

DECEMBER 1, 2011

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, at 9:05 a.m.

Present were Commissioners:

Carol Whitmore, Chairman
John R. Chappie, First Vice-Chairman
Michael Gallen, Third Vice-Chairman
Robin DiSabatino
Donna Hayes (entered during meeting)
Joe McClash

Absent was Commissioner:

Lawrence E. Bustle, Jr., Second Vice-Chairman (vacation)

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 Joey Mimbs, Bethel Baptist Church.

All witnesses and staff giving testimony were duly sworn.

AGENDA

Agenda of December 1, 2011, and agenda update memorandum.

[BC20111201DOC001](#)

CONSENT AGENDA

Motion was made by Mrs. DiSabatino, seconded by Mr. Chappie, and carried 5 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

[BC20111201DOC002](#)

REFUNDS

Medallion Home at Gamble Creek - Impact Fees	\$16,919.50
SMR Communities Joint Venture - Impact Fees	\$36,612.00

WARRANT LIST

November 19, 2011, through November 30, 2011

[BC20111201DOC003](#)

[BC20111201DOC004](#)

ACCEPT

Administrative Contract Adjustments (Pursuant to Resolution R-07-189):

Satellite Lift Stations - 2010 Emergency Generators (Group 2) - Administrative Contract Adjustment 1 to PO P1100805 with Lovin Construction, Inc., deleting unused discretionary funds from eight lift station locations; decrease of \$27,458.20, adjusted total \$460,661.80.

[BC20111201DOC005](#)

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

- Beverage and Snack Food Vending Machine Concessions** - Addendum Seven to License Agreement with Snackworks, Inc., extending the agreement 90 days (10/20/11-1/19/12). [BC20111201DOC006](#)
- Master Lift Station 5 - Upgrades** - Agreement with TLC Diversified, Inc., for RTU 71 Comminutor Control Panel and Access Hatch Replacement, \$111,468, Public Construction Bond, and Certificate of Liability Insurance. [BC20111201DOC007](#)
- Structural Engineering Services** - Addendum 3 to Agreement with Karins Engineering Group, Inc., extending the agreement for one year (1/27/12-1/26/13). [BC20111201DOC008](#)

(End Consent Agenda)

PARRISH LAKES DRI 28

Public hearing (continued from 10/06/11) was opened to consider

ORDINANCE 11-18 – PARRISH LAKES DRI 28

(CONTINUED TO NO DATE SET AND TO BE RE-ADVERTISED)

Request: Approval of a new Development of Regional Impact to allow:

- a. 3,300 residential units;
- b. 400,000 square feet of retail; and
- c. 50,000 square feet of office.

The applicant also requests approval of a Land Use Equivalency Matrix (LUEM) to allow conversion between various approved uses, within specific ranges.

This DRI is proposed in two phases; Phase 1, which includes 1,500 residential units and 250,000 square feet of retail, with a build-out date of 2020, and Phase 2, which includes 1,800 residential units, 150,000 square feet of retail and 50,000 square feet of office, with a build-out date of 2030. Specific Approval is requested for both Phases 1 and 2.

The Parrish Lakes DRI is located generally south of Moccasin Wallow Road and north of Erie Road, approximately 1 mile east of I-75. The adopted Future Land Use is MU, and the current zoning is A, A-1 and A/NCO (±1,155 acres).

Motion was made by Mrs. DiSabatino, seconded by Mr. Gallen, and carried 5 to 0, to continue the public hearing for Ordinance 11-18 to no date set and to be re-advertised. [BC20111201DOC009](#)

ZONING

Public hearing (Notices published) was held to consider

Z-11-07 TCW INVESTMENTS LLC

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 0.78 ACRES ON THE NORTHEAST CORNER OF U.S. 41 NORTH AND 49TH STREET EAST (EXPERIMENTAL FARM ROAD) AT 4908 U.S. 41 NORTH, PALMETTO, FROM THE **NC-S** TO THE **LM** 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. DiSabatino moved to ADOPT Manatee County Zoning Ordinance **Z-11-07**, as recommended by the Planning Commission. The motion was seconded by Mr. Gallen and carried 5 to 0. [BC20111201DOC010](#)

COMPREHENSIVE PLAN AMENDMENT

Public hearing (Notices published) was held to consider

ORDINANCE 12-02 – MYAKKA CITY

TRANSMITTAL OF A PLAN AMENDMENT OF MANATEE COUNTY, FLORIDA AMENDING ORDINANCE 89-01, AS AMENDED (THE MANATEE COUNTY COMPREHENSIVE PLAN), PROVIDING FOR A COMPREHENSIVE PLAN TEXT AMENDMENT TO THE FUTURE LAND USE ELEMENT TO MODIFY THE EXEMPTION TO COMMERCIAL LOCATIONAL CRITERIA FOR MYAKKA CITY, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

(PA-12-02: Text Amendment)

Planning Commission recommended TRANSMITTAL.

