

AUGUST 4, 2011

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, at 9:03 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:

Sarah Schenk, Assistant County Attorney  
Susan G. Romine, Board Records Director,  
representing R. B. Shore, Clerk of Circuit Court

Invocation by Pastor Tom Winter, Elwood Park Baptist Church.

All witnesses and staff giving testimony were duly sworn.

AGENDA

Agenda of August 4, 2011, and agenda update memorandum.

[BC20110804DOC001](#)

CONSENT AGENDA

Motion was made by Mrs. DiSabatino, seconded by Mrs. Hayes, and carried 7 to 0, to approve the Consent Agenda incorporating the language in the recommended motions in the agenda memoranda (as may have been amended in the supplemental agenda). Items APPROVED:

CLERK'S CONSENT CALENDAR

[BC20110804DOC002](#)

BONDS

33rd Street Condos

**Release** Agreement Warranting Required Improvements **and** Defect Security (Cashier's Check 702196311), \$8,622.58.

[BC20110804DOC003](#)

Heritage Harbour, Phase 1, Subphase E, Construction Phases 1, 2 & 3

1. **Release** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements – Final Lift of Asphalt, \$308,044.16.
2. **Accept** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements with Lennar Homes LLC – Final lift of Asphalt. This agreement will be for a **one-year extension** (expiring 8/24/12) secured by reviously accepted Letter of Credit FGAC-05333, \$308,044.16.
3. **Accept** Performance Bond (Amendment 7 to Letter of Credit FGAC-05333) **extending** the expiration date to August 24, 2012.

[BC20110804DOC004](#)

Heritage Harbour, Phase 1, Subphase E, Construction Phase 3

1. **Release** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements, \$51,253.75.
2. **Accept** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements with Lennar Homes LLC – Roadway Infrastructure. This agreement will be for a **one-year extension** (expiring 8/24/12) secured by previously accepted Letter of Credit FGAC-08035, \$51,253.75.
3. **Accept** Performance Bond (Amendment 2 to Letter of Credit FGAC-08035) **extending** the expiration date to August 24, 2012.

[BC20110804DOC005](#)

**Oakhurst Subdivision**

Release Agreement Guaranteeing Required Improvements and Temporary Construction Easement for Private Improvements – Landscaping and irrigation, and Performance Bond (Letter of Credit 1017, and any associated amendment[s]), \$396,399.11. [BC20110804DOC006](#)

**Oakleaf Hammock, Phase III**

Release Agreement Warranting Required Improvements – Water and Wastewater only, and Defect Security (Surety Bond 8836098-M), \$69,168.67. [BC20110804DOC007](#)

**River Sound**

Release Agreement Warranting Required Improvements – Morgan Johnson Off-Site Force Main, and Defect Security (Surety Bond SU5024808 and any associated rider[s]), \$20,034.50. [BC20110804DOC008](#)

**REFUNDS**

Shelly, Autumn N. – Utility Refund \$554.28

**WARRANT LIST**

July 26, 2011, through August 3, 2011 [BC20110804DOC009](#)  
[BC20110804DOC010](#)

**ACCEPT**

1. **Copperstone Community Development District** – Resolution 2011-06 setting FY 2011-12 meeting dates. [BC20110804DOC011](#)
2. **Southern Manatee Fire & Rescue District** – 2009-10 Annual Audited Financial Reports. [BC20110804DOC012](#)
3. **Tax Collector** – 2010 Tax Roll Recapitulation Report of Errors and Insolvencies (E & I).

