

OCTOBER 12, 2006

The Planning Commission, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Thursday, October 12, 2006, at 9:05 a.m.

Present were Commissioners:

Richard Bedford, Chairman
Marie Hastings, First Vice-Chairman
Marilyn Stasica, Second Vice-Chairman
Steve Belack
Joseph Guyton
Mary Sheppard
David Wick

Absent was Commissioner:

Michael Pendley (non-voting member representing the School Board)

Also present were:

Jason Henbest, Associate County Attorney
Susan Romine, Board Records Manager,
representing R. B. Shore, Clerk of Circuit Court

All witnesses and staff giving testimony were duly sworn.

AGENDA

Agenda of October 12, 2006, and update memorandum.

[PC20061012DOC001](#)

MINUTES

Upon motion by Mr. Wick and second by Ms. Hastings, the minutes of August 21, 2006 were approved by a vote of 7 to 0.

[PC20061012DOC002](#)

CONSENT AGENDA

NORTHWEST SECTOR

Public hearings (continued from 9/14/06) were opened to consider

PDMU-05-19(Z)(G) – SMR NORTH 70, LLC, EQUITABLE NATIONAL PROPERTY COMPANY LLC, PARK VISTA APARTMENTS INC., FC, LLC, AND PRESIDENTIAL APARTMENTS AND HOUSING, INC. (NORTHWEST SECTOR)

(CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

Request: A Zoning Ordinance 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 certain land from **A** to **PDMU**, retaining the **WP-E** and **ST** Overlay Districts where appropriate; providing an effective date; and a General Development Plan for 4,096 lots for single-family residences (including detached, attached, and semi-detached), 350 multifamily units, 200,000 square feet of commercial space, 105,000 square feet of office space, an option to exchange other land uses for a 120-bed group care facility; providing for severability; providing a legal description; and setting forth findings. The site is generally east of Lakewood Ranch Boulevard, south of the future extension of 44th Avenue East, west of Lorraine Road, and north of S.R. 70. A 39.3 acre parcel is west of Lakewood Ranch Boulevard (Total project: ±1,518.9 acres).

[PC20061012DOC003](#)

and

ORDINANCE 06-44 NORTHWEST SECTOR DRI (DRI 26)

(CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

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

- a. 4,446 residential units;
- b. 200,000 square feet of retail;
- c. 105,000 square feet of office;
- d. a ±10 acre neighborhood park; and
- e. a 120 bed group care home (aka: assisted living facility)

The applicant also requests approval of a Land Use Equivalency Matrix (LUEM) to allow conversion between various approved uses, within specific ranges. The DRI is proposed in two phases: Phase I with a build out date of 2011, and Phase II with a build out date of 2019. Specific approval is requested for Phase I for 3,000 residential units, 200,000 square feet of retail, 105,000 square feet of office, and a 10-acre park. Conceptual approval is requested for Phase II. In the future, specific approval of Phase II will be contingent upon submittal of further transportation and air quality analysis in accordance with *Section 380.06, Florida Statutes*. The Northwest Sector DRI is located on 1,518.9 acres generally north of S.R. 70 between Lakewood Ranch Boulevard (to the west) and Lorraine Road (to the east) and slightly more than 1.5 miles south of S.R. 64.

[PC20061012DOC004](#)

ZONING

Public hearing (continued from 9/14/06) was opened to consider

PDR-04-48(Z)(P) CHAPMAN/THE WELLINGTONS

(CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

Request: 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 certain land from **A-1** to **PDR**; providing an effective date; and a Preliminary

Site Plan for 63 single-family detached residences; on 30.27 acres located 550 feet north of the intersection of 121st Avenue East and 73rd Street East at 7505 121st Avenue East.

[PC20061012DOC005](#)

Public hearing (continued from 9/14/06) was opened to consider

PDC-05-40(P) – EAST ELLENTON ENTERPRISES, INC./HUNGRY HOWIE’S

(CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

Request: A Preliminary Site Plan for a 120-seat, 3,500-square-foot restaurant, providing an effective date; providing for severability; providing a legal description; and setting forth findings. The site is on the south side of U.S. 301 at 5912 28th Street East and 1812 60th Avenue East, Ellenton (±1.265 acres).

