

MAY 5, 2011

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, at 9:02 a.m.

Present were Commissioners:

Carol Whitmore, Chairman
John R. Chappie, First Vice-Chairman
Lawrence E. Bustle, Jr., Second Vice-Chairman
Michael Gallen, Third Vice-Chairman
Robin DiSabatino
Donna Hayes
Joe McClash

Also present were:

John Osborne, Building and Development Services
Sarah Schenk, Deputy County Attorney
Susan G. Romine, Board Records Director,
representing R. B. Shore, Clerk of Circuit Court

Invocation by Chaplain Paul Scheele, Water's Edge.

All witnesses and staff giving testimony were duly sworn.

AGENDA

Agenda of May 5, 2011, and agenda update memorandum.

[BC20110505DOC001](#)

CONSENT AGENDA

Motion was made by Mrs. DiSabatino, seconded by Mr. McClash, and carried 7 to 0, to approve the Consent Agenda incorporating the language as stated in the recommended motions in the agenda memoranda. Items APPROVED:

CLERK'S CONSENT CALENDAR

[BC20110505DOC002](#)

WARRANT LIST

April 26, 2011 through May 4, 2011

[BC20110505DOC003](#)

MINUTES

March 29, 2011, and April 5, 2011

[BC20110505DOC004](#)

ACCEPT

Clerk of Circuit Court - Second Amendment to Payment Collection and Remittance Agreement between Amscot Corporation and the Manatee County Clerk of the Circuit Court for payments relative to court and utility related services. [BC20110505DOC005](#)

Contract Documents (Pursuant to Manatee County Code, Chapter 2-26):

1. **2011 Lift Station Rehab Group 1** - Agreement with TLC Diversified, Inc., \$269,783; Performance/Payment Bond; and Certificate of Liability Insurance. [BC20110505DOC006](#)
2. **Convention and Visitors Bureau - Roof Restoration** - Contract with All Steel Consultants, Inc., \$620,230; Performance and Payment Bond; and Certificate of Liability Insurance. [BC20110505DOC007](#)
3. **Lake Manatee Dam Tainter Gates** - Change Order One to contract with Johnson Brothers Corporation; increase of \$598,873.42, adjusted total of \$5,737,083.42. [BC20110505DOC008](#)
4. **Myakka Community Center** - Change Order Two with Zirkelbach Construction, Inc.; increase of \$24,921.30, adjusted total \$545,915.30; and an additional 10 calendar days for a revised completion date of March 4, 2011. [BC20110505DOC009](#)
5. **Professional Services for Solid Waste Engineering** - Addendum Five to Agreement changing the company name from PBS&J, Inc. to **Atkins North America, Inc.** [BC20110505DOC010](#)

6. **Ultra Low Flow Toilet Rebate Program** - Agreement with Demetri's Solutions LLC to provide Administrative Services. [BC20110505DOC011](#)

APPROVE, RATIFY, AND CONFIRM

Revenue Sharing 2011-12 - Application to Florida Department of Revenue for Revenue Sharing 2011-12 State Fiscal Year (*Chapter 218, Part II Florida Statutes*).

AUTHORIZE CHAIRMAN TO SIGN

Partial Releases of Special Improvement Assessment Liens:

Project 4215 (2)

[BC20110505DOC012](#)

[BC20110505DOC013](#)

(End Consent Agenda)

BICYCLES

William Wheeler expressed concern regarding laws regulating bicycles on sidewalks and requested staff compile all Federal, State, and County laws pertaining to bikes and electric and manual devices on sidewalks. [BC20110505DOC014](#)

CERTIFICATES OF LEVEL OF SERVICE

Public hearing (Notices published) was held to consider

R-11-109 LAKEWOOD WALK FKA SHOPPING CENTER AT S.R. 70

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AUTHORIZING THE EXTENSION OF THE EXPIRATION DATE OF CLOS CERTIFICATE 06-078, SHOPPING CENTER AT S.R. 70/LAKEWOOD WALK, PURSUANT TO SECTION 510.9.3 OF THE LAND DEVELOPMENT CODE; AUTHORIZING AND DIRECTING ANY AND ALL ACTIONS NECESSARY TO IMPLEMENT SUCH EXTENSION BY THE BUILDING AND DEVELOPMENT SERVICES DIRECTOR OR HIS OR HER DESIGNEE; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. DiSabatino, seconded by Mrs. Hayes, and carried 7 to 0, to ADOPT **R-11-109**. [BC20110505DOC015](#)

Public hearing (Notices published) was held to consider

R-11-110 LAKEWOOD RANCH COMMERCE PARK

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AUTHORIZING THE EXTENSION OF THE EXPIRATION DATE OF CLOS CERTIFICATE 08-037, LAKEWOOD RANCH COMMERCE PARK, PURSUANT TO SECTION 510.9.3 OF THE LAND DEVELOPMENT CODE; AUTHORIZING AND DIRECTING ANY AND ALL ACTIONS NECESSARY TO IMPLEMENT SUCH EXTENSION BY THE BUILDING AND DEVELOPMENT SERVICES DIRECTOR OR HIS OR HER DESIGNEE TO CARRY OUT NECESSARY ACTIONS; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Hayes, seconded by Mr. Gallen, and carried 7 to 0, to ADOPT **R-11-110**. [BC20110505DOC016](#)