**Contract Documents** (Pursuant to Manatee County Code, Chapter 2-26): [BC20110804DOC013](#)

1. **Cortez Estates Water Main Replacement Project** – Change Order 1 to Contract with Cimarron Construction, Inc.; decrease of \$34,893, adjusted total \$268,296.57. [BC20110804DOC014](#)
2. **Old Manatee County Public Safety Center 3rd Floor HVAC and Mechanical Upgrades** – Change Order 1 to Contract with Air Mechanical and Service Corporation, increase \$22,369.49, adjusted total \$189,807.49. [BC20110804DOC015](#)
3. **Professional Environmental Services** - Addendum 1 to Agreements with GLE Associates, Inc., Professional Service Industries, Inc., and URS Corporation Southern extending the Agreements one year (10/27/11-10/26/12). [BC20110804DOC016](#)

**APPROVE, RATIFY, AND CONFIRM**

Interlocal Agreement with Sarasota County to reimburse Manatee County with the State 911 fees received on behalf of its Longboat Key residents (corrected document from 4/26/11). [BC20110804DOC017](#)

**COUNTY ADMINISTRATOR****TARA DRI – NOTICE OF CLAIM**

Execution of Letter rejecting offer to compromise the claim filed by Lake Lincoln LLC under the Bert J. Harris, Jr., Private Property Rights Protection Act. [BC20110804DOC018](#)

**FLORIDA PLANNING AND ZONING ASSOCIATION**

Approval of payment for membership in the Florida Planning and Zoning Association for the Manatee County Planning Commission members, \$270. [BC20110804DOC019](#)

**COMMUNITY CARE FOR THE ELDERLY**

Execution of Non-Profit Agency Funding Agreements with Meals on Wheels Plus of Manatee, Inc., for services for the Community Care for the Elderly Program:

1. **Adult Daycare**, \$85,388; and [BC20110804DOC020](#)
2. **Home Delivered Meals**, \$81,675. [BC20110804DOC021](#)

**STREET NUMBERING WAIVER**

Approval of request for a waiver of the street numbering requirement, to allow named streets in **Esplanade at Lakewood Ranch**, a residential subdivision. There is a finding of fact by the Board of County Commissioners that emergency service response will not be compromised by the granting of this waiver. [BC20110804DOC022](#)

(End Consent Agenda)

**LOCAL DEVELOPMENT AGREEMENT**

Public hearing (Notices published) was opened to consider

**LDA-09-04(R) AMENDED LOCAL DEVELOPMENT AGREEMENT FOR SUMMER WOODS DEVELOPMENT** (CONTINUED TO SEPTEMBER 1, 2011)

REQUEST: APPROVAL OF A LOCAL DEVELOPMENT AGREEMENT PROVIDING FOR THE ISSUANCE OF A FIVE (5) YEAR CERTIFICATE OF LEVEL OF SERVICE COMPLIANCE; PROVIDING FOR DEDICATION OF RIGHT-OF-WAY; PROVIDING FOR DESIGN, PERMITTING AND CONSTRUCTION OF PROJECT ENTRANCE IMPROVEMENTS INCLUDING TURN LANES; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. THE LOCAL DEVELOPMENT AGREEMENT APPLIES TO SUMMER WOODS APPROVED AS PDR-09-14(Z)(P) (268.14± ACRES). THE PROPOSED USE OF THE PROPERTIES IS RESIDENTIAL DEVELOPMENT. PURSUANT TO EXISTING ZONING, SUMMER WOODS IS APPROVED FOR 562 RESIDENTIAL UNITS, EACH WITH A MAXIMUM HEIGHT OF 35 FEET.

Motion was made by Mrs. DiSabatino, seconded by Mrs. Hayes, and carried 7 to 0, to continue the public hearing for **LDA-09-04(R)** to September 1, 2011, at 9:00 a.m., or as soon thereafter as same may be heard. [BC20110804DOC023](#)

**ZONING**

Public hearing (Notices published) was held to consider

**Z-11-05 FM CAPITAL CITY CORPORATION**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, 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 0.93 ACRES AT THE NORTHEAST CORNER OF S.R. 70 (53RD AVENUE EAST) AND 30TH STREET EAST AT 2955 53RD AVENUE EAST, BRADENTON FROM THE **PDC** AND **RDD-6** TO THE **GC** ZONING DISTRICTS; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended APPROVAL.

