved that **PP-07-08-14** be *Approved*, based on the findings and analysis in the staff report dated September 22, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

SV-15-08-02

Legislative

Commission District III

Michelle Shafron and Keystone Challenge Fund, Inc., as co-applicants, are requesting to vacate a portion of 5th Avenue and a portion of E. 8th Street lying between Pine Street and Manor Road, a total of 0.52 acres, more or less, part of Rock Creek Park 3rd Addition, as recorded in Plat Book 6, Page 1, of the Public Records of Charlotte County, Florida. The segments are located south of the Sarasota County line, north of 7th Street, east of Pine Street, and west of Manor Road, in Section 5, Township 41 South, Range 20 East, in Commission District III.

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 September 24, 2015. He gave details on the necessity of the County maintaining a drainage easement over the northern 20 feet of the ROW for proper stormwater drainage, which is the sole condition imposed on the matter. He also discussed the prior street vacation actions on E. 8th Street and assured the Board that due to the five remaining north-south points of access to E. 8th St., so that no property owners would be denied access as a result of the present and past actions.

Questions for Staff

None.

Applicant's Presentation

Mr. Wayne Jenkins, agent for Keystone Challenge Fund, Inc., appeared on behalf of applicants.

Public Input

None.

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

Discussion

Chair Hess noted that on street vacations where there is not a public need and water access is not denied, it is considered a benefit to the County to vacate a street – the property goes back onto the tax rolls and takes the responsibility of maintenance off the County. She said she agreed with staff on the vacation recommendation.

Recommendation

Mr. Bigness moved that **SV-15-08-02** be sent to the Board of County Commissioners with a recommendation of *Approval with one condition*, based on the findings and analysis in the staff report dated September 24, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

FP-15-08-03

Quasi-judicial

Commission District I

Port Charlotte Hotel, LLC, and Port Charlotte Commercial Properties, LLC have requested Final Plat approval for a minor subdivision to be named, Triangle Acres Center Lot 1 Replat, a replat of a portion of Triangle Acres Center as recorded in Plat Book 19, Pages 13A-13C, of the Public Records of Charlotte County, Florida. The site is 3.35 acres, more or less, and is located south and west of I-75, north of Village Drive, and east of Kings Highway, in Section 7, Township 40, Range 23, in Commission District I.

Staff Presentation

Steven Ellis, Planner II, presented the final plat request with a recommendation of *Approval*, based on the reasons stated in the staff report dated September 30, 2015. He noted there is no construction contemplated in connection with this replat; it is a paper exercise. The disagreement between Charlotte County Utilities and the applicant regarding portions of the easement language is covered through the email exchange included in the packet; the language was ultimately changed. There are no conditions.

Questions for Staff

Mr. Vieira asked whether this would prevent future construction in the area; Mr. Ellis said it would not.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke next; she noted that the owner of La Quinta Inn and Suites had been approached by various people interested in developing corollary uses to the existing hotel such as a restaurant, but all these possible partners have wanted to purchase the land; thus this replat which serves to separate that parcel out for such a purpose. She gave an explanation of the physical conditions that lend themselves to creating the separate lot.

Public Input

None.

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

Discussion

Chair Hess indicated that it is apparent from the petition packet that there are no objections from any County departments, nor did she have any objections.

Recommendation

Mr. Vieira moved that **FP-15-08-03** be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated September 30, 2015, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

PA-15-07-08-LS

Legislative

County-wide

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comment; the two-part request is to amend several elements of the County's Comprehensive Plan. Part I is specifically to amend: 1) Future Land Use (FLU) Element; 2) FLU Appendix I: Land Use Guide; 3) FLU Appendix III, Definitions; 4) Natural Resources (ENV) Element; 5) Coastal Planning (CST) Policy 3.2.5:

Development Requiring Special Needs Assistance; and rename the County's Comprehensive Plan to Charlotte 2050; Petition No. PA-15-07-08-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date. Part II will follow in the near future.

Introductory material was provided by **Planning and Zoning Manager Shaun Cullinan**. He mentioned the rescinding of the prior amendments made to the Comprehensive Plan, and that the current petition is a re-approach, offering remedial amendments which have taken into account the roundtables and direction received from the Commissioners. He added that the present group represents the least controversial of the material. He then introduced Principal Planner Jie Shao to give details. **Chair Hess** asked how he responds to the statement from the GICIA email where it says that some of the proposed changes in this Part I group rely on the proposed changes in Part II, and therefore this Board should not act until all changes can be viewed in their entirety; **Mr. Cullinan** responded that staff disagrees and besides, if that was true, the whole comp plan would have to be reviewed to change any part, because it's all intertwined. He stated that these are changes that are specific to these specific items; some of the others which are coming forth later, while they might have a piece involved in this, it's not as intertwined as some of the other portions.

Mr. Cullinan also stated his opinion that the idea that staff was not willing to listen to all opinion is simply not true; he said staff took all comments into consideration. It was evident from the beginning that lots of things could not be agreed on; thus the role of this Board and of the Commission is to be the arbiters on these matters. **Chair Hess** said that Mr. Cullinan's position was understood and valid.