Public hearing (Notices published) was held to consider

R-11-108 LAKEWOOD RANCH BUSINESS PARK

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AUTHORIZING THE EXTENSION OF THE EXPIRATION DATE OF CLOS CERTIFICATE 06-014, LAKEWOOD RANCH BUSINESS PARK, PURSUANT TO SECTION 510.9.3 OF THE LAND DEVELOPMENT CODE; AUTHORIZING AND DIRECTING ANY AND ALL ACTIONS NECESSARY TO IMPLEMENT SUCH EXTENSION BY THE BUILDING AND DEVELOPMENT SERVICES DIRECTOR OR HIS OR HER DESIGNEE TO CARRY OUT NECESSARY ACTIONS; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mrs. Hayes, seconded by Mr. Bustle, and carried 7 to 0, to ADOPT **R-11-108**. [BC20110505DOC017](#)

Public hearing (Notices published) was held to consider

R-11-111 RIVER MEADOWS FKA MANATEE RIVER RESORTS

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AUTHORIZING THE EXTENSION OF THE EXPIRATION DATE OF CLOSURE CERTIFICATE 04-094, RIVER MEADOWS, PURSUANT TO SECTION 510.9.3 OF THE LAND DEVELOPMENT CODE; AUTHORIZING AND DIRECTING ANY AND ALL ACTIONS NECESSARY TO IMPLEMENT SUCH EXTENSION BY THE BUILDING AND DEVELOPMENT SERVICES DIRECTOR OR HIS OR HER DESIGNEE; PROVIDING AN EFFECTIVE DATE.

Jim Farr, representing the applicant, explained the property is owned by a corporation.

Motion was made by Mrs. Hayes, seconded by Mrs. DiSabatino, and carried 7 to 0, to ADOPT R-11-111. [BC20110505DOC018](#)

PORT MANATEE ENCOURAGEMENT ZONE

Public hearings (Notices published) were opened to consider

PDEZ-08-19(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA A

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 55.5 ACRES IN THE GENERAL AREA OF SOUTH DOCK STREET, U.S. 41 AND HARLEE ROAD, AT 12257 U.S. 41 NORTH, 12291 U.S. 41 NORTH, 13838 HARLEE ROAD, AND 12205 U.S. 41 NORTH, FROM HM TO THE PDEZ ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 55.5± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (55.5± ACRE REZONE; 325.5± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA A). Planning Commission recommended ADOPTION. [BC20110505DOC019](#)

and

PDEZ-08-20(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA B

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 39 ACRES GENERALLY LOCATED NORTHEAST OF PORT MANATEE ON THE EAST SIDE OF U.S. 41, NORTH OF BUCKEYE ROAD AND SOUTH OF THE COUNTY LINE, PALMETTO, FROM A TO THE PDEZ ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 39± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT-RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (39± ACRE REZONE; 1,041± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA B). Planning Commission recommended ADOPTION. [BC20110505DOC020](#)

and

PDEZ-08-21(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA C

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 120.5 ACRES GENERALLY LOCATED SOUTH OF PORT MANATEE ON

THE WEST SIDE OF U.S. 41, NORTH OF BISHOP HARBOR ROAD/MOCCASIN WALLOW ROAD FROM PDR AND LM TO THE PDEZ ZONING DISTRICT AND APPROXIMATELY 35.2 ACRES GENERALLY LOCATED SOUTH OF I-275 ON THE WEST SIDE OF U.S. 41, FROM PDMU TO THE PDEZ ZONING DISTRICT, FOR A TOTAL ACREAGE OF 155.7± ACRES; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 155.7± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (155.7± ACRE REZONE; 254.7± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA C).

Planning Commission recommended ADOPTION.

[BC20110505DOC021](#)

and

PDEZ-08-22(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA D

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 57 ACRES GENERALLY LOCATED SOUTH OF BUCKEYE ROAD ON THE EAST SIDE OF U.S. 41, NORTH OF 113TH STREET EAST, FROM LM TO THE PDEZ ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 57± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (57± ACRE REZONE; 190± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA D).

Planning Commission recommended ADOPTION.

[BC20110505DOC022](#)

Mr. McClash suggested adding **Stipulation A.3:**

The Port Encouragement Zone, Planned Development approval with a general development plan has been initiated by the Board of County Commissioners to encourage land uses that complement Port Manatee. Land uses approved herein are intended to encourage uses that are or may be Port Related. Any uses not listed but consistent with a zoning category, may be approved subject to the procedures in the Land Development Code (LDC).

Discussion: Intention to have uses that complement the Port; cannot support a junkyard next to sensitive habitat; several owners awaiting changes in Area C; can address intended uses later; adding AG zoning to the PDEZ and adding expanded uses; etc.