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mrs. DiSabatino moved to ADOPT Manatee County Zoning Ordinance **Z-11-05**, as recommended by the Planning Commission. The motion was seconded by Mrs. Hayes and carried 7 to 0. [BC20110804DOC024](#)

Public hearing (Notices published) was held to consider

**Z-11-03 WARNER CROSSING LLC/REZONE**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, 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 12.8 ACRES LOCATED ON THE WEST SIDE OF UPPER MANATEE RIVER ROAD, NORTH OF THE INTERSECTION OF S.R. 64 AND UPPER MANATEE RIVER ROAD AT 1450 UPPER MANATEE RIVER ROAD, BRADENTON FROM THE **A** TO THE **GC** ZONING DISTRICT; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended APPROVAL.

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mrs. Hayes moved to ADOPT Manatee County Zoning Ordinance **Z-11-03**, as recommended by the Planning Commission. The motion was seconded by Mr. Bustle and carried 7 to 0. [BC20110804DOC025](#)

**LAND DEVELOPMENT CODE**

Public hearing (Notices published) was opened to consider

**ORDINANCE 11-29** (CONTINUED TO SEPTEMBER 1, 2011)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA; REGARDING LAND DEVELOPMENT; AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED); REGARDING CHAPTER 2, DEFINITIONS OF **REDEVELOPMENT AND VETERINARY CLINIC**; AMENDING SECTION 704.66 REGARDING **LOT DIMENSIONS OF SERVICE STATIONS AND OTHER GAS PUMP LOCATIONS**; AMENDING OTHER PROVISIONS AS NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended APPROVAL.

Mrs. DiSabatino questioned why the requirement for 150 feet of roadway frontage for establishments selling gasoline is being eliminated. Most establishments that sell gasoline are on corner lots, which require 150 feet of frontage along both streets.

John Osborne, Building and Development Services Department, reported the Land Development Code (LDC) requires 150 feet of frontage on a functioning classified roadway. If the requirement is eliminated, staff will look at surrounding uses and ensure that the LDC will protect residential areas from the impacts of larger gas stations.

Mr. McClash requested a briefing on removing the number of household pets that can be kept overnight in a veterinary clinic. He asked that a presentation be made on September 1, 2011.

Motion was made by Mr. Gallen, seconded by Mr. Bustle, and carried 7 to 0, to continue the public hearing for Ordinance 11-29 to September 1, 2011, at 9:00 a.m., or as soon thereafter as same may be heard.

[BC20110804DOC026](#)

**ZONING**

Public hearing (Notices published) was held to consider

**PDMU/PDC-98-04(P)(R6) THE WOODS OF MOCCASIN WALLOW LLC**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING AN AMENDED ZONING ORDINANCE AND REVISED PRELIMINARY SITE PLAN REDUCING A 50-FOOT-WIDE TREE PRESERVATION AND LANDSCAPE EASEMENT TO 40 FEET FOR LOTS 1 THRU 14, 16 THRU 18, 125, AND 126 OF RESIDENTIAL PHASES 1 & 2 IN THE WOODS OF MOCCASIN WALLOW DEVELOPMENT ON APPROXIMATELY 200.1 ACRES LOCATED AT 4219 AND 5205 MOCCASIN WALLOW ROAD AND 4610 81ST STREET EAST IN THE PDMU ZONING DISTRICT; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Staff recommended APPROVAL.

(Note: Advertised as PDMU-98-04(P)[R6])

Joel Christian, Building and Development Services Department, utilized a slide presentation to highlight the reduction of the tree preservation and landscape easement.

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, Mrs. DiSabatino moved to ADOPT Manatee County Zoning Ordinance **PDMU/PDC-98-04(P)(R6)**; amending Ordinance PDMU/PDC-98-04(P)(R4); GRANT Special Approval as previously granted for a project: (1) within an entranceway; (2) non-residential uses exceeding 150,000 square feet; (3) adjacent to a perennial stream; and (4) in the mixed-use future land use category; ADOPT the Findings for Specific Approval as previously

granted for the project; and GRANT Specific Approval for an alternative to Section 711.4.3 of the Land Development Code; and APPROVE the Revised Preliminary Site Plan, as recommended by staff. The motion was seconded by Mr. Bustle and carried 7 to 0. [BC20110804DOC027](#)

### COMPREHENSIVE PLAN AMENDMENT

Public hearing (Notices published) was held to consider

#### ORDINANCE 11-01

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 DEFINITIONS 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.