[PC20061012DOC006](#)

Public hearing (Notice published) was opened to consider

PDR-06-17(P) – PALMETTO RETIREMENT VILLAGE, PHASE II

(CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

Request: A Preliminary Site Plan for 14 single-family attached and single-family semi-attached residential units with associated recreational area; providing an effective date; providing for severability; providing a legal description; and setting forth findings. The site is at 5104 2nd Avenue East, Palmetto (±9.95 acres).

[PC20061012DOC007](#)

Public hearing (continued from 9/14/06) was opened to consider

PDMU-05-70(Z)(P) MARONDA HOMES, INC. OF FLORIDA/OAKWOOD

APARTMENTS LLC (CONTINUED TO NOVEMBER 9, 2006, AT 9:00 A.M.)

Request: A Zoning Ordinance 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:

- 1.26 acres from LM (Light Manufacturing);
- 0.18 acres from GC (General Commercial);
- 5.56 acres from PDR (Planned Development Residential);
- 6.05 acres from RMF-9 (Residential Multifamily, 9 dwellings per acre);
- 1.12 acres from RSF-3 (Residential Single-Family, 3 dwelling units per acre), and
- 1.29 acres from RSF-4.5 (Residential Single-Family, 4.5 dwelling units per acre)

All to **PDMU**; providing an effective date; and a Preliminary Site Plan for 91 lots for single-family attached residences with at least 10 percent of the units designated as workforce housing, providing for severability; providing a legal description; and setting forth findings. The site is approximately 1/4 mile north of Whitfield Avenue on the west side of 15th Street East, at 6720 15th Street East, Bradenton (± 15.46 acres).

[PC20061012DOC008](#)

LAND DEVELOPMENT CODE

Public hearing (Notice published) was opened to consider

ORDINANCE 06-76

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 503.4 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 90-01, AS AMENDED) TO ALLOW THE BOARD OF COUNTY COMMISSIONERS TO HOLD A SINGLE PUBLIC HEARING FOR TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE EXCEPT WHEN OTHERWISE REQUIRED BY APPLICABLE LAW; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

[PC20061012DOC009](#)

Motion was made by Mr. Belack, seconded by Ms. Hastings, and carried 7 to 0, to APPROVE the Consent Agenda incorporating the language as stated in the recommended motions in the staff reports (as amended in the agenda update memorandum).

(End Consent Agenda)

ORDINANCE 06-58 - LAND DEVELOPMENT CODE

Public hearing (continued from 9/14/06) was held to consider

ORDINANCE 06-58

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 702.9, MINIMUM FLOOR ELEVATION, MANATEE COUNTY LAND DEVELOPMENT CODE TO PROVIDE FOR CLARIFICATION OF THE APPLICABILITY CLAUSE RELATING TO SECTION 702.9, AND OTHER CODE PROVISIONS REGULATING **MINIMUM FINISHED FLOOR ELEVATION** AS REQUIRED FOR INTERNAL CONSISTENCY IN THE MANATEE COUNTY LAND DEVELOPMENT CODE; SETTING FORTH FINDINGS AS TO LEGISLATIVE INTENT TO PROVIDE FOR THE RETROACTIVE APPLICATION OF THE REQUIRED MINIMUM FINISHED FLOOR ELEVATION STANDARD ENACTED PURSUANT TO ORDINANCE 06-16 TO APPROVED CONSTRUCTION PLANS OR APPROVED FINAL SITE PLANS; AMENDING CHAPTER 9, SUBDIVISION PROCEDURES AND STANDARDS; SECTION 905.1 PURPOSE, TO REQUIRE THE RECORDING OF AN APPROVED DRAINAGE PLAN SIMULTANEOUSLY OR IMMEDIATELY AFTER THE RECORDING OF A FINAL SUBDIVISION PLAT; SETTING FORTH RELATED FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE.