John Osborne, Building and Development Services Department, stated a work session is appropriate due to discussion of expanding the Encouragement Zone beyond the Port Manatee area.

Sarah Schenk, Deputy County Attorney, noted comments are consistent with the Land Development Code (LDC), but if there are concerns with specific uses, they should be removed.

Motion was made by Mr. Bustle and seconded by Mrs. Hayes, to continue the public hearing for **PDEZ-08-19(Z)(G)(R2) – Area A, PDEZ-08-20(Z)(G)(R2) – Area B; PDEZ-08-21(Z)(G)(R2) – Area C, and PDEZ-08-22(Z)(G)(R2) – Area D** to June 2, 2011.

Discussion: Area C natural buffers for storms; development sensitive to environmental areas; property rights; Board wanted the PDEZ to encourage particular uses; etc.

The motion carried 7 to 0.
(Note: Further action later in the meeting)

ZONING

Public hearing (Notices published) was held to consider

PDC-06-55(P)R2) – UNIVERSITY PARK CENTER MASTER SIGNAGE PLAN

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE PDC-06-55(P)(R) PERTAINING TO STIPULATIONS OF APPROVAL REGARDING SIGNS TO ALLOW A MASTER SIGN PLAN FOR UNIVERSITY PARK CENTER, PROVIDING FOR SPECIFIC APPROVALS AS APPLICABLE; APPROVING A MASTER SIGN PLAN. UNIVERSITY PARK CENTER IS GENERALLY LOCATED NORTHWEST OF UNIVERSITY PARKWAY AND HONORE AVENUE INTERSECTION (31.13± ACRES); SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended ADOPTION.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mrs. DiSabatino moved to APPROVE Manatee County Zoning Ordinance **PDC-06-55(P)(R2)**; and APPROVE the Preliminary Plan with conditions; for a project previously granted Special Approval in: (1) The MU (Mixed Use) Future Land Use Category; (2) the WPE (Watershed Protection – Evers) Overlay District; and (3) the Entranceway; ADOPT the Findings for Specific Approval; and GRANT Specific Approval for alternatives to Sections 737.5.3, 737.5.3.3, 737.5.3.4.5, 724.6.4.1.8.1, 724.6.4.1.8.3, 724.6.4.2.1, 724.6.4.1.8.6, and 724.6.4.1.1 of the Land Development Code, as recommended by the Planning Commission. The motion was seconded by Mr. Gallen and carried 7 to 0.

[BC20110505DOC023](#)

COMPREHENSIVE PLAN AMENDMENT

Public hearing (Notices published) was held to consider

ORDINANCE 11-01

TRANSMITTAL OF A PLAN AMENDMENT OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE 89-01, AS AMENDED, (THE MANATEE COUNTY COMPREHENSIVE PLAN); PROVIDING FOR A TEXT AMENDMENT TO THE DEFINITION OF THE MANATEE COUNTY COMPREHENSIVE PLAN, TO UPDATE THE DEFINITION OF THE **COASTAL HIGH HAZARD AREA (CHHA)** AND THE **CEA (COASTAL EVACUATION AREA)** AND MAP AMENDMENTS TO THE CHHA, CEA, AND THE **COASTAL PLANNING AREA (CPA)** LOCATED IN THE COASTAL ELEMENT FOR CONSISTENCY WITH THE 2010 STATEWIDE REGIONAL EVACUATION STUDY FOR TAMPA BAY PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

(PA-11-01: TEXT AMENDMENT AND MAP AMENDMENT)

Planning Commission recommended TRANSMITTAL.

John Neal requested the County hold a work shop to discuss the map and text amendments. Classifying certain areas as unbuildable will discourage growth.

Discussion: Map is consistent with the approved Tampa Bay Regional Planning Council (TBRPC) maps; use most recent data when making a decision; defer; change in definition; limit development in flood areas; something of this magnitude should be discussed at a work session; eventually the map will have to be adopted; etc.

Ms. Schenk explained this is a large scale Comprehensive Plan amendment, and the Ordinance must be transmitted to the Department of Community Affairs, prior to adoption by the Board.

Mr. Osborne noted when TBRPC issues a new map, it is soon thereafter adopted by the County.

Discussion: SLOSH models have changed; maps presented at the Council of Governments; rely on the most relevant data; not under deadline to transmit today; have work session after transmittal; etc.

Ms. Schenk clarified decisions on rezones and preliminary site plans would be based on current codes. Amendments to the Comprehensive Plan would be based on the new maps.