Based upon the evidence presented and comments made at the public hearing, upon the 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 Statutes, and Rule 9J-5, Florida Administrative Code*, and CONSISTENT with the Manatee County Comprehensive Plan, Mr. Gallen moved to ADOPT Manatee County Ordinance 11-01 (Plan Amendment **PA-11-01**), as recommended by the Planning Commission. The motion was seconded by Mr. Bustle and carried 7 to 0. [BC20110804DOC028](#)

### ZONING

Public hearing (Notices published) was opened to consider

#### PDR-11-03(Z)(P) SHUNN-SHION CHUNG/SPRINGFIELD SUBDIVISION

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 ±11.91 ACRES ON THE NORTH SIDE OF 25TH STREET EAST (LYNTNOR ROAD), APPROXIMATELY 2,380 FEET EAST OF 80TH AVENUE EAST (ROYAL PALM WAY), PARRISH FROM THE **A/NCO** TO THE **PDR/NCO** ZONING DISTRICT, RETAINING THE NORTH CENTRAL OVERLAY DISTRICT; AND APPROVAL OF A PRELIMINARY SITE PLAN FOR 26 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 APPROVAL with Stipulations.

New Stipulations **A.3** and **B.6**, a revised motion, and public comment letters were submitted with the agenda update memorandum.

Katie LaBarr, Building and Development Services Department, reviewed the location and explained since the Planning Commission hearing (7/14/11), the lots have been decreased from 26 to 23; therefore, Special Approval is no longer required.

**Marla Hough**, representing the applicant, submitted her resume and displayed a color rendering of the site, future land use map, zoning, aerial, preliminary site plan, and density handout to highlight the decrease in lots, density, and future land use designations.

Ms. Hough referred to the staff report to discuss how the area is transitioning:

**Page 3** - The subject property is located in an area that is transitioning from agricultural to residential use;

**Page 5** - The PDR zoning district better conforms to the RES-3 Future Land Use Category of the Comprehensive Plan than the existing A zoning;

**Page 13** - The character of this area is transitional from agricultural to low density residential...A large wet stormwater pond is shown along the west side of the site to provide a buffer to transition with that use. A dry retention pond is also located along the southeastern property boundary, providing for additional separation and transition from the residential development to agriculturally zoned properties; and

**Page 15** - The timing is appropriate given development trends in the area, currently agricultural land. This area is in transition from agricultural to low density residential.

Ms. Hough noted the project was heard on July 29, 2003, under less stringent rules. The plan has been modified as such: **(1)** dedication of 9.5 feet of right-of-way along 25th Street East; **(2)** addition of North Central Overlay District requirements (50-foot roadway buffer along 25th Street East and 20-foot landscape buffer along the property lines that do not abut a public roadway); **(3)** reduction of the number of units; and **(4)** expansion on the southern portion of the west property line for a larger buffer to the horse breeding farm.

Staff advised the applicant they did not depict the 30-foot waterfront setback on the lots abutting the stormwater pond, and lot lines were shown platted through the greenbelt buffer. Staff provided information at the Planning Commission that showed the lots abutting the site to the north and Parkwood Lake were designed so that the rear half of the lots discharged to a spreader swale that holds the filtration volume, but discharges the runoff above that volume to Springfield Subdivision. Staff also requested the applicant add sections along the north and west property lines. The plans reflect these changes, and the waterfront setback was added to the Preliminary Site Plan cover sheet.

The applicant is willing to forego the inter-neighborhood tie in turn for an emergency access only or eliminating the tie to address concerns from Parkwood Lake residents. Water and sewer are available, infrastructure is in place, and a traffic impact analysis was approved.