Staff Presentation

Jie Shao, Principal Planner, presented the findings and analysis of the petition with a recommendation of *Approval for transmittal to the Department of Economic Opportunity*, based on the reasons stated in the staff report dated September 30, 2015. **Ms. Shao** commenced by giving a summary of the major changes:

- Removed "Smart" from the current title of the Comp Plan (SmartCharlotte 2050).
- Changes to the Future Land Use Element regarding Babcock; these are major changes based on the adopted development orders they have had over the past year or more, and also the revisions to their Land Development Regulations and their approved Pattern Book
- Per BCC direction, changes which removed regulatory language and protected private property rights.
- Appendix I – Land Use Guide; this contains all the various categories; the biggest change was to include sub-neighborhood commercial, which was moved back to Low, Medium, and High Density residential category, and in that way, set the FAR to govern the intensity of uses; applicants must also go through a rezoning to Commercial Neighborhood or PD zoning category, but no land use change is needed. You have sub-neighborhood commercial within the residential land use category which will serve the residents, without needing to amend the land use to commercial which would open the door to have other intensive commercial uses in the residential neighborhood
- Amending Appendix III – Definitions, removing "smart growth" definition because basically they have 10 principles but it's already included on Goals, Objectives and Policies. Also, redefined strip commercial to be more applicable to Charlotte County physical limitations (e.g., US 41); and redefined Urban Sprawl based on FLA law.
- Natural Resource element, revision to policies – ensure we have predictive standards and protect property rights

- Coastal element where it covers special projects like ACLF, which are currently prohibited in the Comp Plan; however, in residential zoning district an ACLF of six or less is by right, and 7 or more is special exception/conditional uses request, and also CG. Trying to balance property rights and consider safety/evacuation issues; so now it's a conditional use in the residential district.

Ms. Shao also noted the comments that came in after packets had been distributed led to some additional changes which she displayed on the monitors, with highlighting to show where the changes were made. She then referred to another change initiated by staff regarding a policy concerning the flowway and wildlife corridor; originally, it was intended to delete this policy; but the thinking changed and now it is considered to be more appropriate that if a property owner provides a study that shows it is not needed or that it can be smaller, that would be acceptable. Finally, **Ms. Shao** indicated that the definition of Urban Sprawl given in 163.3164 F.S. is now incorporated into the Comp Plan.

Chair Hess asked if these changes have resolved the challenges that went to the Department of Administrative Hearings (DOAH). **Ms. Shao** responded that staff had tried to address all the concerns of the Sierra Club. **Chair Hess** asked, after this part is transmitted, when does DOAH made decision? **Assistant County Attorney Josh Moyer** responded on the timeline of process. Some further discussion continued regarding the possible timelines.

Chair Hess then stated that this Board had agreed with the original intent to remove regulatory language from the Comp Plan and have it in the Land Development Regulations (LDRs) instead, for ease of changing when required, and noted this was an example of returning the process to Home Rule and local control. She asked about whether the entire prior amendment had been rescinded or just certain sections; **Ms. Shao** responded that the current amendment was a replacement, but that some changes were also made in response to the challenge. **Chair Hess** asked about the role of the public roundtables in crafting the present changes; **Ms. Shao** indicated there had been two roundtables in September for Phase I, and all comments made were responded to. The recent emails all relate to matters that will be addressed in Phase II, not to the present set of changes.

Questions for Staff

None.

Public Input

Rob Berntsson, on behalf of *Kitson and Partners*, spoke in support of the changes relating to Babcock, and indicated he was also speaking on behalf of Carribean Bay Mortgage Lender LLC and Boca Norte LLC, intervenors on behalf of the County in the recent challenge, supporting these new versions of the amendments. He indicated he personally supported the changes as well.

Ms. Geri Waksler, citizen of Charlotte County, spoke in support of these changes which were originally intended to restore 'home rule' to Charlotte County, by returning regulatory language to local control, rather than having to go back up to the state.

Mr. Todd Rebol, citizen, also spoke briefly, supporting the current changes.

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

Discussion

Chair Hess reiterated that the Planning and Zoning Board was always in favor of removing regulatory language and re-establishing home rule. Addressing the various communications against these changes, **Chair Hess** stated that it is unrealistic to expect approval and agreement of all parties over what is regulatory and what should be contained in the Goals and Objectives of the Comp Plan. She said she believes the staff had done what it could to resolve the challenges; they have achieved what we hoped they would in the revisions.

Mr. Bigness indicated he also was concerned with the letters, but he noted that no one had showed up at this meeting, and so could not gauge the intensity of those objections. **Chair Hess** made additional comments about remarks in those communications that suggested poor treatment, stating that at these meetings everyone has been treated with courtesy and respect. **Mr. Vieira** concurred.

Recommendation

Mr. Vieira moved that **PA-15-07-08-LS** be sent to the Board of County Commissioners with a recommendation of *Approval for transmittal to the Department of Economic Opportunity for review and comment*, based on the findings and analysis in the staff report dated September 30, 2015, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

There being no further business to come before the Board, the meeting was adjourned at 2:11 p.m.