Based upon the evidence presented and comments made at the public hearing, upon technical support documents, the action of the Planning Commission, and finding the request to be in compliance with the provisions of *Chapter 163, Part II, Florida Statute*, and Rule 9J-5, Florida Administrative Code, and CONSISTENT with the Manatee County Comprehensive Plan, Mr. McClash moved to TRANSMIT Manatee County **Plan Amendment PA-11-01/Ordinance 11-01**, as recommended by the Planning Commission. The motion was seconded by Mr. Chappie and carried 7 to 0. [BC20110505DOC024](#)

ZONING

Public hearing (Notices published) was held to consider

Z-08-06 TARMAC AMERICA LLC

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 4.5 ACRES ON THE WEST SIDE OF 33RD STREET EAST, SOUTH OF 63RD AVENUE EAST, EAST OF U.S. 301 AT 6520 33RD STREET EAST, BRADENTON FROM THE LM TO THE HM ZONING DISTRICT, WHICH WOULD ENABLE THE PROPERTY TO BE DEVELOPED WITH USES ALLOWED IN THE HM ZONING DISTRICT SUBJECT TO THE DEVELOPMENT STANDARDS IN THE LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended DENIAL.

Porter Hardy, In-House council for Tarmac, utilized a slide presentation to review the request, and stated the applicant has complied with the requirements of the Comprehensive Plan.

Ms. Schenk noted the request is for a rezone, not a site plan, and use restrictions are not limited to a concrete batch plant.

Katie LaBarr, Building and Development Services Department, utilized a slide presentation to review the Future Land Use Category, the current zoning, and uses of surrounding properties. The parcel was previously zoned M-2, but was rezoned to LM. The HM zoning is consistent with development patterns in the area. The property borders a single-family residence to the south, which is for sale and being marked as eligible for HM and LM zoning districts. A more detailed traffic analysis would be submitted with a future site plan.

Discussion: Zoning of surrounding properties; LDC provisions; nothing in the Code that says staff should have to make a recommendation; meeting procedures; etc.

Ms. Schenk explained the applicant can request rezoning if they demonstrate the request is consistent with the Comprehensive Plan by substantial evidence. As long as other zoning districts are also consistent with the Comprehensive Plan, the applicant is not entitled to one particular zoning district.

Discussion: If already zoned HM, applicant would not have to request a rezone; etc.

David Quinn (slide presentation), **Loretto Sadkin** (slide presentation), **Mark Lewis** (slide presentation), **Debby Landes**, and **William Wheeler** opposed the rezone and expressed

concerns regarding surrounding zoning districts, possible uses in the HM zoning district, loss of quality of life, possible public safety and health issues, and large-truck traffic.

Thomas Murphy and **Steven Williams** support the request, and noted Tarmac's commitment to safety and the community.

Mrs. DiSabatino, Mr. Chappie, and Ms. Whitmore all indicated that they did not comment on emails and inquiries by citizens regarding the hearing.

Ms. LaBarr reiterated the request is for a straight rezone from LM to HM, and the uses considered would all be allowed in the HM zoning district. The information presented by the residents appeared factual in nature. Section 502.5.6 of the LDC requires staff to prepare a report and make recommendations. Factors for review and adoption of the request are included in the staff report. The request meets the requirements of the LDC and Comprehensive Plan.

Mr. Porter cited case study, and noted it is the applicant's burden to show compliance with the Comprehensive Plan. The Board must show there is competent and substantial evidence to deny the request, based on facts. Site plan approval would follow the rezone. The site is not suited for many of the uses allowed in the HM zoning district.

Discussion: Adverse impacts to traffic, health, safety and welfare; other suitable locations; expert testimony of residents; not compatible with existing development patterns; no change in conditions to constitute a need for a concrete batch plant; quality of life; etc.

Motion was made by Mr. McClash and seconded by Mrs. DiSabatino, to DENY Ordinance **Z-08-06** based on facts placed into the record and not being consistent with factors required to be addressed under Section 504.5 of the Land Development Code.

Discussion: Environmental effects; drainage into Pearce Drain; trend is toward residential; support urban infill; traffic on nearby roadways; proximity of school; changes to the Comprehensive Plan regarding HM; no entitlements; etc.

Mr. McClash clarified the intent of the motion is to DENY based upon the evidence submitted at the public hearing, finding the request to be **INCONSISTENT** with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, specifically factions in Section 504.5 of the LDC. Mrs. DiSabatino agreed to the clarification, and the motion carried 7 to 0. [BC20110505DOC025](#)

Recess/Reconvene. All members present except Mr. McClash.

PORT MANATEE ENCOURAGEMENT ZONE (Continued)

Public hearing was reopened for

PDEZ-08-19(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA A

Motion was made by Mr. Bustle, seconded by Mr. Chappie, and carried 6 to 0, to rescind the previous motion to continue **PDEZ-08-19(Z)(G)(R2) – Area A, PDEZ-08-20(Z)(G)(R2) – Area B; PDEZ-08-21(Z)(G)(R2) – Area C, and PDEZ-08-22(Z)(G)(R2) – Area D.**

Karen Stewart, Neighborhood Services Department, explained a particular parcel in Area A is undergoing the Economic Development Incentive process, and if action is not taken today, it could jeopardize the project. The business is Port related, but remains confidential.