Ms. LaBarr used a slide presentation to review the following: reduction of lots from 26 to 23 (site plan has not been revised to reflect the reduction); gross density was decreased from 2.18 to 1.93 dwelling units per acre; intensity is higher near the thoroughfare and at the intersection of Old Tampa Road and U.S. 301; site is not within an area of known flooding nor a flood zone; no wetlands on site; roadway buffer; stormwater facilities; larger lots are proposed along 25th Street East; primary means of access from 25th Street East; inter-neighborhood tie to Parkwood Lakes; lot sizes; neighborhood meeting (4/12/11); and buffering. A negative aspect of the request is the compatibility of the proposed use with adjacent properties that have agricultural zoning. Mitigating factors include: several lots in the area are less than one acre; and the proposed buffers comply with North Central Overlay District (NCO) standards.

Discussion: Ex-parte communications; inter-neighborhood ties; density; NCO standards; the removal of the three lots will be reviewed at the final site plan; applicant has met burden of proof; how close is the site to the Coastal High Hazard Area; Sea Lake and Overland Surges from Hurricanes (SLOSH) Maps; no entitlements and a home can be built on land zoned agricultural; in 2003 the Board was concerned with community character and uniqueness; the project does not threaten the established homes; the inter-neighborhood tie provides a second access for safety reasons; "How Will We Grow"; the request is not compatible with established residences; traffic trips; etc.

Tony Rodriguez, Building and Development Services Department, reported the applicant completed a traffic impact statement, which reflects 26 p.m. peak-hour trips (due to the

reduction in units the trips would decrease to 23). The p.m., peak-hour count for 25th Street East is currently 59 vehicles per hour and 69 vehicles per hour on 80th Avenue East. The Level of Service D volume for roadways such as 25th Street East and 80th Avenue East would be 480 vehicles in the p.m. peak hours.

Ms. Hough explained a barn was buried in 2004 and there are plans to remove it.

**Charles Haynes**, representing the Parkwood Lakes Subdivision and the 25th Street East Homeowners, displayed two aerials, a comprehensive planning role handout, and a land use map to state the request is not consistent with the established neighborhoods and if approved, would set a precedent. He expressed concern with the inter-neighborhood tie and drainage issues near the site (depicted in photographs).

**Dick Eckenrod** noted the project does not meet the purpose and intent of Section 604.10 of the North Central Overlay District.

**Ann Lyon, Glyndell Hadaway, Heidi Daniels, Jan Bocchino, Vick Wilson, Virginia Dooley, Carla Odell**, representing Day Spring, **Ben Jordan**, and **Kathy Tushaus** spoke in opposition to the request. Concerns were: inconsistency and incompatibility with existing neighborhoods, additional traffic on 88th Avenue East, flooding, urban sprawl, and density.

Tom Gerstenberger, Public Works Department, displayed a slide presentation to discuss sheet flow issues and drainage flow on the site.

Discussion: Sheet flow issues on Old Tampa Road are being addressed; is the request compatible with the LDC; Bert J. Harris, Jr., Private Property Rights Protection Act; in agricultural zoning district one dwelling unit per acre is allowed; etc.

Mr. Rodriguez confirmed the project will have a diminished impact of traffic onto the local road network.

Ms. Hough stated the County has established 500 feet as the public notification radius for public hearings based upon the estimate of who is most directly affected by these processes. If public input from Parkwood Lakes property owners was not included, the bulk of the comments against the request came from well beyond the 500-foot radius (see exhibit). She noted Mr. McClash suggested altering the site plan to have only two lots accessing 25th Street East and a cul-de-sac of lots to the north that would tie to 88th Street East. The applicant would be agreeable to revising the site plan.

Discussion: Traffic signal at 80th Avenue East; Ms. Tushaus was present at the neighborhood meeting; should continue the item in order to allow the community and the applicant to reach common ground; staff would need to review the site plan and staff report; etc.

Ms. Hough requested a continuance in order to speak to neighbors.

Motion was made by Mr. McClash and seconded by Mrs. DiSabatino to continue the public hearing for **PDR-11-03(Z)(P)** to September 1, 2011, at 9:00 a.m., or as soon thereafter.

Discussion: A rezone does not guarantee approval even if it meets the general requirements; timing and compatibility should be considered; should not point out if a resident does not live within 500 feet of a project; questions in LDC Section 504.5 should be included in future staff report; residents wanting to protect their neighborhood (Comprehensive Plan Land Use Operative Provisions); compromise is needed; etc.