Based upon the evidence presented, comments made at the public hearing, 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 consistent with the

Manatee County Comprehensive Plan, Mr. Gallen moved to TRANSMIT Manatee County Plan Amendment 12-02 (Ordinance 12-02), as recommended by the Planning Commission. The motion was seconded by Mrs. DiSabatino and carried 5 to 0. [BC20111201DOC011](#)

LAND DEVELOPMENT CODE AMENDMENT

Public hearing (Notices published) was held to consider

ORDINANCE 12-04 (fka 11-30) – SEXUALLY ORIENTED BUSINESSES

(FIRST OF TWO PUBLIC HEARINGS; SECOND HEARING SCHEDULED JANUARY 5, 2012)
AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 201, LAND DEVELOPMENT CODE, TO REPEAL ALL ADULT ENTERTAINMENT RELATED DEFINITIONS; REPEALING IN ITS ENTIRETY SECTION 707, LAND DEVELOPMENT CODE; CREATING A NEW SECTION IN THE LAND DEVELOPMENT CODE FOR SEXUALLY ORIENTED BUSINESS RELATED DEFINITIONS, IN SECTION 201, DEFINITIONS; CREATING A NEW SECTION 707 IN THE LAND DEVELOPMENT CODE CONSISTING OF SEXUALLY ORIENTED BUSINESS REGULATIONS; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF THE SEXUALLY ORIENTED BUSINESS REGULATIONS; AMENDING OTHER SECTIONS OF THE LAND DEVELOPMENT CODE FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.
Planning Commission recommended ADOPTION.

Discussion: The intent of the location criteria (Section 707.1, Page 11 of staff report); federal issues if the Ordinance is not adopted; purpose of the Ordinance is to update the Land Development Code; definition of substantial portion; bring back information at the next hearing; want to make sure the language holds up in the future; etc.

Luke Lirot, representing GT Management, Inc. (operators of DaVinci's Portrait), and **Thomas Little**, representing Ft. Chaffee Rangers LLC (property owner of DaVinci's Portrait), opposed the Ordinance (letters dated 12/1/11) and requested the Board table the action.

Discussion: Ordinance does not pertain to established businesses; adult use permit; language allowed on signs; language cannot be considered lewd and lascivious but cannot intrude on freedom of speech; advertising techniques used by DaVinci's Portrait; comments cannot be targeted toward matters settled by federal courts; how will the Ordinance impact established businesses; staff meet with commissioners; no action required today; etc. [BC20111201DOC012](#)

COOPER CREEK – DRI 14

Public hearings (Notices published) were held to consider

ORDINANCE 11-38

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA REGARDING LAND DEVELOPMENT, RENDERING AN AMENDED AND RESTATED DEVELOPMENT ORDER PURSUANT TO *CHAPTER 380, FLORIDA STATUTES*, FOR COOPER CREEK CENTER (RESOLUTION 85-236, AS AMENDED BY RESOLUTIONS 86-323, 87-58, 90-39, 93-300, 95-135, AND ORDINANCES 97-23, 99-40, 02-31, 05-54, AND 11-07), ALSO KNOWN AS TBRPC DRI 103; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

(Note: The Proof of Publication indicated the following Ordinance title):

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE COOPER CREEK DEVELOPMENT OF REGIONAL IMPACT, ORDINANCE 11-07 AS AMENDED, (MANATEE COUNTY DRI 14 AKA TAMPA BAY REGIONAL PLANNING COUNCIL TBRPC DRI 103); PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR CONCLUSIONS OF LAW; PROVIDING FOR DEFINITIONS; PROVIDING FOR AMENDED LIMITATIONS ON AND CONDITIONS OF APPROVAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The changes to the Ordinance include a determination of whether the following proposed modifications to DRI 14 constitute a Substantial Deviation to the Cooper Creek DRI Development Order, pursuant to *Section 380.06, Florida Statutes*:

1. Update the build-out date to December 30, 2019, and expiration date to December 30, 2020, pursuant to extensions granted with House Bill 7207.
2. Extend the CLOS expiration date to December 30, 2019, consistent with the updated Transportation Analysis.
3. Modify Project Summary Table 1 to provide for an additional 20,000 square feet of commercial use and 83,000 square feet of office use.
4. Revise Project Summary Table 1 to allow an additional 20,000 square feet of school use permitted with a corresponding reduction of commercial and/or office square feet at a one to one ratio.
5. Amend General Condition A.(4) to revise tradeoffs between land uses set forth in Project Summary Table 1 to reflect the changes to allowable square footage for office and commercial uses as proposed, and allow conversion of residential to an Assisted Living Facility (ALF) use.
6. Amend Map H to permit additional access points from Cooper Creek Boulevard and add Commercial and Assisted Living Facility (ALF) as permitted uses in Parcel K and ALF in Parcel G.
7. Modify the Definition of Conservation Area to mean areas under a Conservation Easement to Manatee County or as shown on Exhibit "C" and delete the reference to TBRPC.
8. Update Exhibit "C" to include post development areas under a Conservation Easement.
9. Amend General Conditions, Section D.(6), to eliminate the reference to Table 3, and change the requirement for mitigation of impacts to wetlands to reference State requirements or Manatee County Comprehensive Plan requirements if mitigation is not required by the state.
10. Delete Table 3 which provides minimum wetland preservation and conservation area ratios.
11. Any other revisions deemed necessary or appropriate during the public hearing process.
12. Various other changes to the Development Order, including recodification of the existing development order; terminology; formatting; departmental references; clarification changes; and to denote stipulations that have been complied with or requirements that have been completed. The Ordinance amends, replaces, and supersedes Ordinance 11-16, DRI 14, as amended; and provides for severability and an effective date.

The Cooper Creek DRI is located northwest of the University Parkway and I-75 interchange. Present zoning is PDMU/WP-E/ST (Planned Development Mixed Use/Watershed Protection-Evers/Special Treatment Overlay Districts) (604.68± acres).

Staff recommended APPROVAL.

(Title of the executed Ordinance:

and

PDMU-96-01(G)(R9) COOPER CREEK CENTER

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE PDMU-96-01(G)(R8) TO AMEND THE DEVELOPMENT ORDER TO EXTEND THE BUILD-OUT DATE, EXPIRATION DATE, AND CLOS EXPIRATION DATE PURSUANT TO EXTENSIONS GRANTED WITH HOUSE BILL 7207; ALLOW AN ADDITIONAL 20,000 SQUARE FEET OF COMMERCIAL USE AND 83,000 SQUARE FEET OFFICE USE; ALLOW A TRADE-OFF ALLOWANCE FOR AN ADDITIONAL 20,000 SQUARE FEET OF SCHOOL USE WITH A CORRESPONDING REDUCTION OF COMMERCIAL AND/OR OFFICE; ADD A TRADE-OFF FOR AN ASSISTED LIVING FACILITY (ALF) FOR RESIDENTIAL; PERMIT ADDITIONAL ACCESS POINTS FROM COOPER CREEK BOULEVARD; ADD NEIGHBORHOOD COMMERCIAL AND ALF AS PERMITTED USES IN PARCEL K, AND ALF IN

PARCEL G; MODIFY THE DEFINITION OF CONSERVATION AREA TO MEAN AREAS UNDER A CONSERVATION EASEMENT TO MANATEE COUNTY OR AS SHOWN ON EXHIBIT "C"; UPDATE EXHIBIT "C"; DELETE TABLE 3; ELIMINATE REFERENCE TO EXHIBIT "H"; DELETE STIPULATION B(14); AMEND THE GENERAL DEVELOPMENT PLAN TO IMPLEMENT THESE CHANGES; AMEND STIPULATIONS TO FACILITATE THESE CHANGES; AMEND STIPULATIONS TO UPDATE CONDITIONS AND DEPARTMENTAL REFERENCES; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. COOPER CREEK IS GENERALLY LOCATED NORTHWEST OF UNIVERSITY PARKWAY AND I-75 INTERSECTION (604.68± ACRES).
Staff recommended APPROVAL.

Betsy Benac, representing the applicant, explained the changes will update the build-out date to December 30, 2019, and expiration date to December 30, 2020, pursuant to extensions granted with House Bill 7207. The request will modify project summary Table 1 to provide for an additional 20,000 square feet of commercial use and 83,000 square feet of office use (see aerial). While reviewing Exhibit C (1996 and 2011 versions), Ms. Benac reported the applicant needed to update the conservation areas.

Discussion: The applicant is not proposing to infringe or destroy established wetlands; has the applicant considered easements for the preservation areas; conservation area is a preservation area; Stipulation D.5 [PDMU-96-01(G)(R9)] address wetland requirements; Exhibit G of Ordinance 11-38; etc.