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be **CONSISTENT** with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mr. Chappie moved to **ADOPT**

Manatee County Zoning Ordinance **PDEZ-08-19(Z)(G)(R2)**; APPROVE the revised General Development Plan with Stipulations A.1-2 and B.1-3; GRANT Special Approval for a project partially within the Entranceway, for projects exceeding a floor area ratio (FAR) of 0.35 and for the potential of up to 30,000 square feet in retail sales for parcels that meet commercial locational criteria; ADOPT the findings for Specific Approval; and GRANT Specific Approval for a project that was previously GRANTED Specific Approval for an alternative to Section 702.5.2.3 of the Land Development Code, as recommended by the Planning Commission. The motion was seconded by Mrs. DiSabatino and carried 6 to 0. [BC20110505DOC019](#)

(Note: Further action later in the meeting)

Motion was made by Mr. Bustle, seconded by Mrs. DiSabatino, and carried 6 to 0, to continue the public hearings for **PDEZ-08-20(Z)(G)(R2) – Area B**; **PDEZ-08-21(Z)(G)(R2) – Area C**, and **PDEZ-08-22(Z)(G)(R2) – Area D** until June 2, 2011.

ZONING

Public hearing (Notices published) was held to consider

PDC-11-05(G) PALEY PLACE

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A GENERAL DEVELOPMENT PLAN FOR A 180,000-SQUARE-FOOT COMMERCIAL SHOPPING CENTER AND MASTER SIGN PLAN ON APPROXIMATELY 23.4 ACRES ON THE SOUTH SIDE OF S.R. 70 AND WEST SIDE OF LOCKWOOD RIDGE ROAD, APPROXIMATELY 347 FEET WEST OF THE INTERSECTION OF S.R. 70 AND LOCKWOOD RIDGE ROAD, BRADENTON; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION, AND PROVIDING AN EFFECTIVE DATE. Planning Commission recommended APPROVAL with Stipulations.

A revised motion and staff comments were submitted with the update agenda memorandum.

Betsy Benac, Benderson Development, used a slide presentation to review the location of the project, drainage facilities, and a proposed site plan. Phase One will consist of the Publix Supermarket, and smaller retail will follow in Phase Two. The applicant is working with Mr. and Mrs. Brand, owners of an adjacent parcel, to resolve concerns regarding the fence and drainage. Access will be along S.R. 70, Lockwood Ridge Road, and 39th Street East via Bank of America. The applicant is working with staff to make improvements to the 39th Street East and S.R. 70 intersection within the existing right-of-way.

Derrick Watts, Benderson Development, continued the slide presentation and reviewed the location and types of signs, as well as architectural elements to be incorporated into the design. (Enter Mr. McClash during presentation)

Ms. Benac requested revised language for **Stipulation A.5**, changing the first sentence to read:
Tractor trailer or semi-truck deliveries and the use of noisome forklifts or other noisome loading devices outdoors and to the rear of the buildings closest to the residential neighborhood south of the site shall be generally limited to between the hours of 7:00 a.m. and 10:00 p.m.

Stephanie Moreland, Building and Development Services Department, used a slide presentation to review the request.

Sage Kamiya, Public Works Department, explained the traffic study will be reviewed with the final site plan to maximize the right-of-way. Two northbound lanes will be added to the intersection at 39th Street East and S.R. 70 to help address concerns. There was consideration to move the access further south, but that would depend on the neighbor to the south.

Thomas Gerstenberger, Public Works Department, displayed a site plan and noted a drainage ditch along the southern boundary. A 50 percent reduction is required, and the drainage design must meet Southwest Florida Water Management District (SWFWMD), Florida Department of Transportation (FDOT) and County regulations. There is a single discharge point from the eastern retention pond across S.R. 70 to the Pearce Drain. There will be no runoff into the ditch.

Ms. Moreland did not recommend **Stipulation A.5** as requested by the applicant.

Mr. McClash requested inserting the following language to staff's **Stipulation A.5**:

During the period of time between 10:00 p.m. and 7:00 a.m. ~~there shall be no delivery,~~
there shall be no routine or scheduled delivery,...

Discussion: Post Office at 39th Street East causes traffic backups; apply proper standards for intersection; additional outparcels; move access further south at Post Office; limit the number of conflicts; southbound turn lane; U-turn capabilities; right turn only out of the Post Office; applicant does not own parcel to the south to align the southern access at the Post Office; etc.

Ms. Benac noted discussions were held with the Brands regarding access issues to 39th Street East. A traffic study will be submitted with the final site plan. There are alternatives to exit the project and head east on S.R. 70.

William Wheeler expressed concern regarding adverse effects of additional traffic, noise, and lighting and requested a fence around the retention pond.

Ms. Benac stated the applicant agreed to Mr. McClash's revised language to **Stipulation A.5**.

Ms. Moreland explained the lighting issues raised by Mr. Wheeler will be addressed with the final site plan. There is a regulation in the franchise agreements for solid waste pick-up to be between the hours of 5:00 a.m. and 7:00 p.m.