The motion carried 7 to 0.

[BC20110804DOC029](#)

Public hearing (Notices published) was held to consider

**PDO-11-11(G) PROGRESSIVE VETERINARY PRACTICES**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A GENERAL DEVELOPMENT PLAN ON APPROXIMATELY A 2.25 ACRE SITE TO BUILD AN 8,000± SQUARE-FOOT VETERINARY CLINIC; LOCATED ON THE NORTH SIDE OF S.R. 70 AT 10915 S.R. 70 EAST, APPROXIMATELY 1,375 FEET WEST OF LAKEWOOD RANCH BOULEVARD IN THE PDO/WP-E/ST ZONING DISTRICT; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE. Planning Commission recommended APPROVAL with Stipulations.

**Jennifer Yardy**, Braden Pines resident, requested keeping the native vegetation and trees that border the perimeter of the pond and potentially her property in place. She proposed that the fence be erected within the applicant's property line, which would leave a buffer of mature trees and vegetation. If the kennels are approved, property values could decrease.

Kathleen Thompson, Building and Development Services Department, reported the only outstanding issue is Stipulation A.2 (six-foot opaque fence).

**Robert Gause**, representing the applicant, used an aerial to point out the subject property, which was home to the former VFW Post Building (demolished in 2007). The final site plan approval is contingent upon the approval of the general development plan. The applicant plans to leave all the native vegetation along the side of the pond near the site and has agreed to remove the Melaleuca (Punk) trees and Brazilian Peppers. Trees and shrubs will be planted (Stipulation A.1) outside the 20-foot area along the drainage ditch, which is between the subject property and the home to the north to allow the County maintenance access.

He expressed concern that the six-foot opaque fence as recommended by staff will be subject to graffiti and possibly create a corridor that could be used for crime. The applicant requests Specific Approval of Land Development Code Sections 603.3.2 and 715.5 as recommended by staff and the **deletion** of Stipulation A.2.

While utilizing a slide presentation, Ms. Thompson reviewed reasons for recommending the six-foot opaque fence for additional screening and safety.

Discussion: No ex-parte communication; do not like PVC fences; dog kennels do not allow dogs out in yards anymore; need to compromise; fences do not help eliminate noise; adding more landscaping or replace chain-link fence with a solid fence; could have both trees and fence; adding smaller trees in between the taller trees and shrubs; do not see a plan that reflects the kennels will be inside or what the allowed uses are; any drainage issues; green chain-link fence; removing exotic species in phases; etc.

Tom Gerstenberger, Public Works Department, explained the area is in the Braden River Watershed and requires a 25 percent reduction of run-off. Braden Pines Subdivision, to the north, has had drainage problems in the past. The ditch in question is one of the primary outfall systems for the subdivision.

Lisa Barrett, Building and Development Services Department, explained the use has been identified, and the applicant will have to come back before the Board to change the use.

Bill Bors, Building and Development Services Department, noted the ditch itself is an attractive nuisance due to the vertical drop and suggested an impervious barrier such as a fence. Lower screening would be an asset to the Red Cedars for effective buffering. He displayed a photograph of what the trees could look like in five or seven years.



**Dr. James Derespino**, property owner to the north, stated he would like some type of screening to buffer the site from his property. He proposed the applicant build a berm with trees and hedges. He offered to pay half of the costs associated with piping the ditch.

**Robert Lewis**, Braden Pines resident, suggested supplementary shrubs in order to keep the integrity of the barrier along the pond.

Mr. Gause rebutted the following: shrubs, wall or fence, ditch, and the removal of exotic species. He agreed with a stipulation allowing the applicant to work on a vegetative buffer with staff.

Ms. Barrett suggested deleting Stipulation A.2 and amending Stipulation A.1 to read: As shown on the general development plan, a 35-foot perimeter buffer shall be required along the northern property...The 35-foot buffer area shall be planted with 12 Red Cedar trees and the LDC required 33 shrubs per 100 feet. Shrubs shall be provided....

Mr. McClash noted Mr. Gause is in agreement with language such as: meets or have the approval of County staff to the appropriate design.