Sarah Schenk, Assistant County Attorney, noted that minimum finished floor elevation for residential structures was raised from 18 inches to 21 inches above the highest crown of the street. Submitted and approved construction plans or final site plans dated before April 1, 2006 will not be required to conform to the new elevation. Staff would like to add language to 702.9.1 (B)(b) as follows:

In special conditions, **and for non-residential sites**, a professional engineer may submit a storm drainage plan to be approved by the County Transportation Director or his designee.

Larry Mau, Transportation Director, summarized that the general intent is to hold all new development to the new 21-inch standard for development pads, but there will be a transition period for slope requirements not to be fully implemented for approvals prior to April 1, 2006.

Jeffrey Steinsnyder, Kirk Pinkerton, spoke of representing two clients who have approved construction drawings with minimum floor elevations on each of the pads and have dug the ponds and completed infrastructure by following County approval, prior to the adoption of the new Ordinance on January 10, 2006. They are now being instructed to add more fill to these sites. He submitted a revised amendment for the finished floor elevation requirements, adding the following:

Further, structures in developments for which either construction plans or final site plans containing minimum finished floor elevations were approved prior to January 10, 2006, and infrastructure work was undertaken in compliance with these approvals, shall comply with the Land Development Regulations in effect prior to the effective date of Ordinance 06-16.

Ms. Schenk recommended the Ordinance as written without Mr. Steinsnyders revision. She suggested the Board could make the decision on "grandfathering" additional structures.

Mr. Mau also recommended the Ordinance without Mr. Steinsnyders revisions, and noted no enforcement of the slope requirements, just the pad elevation requirements.

Discussion: Flooding problems; occasional water in homes; water in yards, pool, and garages; slope designs; slope requirements are being phased in; effect on stormwater facilities; etc.

Based upon the staff report, testimony heard at the public hearing, the staff analysis, Ms. Hastings moved that the Planning Commission finds proposed Ordinance **06-58**, consistent with the Comprehensive Plan and consistent with the requirements of the Land Development Code for text amendment to recommend adoption to the County Commission. The motion was seconded by Mr. Guyton, and carried 7 to 0.

[PC20061012DOC010](#)

ZONING

Public hearing (Notice published) was opened to consider

PDC-04-38(Z)(P) – VICTORIA ESTATES, LTD, ET AL/CREEKSIDE COMMONS (CONTINUED TO DECEMBER 14, 2006, AT 9:00 A.M.)

Request: A Zoning Ordinance of Manatee County, Florida...; providing for the rezoning of certain land from Planned Development Residential (**PDR/NCO**) & General Commercial (**GC/NCO**) to Planned Development Commercial (**PDC/NCO**), retaining the North Central Overlay (NCO); providing an effective date; and a Preliminary Site Plan for a 256,256-square-foot shopping center, including general retail, eating establishments, offices, and a bank, providing for severability; providing a legal description; and setting forth findings. The project also includes an existing 15,375-square-foot drug store. The site is at the northeast corner of U.S. 301 and Erie Road at 8700 U.S. 301 North (± 51.29 acres).

Robert Pederson, Planning Department explained this item should be continued to the December meeting so a traffic study can be redone, submitted, and evaluated. The applicant agreed.

Motion was made by Mr. Wick to continue the public hearing for **PDC04-38(Z)(P)** to December 14, 2006, at 9:00 a.m., or as soon thereafter as same may be heard at the Manatee County Government Administrative Center, 1st Floor Chambers. The motion was seconded by Mr. Guyton, and carried 7 to 0.