Joel Christian, Building and Development Services, noted the preservation area shown is a jurisdictional wetland and a 50-foot wetland buffer for Cooper Creek. The general development plan and/or Map H depicts more wetland areas than shown on Exhibit C, because those may not have had a project boundary, which triggered staff to seek the conservation easement.

Motion - Ordinance 11-38

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, the Manatee County Land Development Code, *Section 380.06, Florida Statutes*, and Rule 9J-2.025, Florida Administrative Code, as conditioned herein, Mrs. DiSabatino moved to APPROVE, finding that the developer has provided sufficient information to rebut the presumption that the proposed NOPC modifying the Cooper Creek DRI Development Order constitutes a substantial deviation; and ADOPT Manatee County Ordinance **11-38**, amending and restating Ordinance 11-16, as recommended by the Planning Commission. The motion was seconded by Mr. Gallen and carried 5 to 0. [BC20111201DOC013](#)

Motion - PDMU-96-01(G)(R9)

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, the Manatee County Land Development Code, as conditioned herein, Mrs. DiSabatino moved to APPROVE Manatee County Zoning Ordinance **PDMU-96-01(G)(R9)** and DENY the request to delete Stipulation B.14, regarding reservation of right-of-way along I-75; and APPROVE the General Development Plan with conditions; GRANT Special Approval for a project in the MU Future Land Use Category, in the WPE and ST Overlay Districts, and within the entranceway, as recommended by the Planning Commission. The motion was seconded by Mr. Gallen and carried 5 to 0. [BC20111201DOC014](#)

ZONING

Public hearing (continued from 11/3/11) 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.

Mr. Chappie assured the public that he has not had any communication regarding this project as indicated in the email sent by **Kerry Penta** (11/30/11). He asked the County Attorney to address the conflict of interest issue.

Sarah Schenk, Deputy County Attorney, stated the applicant's request for a continuance is valid and the public can speak at the hearing on January 5, 2012, after the applicant's presentation (revised site plan will be shown).

(Enter Mrs. Hayes)

Kerry Penta, Alan Garceau, Ann Lyon, and Joyce Jordan, area residents, expressed concern with the following: the hearing being continued because one commissioner is absent, being able to review information to be presented at the next hearing, follow-up neighborhood meeting, short notice for continuing the hearing, and incompatibility.

Ms. Schenk stated it is up to the Board to grant a continuance if requested by the public; however, there must be substantial reasons for it.

Mr. McClash disclosed he may have discussed the project with the public during a recent visit to Parrish.

Discussion: Project does not fit in with the surrounding area; should continue the item to later in January or early February 2012; if the project was zoned A-1, what would it look like; move forward on this request; the project has been reduced to 12 lots; delete the inter-neighborhood tie; DaySpring Conference Center should be "grandfathered" to allow overnight visits; etc.

Mrs. DiSabatino displayed a site plan she drew depicting six lots instead of 12, which would eliminate the need for the inter-neighborhood tie and lot sizes would be more compatible with surrounding homes.

Motion was made by Mr. McClash and seconded by Mrs. Hayes to continue the public hearing for Zoning Ordinance to **PDR-11-03(Z)(P)** to February 2, 2012, at 9:00 a.m. or as soon thereafter.

Patricia Petruff, representing the applicant, concurred with the new continuation date.

Discussion: The revised site plan from Mrs. DiSabatino should have been given to staff; putting staff in a difficult position by revising the site plan; could staff include in their presentations revisions or suggestions to plans; any diagram or picture should be conceptual during briefings and not collected by staff; quasi-judicial hearing so staff cannot include revisions in staff presentations and packets, and the applicant has the burden of proof; etc.

The motion carried 6 to 0.

Ms. Schenk stated she will provide a written answer regarding the email from Mr. Penta.

COMMISSIONERS' COMMENTS

Dogs

Mrs. DiSabatino suggested residents register their dogs with the homeowner' associations to prove shots are up to date. She emphasized the need for owners to keep their dogs on leashes.

Lakewood Gettel Toyota

Mrs. Hayes questioned the percentage of local businesses used for the project. If the percentage cannot be provided, Lakewood Gettel Toyota should provide a reason why local businesses were not utilized.

Discussion: Grand opening is today; talk to the appropriate parties to get an answer; jobs are being created; need to provide interested businesses with local vendors list; local preference Ordinance (09-23); etc.

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Adj: 11:02 a.m.
/vj/qa

Minutes Approved: December 20, 2011