Mr. Kamiya clarified the ideal location for the access on 39th Street East lies to the south, but is contingent on the purchase of the property.

Mr. Gerstenberger stated a fence is not required around the perimeter of a retention pond if the slope of the pond is four feet horizontally and one foot vertically.

Ms. Benac explained the proposed alignments for the 39th Street East access were encroaching on Mr. Brand's residence. The final site plan has been submitted, and applications have been submitted to FDOT and SWFWMD. FDOT has 100 percent funding for improvements to the intersection of S.R. 70 and Lockwood Ridge with dual southbound left turn lanes.

Mrs. Hayes noted communication with a resident, and his issues have been addressed.

Mr. McClash submitted a new **Stipulation D.3**:

The intersection at 39th Street East and S.R. 70 shall be evaluated, and an acceptable plan, taking into consideration the safety and volume issues, shall be resolved prior to Phase Two of the preliminary site plan approval.

Discussion: Access should be designed properly; add perimeter landscaping to pond; existing Stipulation D.3 is adequate; 39th Street East is a through street; developer should not be responsible for entire intersection; etc.

Ms. Schenk clarified the request is for a general development plan and a traffic study is not required at this time.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mr. Bustle moved to APPROVE the General Development Plan PDC-11-05(G) with Stipulations A.1-10, B.1-2, C.1 and D.1-3; and GRANT Special Approval for a non-residential project: (1) Exceeding 150,000 square feet in the R/O/R Future Land Use Category and (2) 30,000 square feet in the RES-6 Future Land Use Category; ADOPT the findings for Specific Approval; and GRANT Specific Approval for alternative to Sections 724.6.4.1.1, 724.6.4.1.8.2, 724.6.4.1.8.6 (1-11), 724.6.4.2.1, and 724.6.2.5 of the Land Development Code, as recommended by the Planning Commission, including the changes in the update memorandum, and to Stipulation A.5. The motion was seconded by Mrs. Hayes and carried 7 to 0. [BC20110505DOC026](#)

Recess/Reconvene. All members present.

Public hearing (continued from 4/7/11) was held to consider

PDR-11-01(Z)(P) LAND EXPERTS, INC., MANAGING MEMBER OF TAMPA BAY EQUITY FUND LLC/WILDERNESS CROSSING (AKA MAPLE LEAF)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 37.29 ACRES LOCATED ON THE NORTH SIDE OF UPPER MANATEE RIVER ROAD, APPROXIMATELY 1.5 MILES WEST OF RYE ROAD NORTHEAST, AT 14641 UPPER MANATEE RIVER ROAD, FROM A-1 TO THE PDR ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 68 SINGLE-FAMILY DETACHED RESIDENTIAL UNITS; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended ADOPTION with Stipulations.

Kathleen Thompson, Building and Development Services Department, stated the word “dedication” will be changed to “reservation” in **Stipulation A.3**, regarding right-of-way on Williams Road.

Pete Logan, Medallion Homes, explained the original project was approved for 28 single-family homes and most of the infrastructure is in place. The applicant is requesting a change from 28 lots to 68; the smallest lot is 80 feet wide by 177 feet deep.

Ms. Thompson noted the applicant is requesting a reduction of open space from 25 percent to 13.5 percent. Staff has agreed to the reduction due to the large-sized lots and sufficient setbacks. There will be an additional 25 feet of reservation along William Road that will appear as open space.

Discussion: Open space; 15-foot rear-yard setbacks; compromise number of lots; etc.

Mr. Logan displayed a site plan. The building footprint on the site plan is for the largest model available.

Discussion: No green space; rework with fewer lots; planned development is supposed to be a superior product; increase the open space to 25 percent; setback variance; setting a precedent by reducing green space; etc.

Ms. Thompson stated the setbacks along Williams Road were reduced to 15 feet, due to the reservation of right-of-way.

Mr. Logan stated there is no way to reduce the number of lots. The larger lots account for a significant amount of green space even though it is within a lot, as opposed to common area.

Lisa Barrett, Building and Development Services Department, clarified the setbacks for a planned development are not established in the LDC, but on the site plan. Other projects in the County have 15-foot setbacks.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and Manatee County Land Development Code, as conditioned herein, Mrs. Hayes moved to ADOPT Manatee County Zoning Ordinance **PDR-11-01(Z)(P)**; APPROVE the Preliminary Site Plan with STIPULATIONS A.1-4, B.1-2, C.1-2, and D.1; GRANT Special Approval for a project exceeding one dwelling unit per acre in the UF-3 Future Land Use Category and in the Coastal Evacuation Area (CEA); ADOPT the Findings for Specific Approval; and GRANT Specific Approval for alternatives to Sections 603.7.4.2, 715.3.4, and 715.3.2.2 of the Land Development Code as recommended by the Planning Commission, with the change in Stipulation A.3 from “dedication” to “reservation” of right-of-way along Williams Road. The motion was seconded by Mr. Bustle.

A motion to amend the motion was made by Mr. McClash, to add **Stipulation A.5** to require the developer to have 25 percent open space as required by the Land Development Code. The motion was seconded by Mrs. DiSabatino.