[PC20061012DOC011](#)

Public hearing (continued from 9/14/06) was held to consider

PDR-06-29(Z)(P) – AVIGNON HOLDINGS LLC / MONTEUX AT VILLAGES OF AVIGNON

Request: A Zoning Ordinance of Manatee County, Florida...; providing for the rezoning of certain land from **A-1** to **PDR**; providing an effective date; and a Preliminary Site Plan for 124 lots for single-family attached residences and 104 lots for single-family detached residences, with at least 25 percent of the units designated as affordable housing, providing for severability; providing a legal description; and setting forth findings. The site is at the northeast corner of 29th Street East and 24th Avenue East approximately 1/2 mile west of Ellenton Gillette Road, 1/2 mile east of 16th Avenue East (Canal Road), and 600 feet south of Mendoza Road at 3002, 3120, and 3318, 24th Avenue East and 2514 29th Street East in Palmetto (± 56.4 acres).

If approved, staff recommended 40 Stipulations; GRANTING Special Approval for a project: (1) exceeding a gross density of 2 dwelling units per acre in RES-3 Future Land Use Category [FLUC]; (2) exceeding a net density of 3 dwelling units per acre in the RES-3 FLUC; (3) exceeding a gross density of 3 dwelling units per acre in the RES-3 for an affordable housing project; ADOPTING of the Findings for Specific Approval; and GRANTING Specific Approval for an alternative to the definition of "Alley" in the Land Development Code [LDC].

Mr. Bedford declared a conflict of interest and passed the gavel to Ms. Hastings.
(Depart Mr. Bedford; Ms. Hastings presiding)

Caleb Grimes, representing the applicant, spoke of deMorgan Homes developments and how they include workforce and affordable housing.

Lucienne Gaufillet, deMorgan Communities planning director, displayed aerials of the project and spoke of water, sewer, and stormwater plans. She presented a handout of Manatee County 2006 Maximum Income Limits noting 25 percent of the project is proposed affordable housing. She displayed a vicinity map and spoke of the environmental preservation, trail systems, playground areas, 47 percent open space, and the garden systems. She displayed pictures of town homes, single-family units, signs, boardwalks, fences, and columns. Proposed density is 4 units per acre and there will be two and a half acres of dedicated recreation space. An opaque wall will be placed on the northern boundary as a result of requests by neighboring residents.

Brad Gobitz, deMorgan Communities director of architecture, displayed floor plans of different units and explained the amenities. He pointed out the private courtyards, rear access garages, and front porches with common areas.

Mr. Grimes reviewed a handout of amended staff stipulations requested by the applicant. He noted the changes to **Stipulations 6, 7, 8, 9, 12, and 35** and explained the needs/reasons for changes to lot lines, fences, and sidewalks. An aerial was displayed as he spoke of the topography of the former citrus grove pointing out wetlands, drainage easements, maintenance easements, and the railroad right-of-way.

Discussion: Need for affordable housing; elevation levels; retention ponds; right-of-way reduction; Specific Approval; stormwater changes; etc.

Denise Greer, King Engineering, explained the specifics of retention ponds and littoral shelves for filtering and cleaning water. The retention pond will be 8 feet deep and will exit into the wetland area. She also noted the Southwest Florida Water Management District (SWFWMD) requirements for water levels in stormwater facilities.

Mr. Grimes explained the restrictions on the affordable units prohibit the owners from selling for at least 7 years. He also noted deMorgan Homes is offering these units first to County and School Board employees before they will be sold to others who qualify.

Stephanie Moreland, Planning Department, reviewed a slide presentation and spoke of this project needing Special Approval for density levels and for the 16-foot-wide alley. She pointed out existing roadways, surrounding residences, and businesses. Referring to a site plan, she pointed out the roadways, buffers, access points, and noted possible traffic impacts. Continuing with the slide presentation, she addressed setbacks for the different units, negative and mitigating factors, and proposed density with bonuses for the affordable units. She gave staff recommendations for language in the Notice to Buyers informing them of neighboring agricultural uses.

Danielle McKee, Transportation Department, spoke of the required easements along the lateral of Big Chimney Drain for stormwater management and after review of the proposed changes by the applicant, noted the easement would still be needed to maintain the ditches.