Joel Christian, Building and Development Services Department, reported the LDC allows for a phased removal of exotic species and for management plans to prevent expansion beyond configurations. Phasing or actual replacement of vegetation within the shoreline can typically be done on an administrative level.

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mr. McClash moved to APPROVE Manatee County General Development Plan PDO-11-11(G) with Stipulations A.1 and A.3 (A.1 - language read into the record with the understanding that it will be done with the approval of staff; and deleting Stipulation A.2), B.1-2, and C.1-6 and GRANT Special Approval for a project in the Evers Watershed Overlay District and GRANT Specific Approval of an alternative to LDC Section 714.8.7 (Replacement Trees) and Section 715, Figure 715.B (Multi-Family/Non-Residential Roadway Buffer Option), as recommended by staff. The motion was seconded by Mrs. Hayes.

Mr. McClash suggested adding to the motion some type of provision that gives staff direction, if possible, to do appropriate phasing for any exotic species removal to maintain buffers.

Mr. Christian stated if the removal involves replacement of vegetation, staff would need to talk with the applicant on how the vegetation will be replaced.

Doug Means, Building and Development Services Department, reported the applicant is willing to replace the vegetation over a five-year phasing period or less, and staff is willing to work with them on the overall landscaping of the ditch site with the final site plan.

Mr. Chappie explained it is not the applicant's responsibility to replace the vegetation, and it would behoove the residents bordering the pond to help pay for some type of barrier.

The motion, as reread into the record, carried 7 to 0.

[BC20110804DOC030](#)

## COMMISSIONERS' COMMENTS

### Impact Fees

Mr. Gallen reported that Nicolas Lynch is trying to build a 1,000-square-foot home but would have to pay \$6,000 in impact fees.

Discussion: Programs are available to assist residents; staff should have information accessible to the public regarding impact fees; payment plans; etc. [BC20110804DOC031](#)

**Elwood Park**

Mr. Gallen thanked Peyt Dewar, Building and Development Services Department, for his assistance regarding a noise issue in Elwood Park. [BC20110804DOC031](#)

**El Conquistador Parkway Extension, Phase II A**

Mr. Chappie announced the bids have been opened (7/29/11) for the Parkway extension. [BC20110804DOC031](#)

**Blake Trauma Center**

Mr. Chappie stated Blake Hospital's plan to open a trauma center has been in the news. The County has been following their progress, but the hospital is in the City of Bradenton. He questioned if the Building and Development Services Department has been contacted regarding the trauma center.

John Osborne, Building and Development Services Department, indicated that staff has not been contacted about any proposed or specific increases in the use of Blake Hospital.

Discussion: The Board has not taken a position; Emergency Medical Services is working with Blake Hospital on standards and protocols; Blake Hospital employees are concerned about lack of training and job security; etc. [BC20110804DOC031](#)

**Tarpon Pointe Grill and Tiki Bar**

Ms. Whitmore visited Tarpon Pointe and recommended residents support the restaurant. [BC20110804DOC031](#)

**Port Legislative Issues**

Mr. Bustle expressed concern that Nick Azzara, Information Outreach Coordinator, asked Port staff for the Port's position on legislative issues instead of the Port Authority.

Discussion: The Authority should not be reading letters of support for the Executive Director position; all Port-related inquiries should go directly to the Port Authority; the letters of support can be read, but Authority members should not respond; do not object to County staff working with Port staff, because it is something we wanted to happen; the Authority has a legislative platform; etc. [BC20110804DOC031](#)

**Port Dredging**

Mrs. DiSabatino requested a report at the next meeting on Port dredging. [BC20110804DOC031](#)

**Holiday Inn at the Sarasota Bradenton Airport**

Mrs. DiSabatino dined at the Holiday Inn and complimented the décor and food. [BC20110804DOC031](#)

**Housing Marketing**

Mrs. DiSabatino updated the Board on housing market dynamics. Mrs. Hayes noted the affluent are out shopping again. [BC20110804DOC032](#)

**Wal-Mart Reopening**

Mrs. DiSabatino attended the reopening of the Wal-Mart on Lockwood Ridge Road and University Parkway. [BC20110804DOC031](#)

**Scrap Metal**

Mrs. DiSabatino reported the Manatee County Sheriff's Office and the County Attorney's Office are working on an ordinance to require scrap metal buyers (similar to pawn shops) to supply a list of sellers to the Sheriff. [BC20110804DOC031](#)

**Budget**

Mrs. DiSabatino stated she would like to bring up budget discussion at the next meeting.