Discussion: Previous developers unable to make the project work; remove corner lots to create open space; no shortage of buildable lots; etc.

Ms. Schenk stated the effect of the amended motion is to **deny** Specific Approval for Section 603.7.4.2 of the LDC.

Motion was made by Mr. Bustle, seconded by Mrs. Hayes, and carried 7 to 0, to call the question.

The motion to amend **failed** 3 to 4, with Mr. Bustle, Mr. Chappie, Mrs. Hayes, and Ms. Whitmore voting nay.

The motion to ADOPT **PDR-11-01(Z)(P)** carried 4 to 3 with Mrs. DiSabatino, Mr. Gallen, and Mr. McClash voting nay. [BC20110505DOC027](#)

Public hearing (continued from 4/7/11) was held to consider

PDR-10-11(Z)(P) MML II LLC & MEDALLION COUNTRY CLUB LWR LLC/CANOE CREEK
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; REZONING APPROXIMATELY 304.09 ACRES ON THE NORTH AND SOUTH SIDES OF GOLF COURSE ROAD AROUND ITS INTERSECTION WITH JIM DAVIS ROAD AT 14355 GOLF COURSE ROAD, PARRISH, FROM **A/NCO** TO THE **PDR** ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY; APPROVING A PRELIMINARY SITE PLAN FOR 896 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended ADOPTION with Stipulations.

Revisions to the staff report, stipulations, and the motion, as well as a revised ordinance were submitted with the agenda update memorandum.

Pat Neal, applicant, submitted a booklet. Prices in Canoe Creek will start at \$110,990. Neal Communities is partnering with the Boys and Girls Clubs and .0025 percent of all sales in Canoe Creek for the next 50 years will go to the Boys and Girls Clubs of Manatee County.

Misty Servia, King Engineering, identified the location of the project and surrounding properties. She discussed density, open space, amenities, and recreational opportunities. There is 50-foot-wide buffer along Golf Course Road. She referred to the site plan and pointed out access points. A multi-purpose trail is proposed along Golf Course Road. Adequate water, sewer, and reclaimed water are available.

Chris Bryant, ECO Consultants, referred to the existing condition habitat map and photographs in the booklet, and noted previous modifications to the site. The project will impact three of the wetland areas, totaling 2.2 acres, which have been degraded and are non-viable. The applicant will provide a 1.25-acre mitigation area in the southeast corner adjacent to Gamble Creek, providing an elevated access for wildlife to the mitigation area.

Leisa Weintraub, Neal Communities, reviewed amenities and facilities that will be provided.

Bob Schmitt, Building and Development Services Department, utilized a slide presentation to review the request.

Mr. Gerstenberger referred to an aerial in the agenda package and identified the various crossings over Gamble Creek.

Mr. Neal explained Jim Davis Road will not be located in the floodplain, and the bridge was recently rebuilt over Gamble Creek.

Mr. Schmitt explained the Large Project Application (LPA) is a provision that allows for more scrutiny when a large project does not meet the criteria for a DRI.

Joel Christian, Building and Development Services Department, explained State law has preempted language in the LDC regarding mitigation. The Comprehensive Plan has been updated and staff is in the process of updating the wetland protection policy in the LDC. The County has the ability to regulate impacts on wetlands, but is preempted by the State in determining what is a wetland and the amount of mitigation required.

Discussion: Which provisions for wetlands need to be changed in the LDC; pending legislation; wetland work session; state mandated changes; density and compatibility; protecting waterways; flooding along the creek; large project; sprawl; activity centers; etc.

Mr. Neal responded to concerns and noted the new housing model is popular. The project provides internal recreation, and requested sidewalks will be installed outside the community to the west of Gamble Creek.

Ms. Servia addressed Comprehensive Plan Policy 2.1.2.7, and noted the development is timely and maximizes the use of existing infrastructure. She submitted a portion of the Character Compatibility Study and an aerial of surrounding commercial projects.

Mr. Gerstenberger referred to the habitat aerial in the booklet. There are 11 lots in the 100-year floodplain, and Stipulation D.1 requests a Conditional Letter of Map Revision through FEMA, to address concerns. Stipulation A.4 requests continuation and floodplain compensation be provided for improvements at Golf Course Road crossing at Gamble Creek. There is a joint watershed study with SWFWMD, which should be adopted by the end of this year. The realignment of Jim Davis Road will not be in the 100-year floodplain.

Dale Weidemiller, Neal Communities, stated plans are based on market studies, and the preliminary traffic study shows the development will not contribute to traffic on Jim Davis Road. Lighting issues on the bridge are a problem, but not the responsibility of the applicant.