Lisa Hickey, Toni Hemminger, Susan Adkins, Donna Farrell, Michele Fowler, and John Hickey, neighboring residents, all expressed opposition to the rezoning, stating concerns for density, traffic, crime, wildlife, drainage, and wetlands. Mr. Hickey displayed a slide presentation of pictures of neighboring homes and urged the Board to reject this proposal based on inconsistencies with the approved Comprehensive Plan.

Robert Pederson, Planning Department, spoke of Special Approval needed for the reduction of the right-of-way to preserve trees. He cautioned changing the wording on **Stipulation 6** regarding fencing because a wood fence should not be allowed. He recommended **Stipulations 7, 8, and 9** remain as staff recommended and **Stipulation 35** remain but more research should be done on the drainage easement.

Harry Mendenhall, Transportation Department, addressed **Stipulation 12** regarding sidewalks by noting the normal requirement is for sidewalks on both sides of 24th Avenue; however, a sidewalk will be built only on the east side because there is no right-of-way for the west side. He noted this would be sufficient and would tie in to sidewalks connecting to Tillman Elementary School.

Mr. Grimes addressed the stipulation changes and agreed to add the words **not wood** to the fencing issue in **Stipulation 6**. **Stipulation 35** will be coordinated with staff, no existing trees should be removed and work will be done to address the area adjacent to the railroad right-of-way. All wetlands will be preserved so no mitigation will be required. Negotiations will continue with the junk yard to install a wall or the applicant may acquire the property. SWFWMD guidelines will determine how to deal with the many wells on the property.

Misty Servia, King Engineering, spoke of the planned development process and how this project complies with density regulations and is in the urban core of the County. She pointed out all the amenities of this project.

Discussion: Tree canopies; screening; buffers; walls; replacement trees; solid fence on north property line; wildlife study; traffic study is done; required improvements; Certificate of Level of Service (CLOS); plant and animal studies will be done before final site plan; no burning of trees or branches for land clearing; some citrus trees must be burned; new rules for citrus groves; etc.

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. Belack moved to recommend ADOPTION of Manatee County Zoning Ordinance **PDR-06-29(Z)(P)**; APPROVING the Preliminary Site Plan with Stipulations 1 through 40 with the following amendments:

6. 6-foot-high ~~PVC~~ solid decorative fence (**not wood**)...on 29th Street East.
8. Prior to Final Subdivision Plat for Phase 1, 24th Avenue East shall be constructed to a paved standard from 28th Street Court East (to the south) to Mendoza Road (to the north), as approved by the Manatee County Transportation Department.
9. The recreational facility shall provide a playground, benches, 5 shade trees, and picnic tables. The details of the type of equipment and layout shall be shown on the Final Site Plan.
24. (re: burning - to be worked out between staff and applicant)
35. (re: tree removal, drainage easement – to be mandated by SWFWMD)

GRANTING Special Approval for a project: 1) exceeding a gross density of 2 dwelling units per acre in RES-3 Future Land Use Category; 2) exceeding a net density of 3 dwelling units per acre in the RES-3 Future Land Use Category; 3) exceeding a gross density of 3 dwelling units per acre in the RES-3 for an affordable housing project; ADOPTING the Findings for Specific Approval; and GRANTING Specific Approval for an alternative to the definition of "Alley," and Section 907.9.3.1 of the Land Development Code, as recommended by staff. The motion was seconded by Mr. Wick and after discussion, carried 6 to 0.

Discussion: Traffic concerns; local collector streets will be paved for the length of the project; required improvements; future land use requirements have been met; project requires special approval; rezone to planned development; approval by the Board; allowable density; project is in the urban core; affordable housing with mass transit; etc. [PC20061012DOC012](#)

Recess/Reconvene. All members present.