Discussion: Concerned about discussions on budget items; need suggestions on where funding should come from if an item is brought up; Manatee County Sheriff's Office budget; do not agree we should discuss budget items; the budget has not been finalized; not talking about laying people off; support anyone talking about budget items at any time; a lot has changed since initial budget; worried about employees; etc. [BC20110804DOC031](#)

**SKY LANTERNS**

Ms. Whitmore asked the Board to have a discussion on sky lanterns at a future meeting.

Mr. McClash moved to bring back the topic of sky lanterns for the Board to decide what to do with the issue. The motion was seconded by Mrs. DiSabatino and carried 7 to 0.

[BC20110804DOC033](#)

**PLAN AMENDMENT PA-10-02/ORDINANCE 10-02 - ROBINSON FARMS**

Mr. McClash explained Comprehensive Plan Amendment PA-10-02/Ordinance 10-02 was adopted by a 4-3 vote on October 12, 2010. Citizens appealed the decision after the Department of Community Affairs determined it to be in compliance. The Administrative Law Judge (ALJ) heard the arguments, and he produced findings of fact, conclusion of law, and a recommended order. In the recommended order, the ALJ found, according to the findings of fact, that the County was inconsistent with the Comprehensive Plan and *Rule 9J-5, Florida Administrative Code*. The final order will be issued by the Governor and Cabinet instead of the Secretary of the Department of Community Affairs on or about September 11, 2011.

**Motion**

Mr. McClash moved to direct the preparation of an ordinance to repeal Ordinance 10-02 (Plan Amendment 10-02) and set for public hearing. The motion was seconded by Mrs. DiSabatino.

Discussion: If the Board does not recommend something to the Governor and Cabinet, the County Attorney's Office will have to represent the County, and staff will have to testify; local action could circumvent the process; discuss at a work session; while it may appear that the County is winning, it is still only a recommended order; time sensitive; Mr. McClash spoke with Pat Neal, William Robinson, and Katie Pierola; setting a hearing will not be the deciding factor; how does this differ from a motion to reconsider; let the development process work; interfering in a legislative process; donations made to governor's campaign should not matter; staff's recommendation was not followed; can save the County money; legislative process was changed in 2011; the recommended order does not state Ordinance 10-02 was not proper; can we send a message that the ALJ's order stands; the intent of the new Growth Management Act is to give more control to local governments; no politics in the courts; etc.

Sarah Schenk, Deputy County Attorney, noted this item cannot be addressed with a motion to reconsider, because the County lost jurisdiction over the matter. She contacted the attorney for the Department of Community Affairs who stated it would be unlikely that the Cabinet would act on it if the County repealed the Ordinance. She would prefer to meet with each Commissioner individually versus having a work session, due to the nature of the item.

Discussion ensued.

**Motion - Call the Question**

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

Tedd Williams, County Attorney, reported Board procedures dictate the attorney is allowed to speak any time before a vote.

Bill Clague, Deputy County Attorney, explained if the Board does nothing, and the Governor overturns the decision from the ALJ, the County will have no chance of success. If the Board would like to end the process, a public hearing can be held, and the developers will show up to argue their point. He warned the Board that they should not discuss the merits of the case.

**Motion - Carried**

The motion carried 5 to 2, with Mr. Bustle and Mrs. Hayes voting nay.

Discussion: The Governor has to act by September 11, 2011; County Attorney's Office will work with staff to schedule the hearing; the Board should not discuss this unless in a public forum; etc.

[BC20110804DOC034](#)

**MEETING ADJOURNED**

There being no further business, the meeting was adjourned.

Adj: 4:00 p.m.  
/pk/qa

Minutes Approved: September 20, 2011