Based up on the staff report, evidence presented, comments made at the public hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mr. Bustle moved to ADOPT Manatee County Zoning Ordinance **PDR-10-11(Z)(P)**; and APPROVE the Preliminary Site Plan with Stipulations A.1-4, B.1, C.1-7, D.1, and E.1-4; GRANT Special Approval for a project: (1) exceeding a gross density of one dwelling unit per acre and a net density of three dwelling units per acre in the UF-3 FLUC; (2) adjacent to a perennial stream; (3) partially in the Coastal High Hazard Area (CHHA), and (4) partially in the Coastal Evacuation Area (CEA); ADOPT the Findings for Specific Approval; GRANT Specific Approval to LCD Sections 604.10.3.5.1 (Roadway Buffer), 604.10.3.3.k (Buffer Setback), 604.10.3.6 (Greenbelt Buffer - Varying Width), 603.7.4.5 (Greenbelt Buffer - Landscaping Adjacent to Ponds and Wetlands), 907.9.1.3 (Interneighborhood Ties), 907.9.4.1 (Cul de Sac Longer than 800 Feet), 604.10.4.3.2.b(1) (Trails in Buffers), 702.6.7 (Agricultural Setback), 702.6.10 (Wetland Buffer Setback), 712.2.8 (second means of access), and the minimum width required for alleys in Section 201; as recommended by staff. The motion was seconded by Mrs. Hayes and carried 5 to 2, with Mr. Gallen and Mr. McClash voting nay. [BC20110505DOC028](#)

COMMISSIONERS' COMMENTS

Fertilizer Ordinance

Ms. Whitmore noted a draft of the Fertilizer Ordinance was given to Representatives Greg Steube and Jim Boyd, who expressed concern regarding certain elements.

Discussion: Sale of products during the rainy season; based on a model prepared by the Tampa Bay Estuary Program; still a draft; etc. [BC20110505DOC029](#)

Public Hearing Process

Ms. Whitmore requested a change to the public hearing process, to allow Commissioners to ask questions prior to public comment.

Discussion: Applicant has the right to respond to concerns prior to rebuttal; etc. [BC20110505DOC029](#)

Port Manatee

Mr. Bustle announced the meeting with Governor Rick Scott scheduled for May 10, has been cancelled. [BC20110505DOC029](#)

Value Adjustment Board

Mrs. DiSabatino praised Mr. Chappie on the way he conducted the meeting. [BC20110505DOC029](#)

Economic Development Incentives

Mrs. DiSabatino submitted an article in the *BIZ(941)* Magazine regarding incentive packages for businesses. [BC20110505DOC030](#)

Real Estate Market

Mrs. DiSabatino submitted a recap of sales, and noted sales over last month are down, and prices are down. [BC20110505DOC031](#)

Flood Insurance

Mrs. DiSabatino noted flood insurance policies must be in effect 30 days prior to the start of hurricane season. [BC20110505DOC032](#)

(Depart Mrs. Hayes)

Foreclosures

Mrs. DiSabatino submitted an article from FloridaRealtors.org regarding new guidelines for banks to follow regarding the foreclosure process. [BC20110505DOC033](#)

PORT MANATEE ENCOURAGEMENT ZONE (Continued)

Public hearing was reopened to consider

PDEZ-08-19(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA A

Mr. McClash displayed an aerial from the agenda package and requested the junkyard designation be limited to Parcel 5931.1010/9 (circled on the aerial), which was previously used in a similar manner. Other parcels border environmentally sensitive lands.

Ms. Schenk noted a motion to reconsider is required by the prevailing side, either at this meeting, or the next regular meeting.

Discussion: Applicant needs an answer today; etc.

Recess/Reconvene. All members present except Mrs. Hayes.

Motion was made by Mr. Gallen and seconded by Mrs. DiSabatino, to reconsider the adoption of **PDEZ-08-19(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA A.** The motion carried 5 to 1, with Mr. Chappie voting nay.

Mr. Osborne noted the staff report contains a list of potential uses to be added to the PDEZ area and an additional use in the IH Future Land Use Category of the GDP-PDEZ Area A, would be junkyards. The definition of junkyards can mean a variety of recycling facilities.

Motion was made by Mr. McClash to allow junkyards as a use on Parcel 5931.1010/9. The motion **died** due to lack of a second.

Ms. Stewart acknowledged the action proposed would be positive for the applicant.

Motion was made by Mr. McClash to ADOPT **PDEZ-08-19(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA A,**
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS.....; PROVIDING FOR THE REZONING OF APPROXIMATELY 26.2 ACRES LOCATED AT 13838 HARLEE ROAD, FROM HM TO THE PDEZ ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THE 26.2 ± ACRES AND ADD AN ADDITIONAL USE TO THIS SITE (DP 593110109) ALONG WITH A MIXTURE OF POTENTIAL INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES ON THE ENTIRE SITE OF AREA A; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

(26.2 ± ACRE REZONE; 296.2 ± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA A) with the only addition for a junkyard designation on Parcel 5931.1010/9. The motion was seconded by Mr. Gallen. Following a brief discussion, the motion carried 6 to 0.

[BC20110505DOC019](#)

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Adj: 4:58 p.m.
/vj/vt

Minutes Approved: June 21, 2011