ORDINANCE 06-75 - IMPACT FEES

Public hearing (continued from 9/14/06) was held to consider

ORDINANCE 06-75

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); AMENDING SECTION 802 (LEGISLATIVE FINDINGS, RELIANCE UPON THE IMPACT FEE STUDY, AND INTENT) TO REFER TO THE MOST RECENT IMPACT FEE STUDY COMPLETED BY THE COUNTY; TO CONFORM THE LANGUAGE OF THE SECTION TO THE REQUIREMENTS OF THE FLORIDA IMPACT FEE ACT; AMENDING SECTION 803 (IMPACT FEES TO BE IMPOSED) TO CONSOLIDATE THE LOCAL PARKS IMPACT FEE AND THE COUNTYWIDE PARK/OPEN SPACE IMPACT FEE INTO A SINGLE COUNTYWIDE PARKS IMPACT FEE; TO CONSOLIDATE THE TRANSPORTATION IMPACT FEE INTO A ROADS IMPACT FEE; TO CHANGE THE TIME AT WHICH IMPACT FEES MUST BE PAID IN SOME CIRCUMSTANCES; TO ADOPT A NEW SCHEDULE OF IMPACT FEES TO BE EFFECTIVE ON OR AFTER JANUARY 1, 2007; TO CLARIFY THE REQUIREMENTS FOR INDEPENDENT IMPACT ANALYSES; TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; TO RENUMBER SUBSECTIONS AS APPROPRIATE; AMENDING SECTION 804 (USE OF IMPACT FEE FUNDS) TO CONFORM THE LANGUAGE OF THE SECTION TO THE REQUIREMENTS OF THE FLORIDA IMPACT FEE ACT; TO PROVIDE FOR THE EXPENDITURE OF MONIES COLLECTED PURSUANT TO THE LOCAL PARKS IMPACT FEE, THE COUNTYWIDE PARK/OPEN SPACE IMPACT FEE, AND THE COUNTYWIDE PARKS IMPACT FEE; TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; AMENDING SECTION 805 (BENEFIT DISTRICTS) TO DELETE THE PROVISIONS RELATED TO THE LOCAL PARKS BENEFIT DISTRICTS AND THE COUNTYWIDE PARK/OPEN SPACE BENEFIT DISTRICT; TO PROVIDE FOR A COUNTYWIDE PARKS BENEFIT DISTRICT; TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; TO RENUMBER SUBSECTIONS AS APPROPRIATE; AMENDING SECTION 806 (REFUNDS OF IMPACT FEES PAID) TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; AMENDING SECTION 807 (CREDITS AGAINST IMPACT FEES) TO CLARIFY PROVISIONS FOR THE APPROVAL AND USE OF IMPACT FEE CREDITS; TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; AMENDING SECTION 808 (APPEALS) TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; AMENDING SECTION 809 (MISCELLANEOUS PROVISIONS) TO ALLOW THE BOARD TO IMPOSE BY RESOLUTION ADMINISTRATIVE FEES NOT EXCEEDING THE ACTUAL COSTS TO THE COUNTY; TO CONFORM THE LANGUAGE OF THE SECTION TO THE REQUIREMENTS OF THE FLORIDA IMPACT FEE ACT; TO CLARIFY PROVISIONS NECESSARY FOR INTERNAL CONSISTENCY; AMENDING SECTION 201 ("DEFINITIONS") TO REVISE, DELETE, AND ADD DEFINITIONS RELATED TO IMPACT FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NOTICE OF THE NEW AND AMENDED IMPACT FEES IN ACCORDANCE WITH THE FLORIDA IMPACT FEE ACT; AND PROVIDING AN EFFECTIVE DATE OF NINETY (90) DAYS OR MORE FROM THE DATE OF PUBLICATION OF NOTICE.

Joaquin Servia, Planning Department, noted Ordinance 05-52 directed staff to bring back a new impact fee study, accelerated the collection of impact fees, and included an inflationary adjustment that went into effect in October 2006. Numbers applied to the index used, resulted in an inflationary index of approximately 4.04 percent. The impact fee study dated October 9, 2006, was presented to the Board in draft form on August 29, 2006. Mr. Servia addressed public hearing advertisement; the impact fee study was placed on the website; meetings were held with builders, developers, and their consultants; and, telephone calls and personal meetings addressed the impact fee study. The County Commission will conduct the public hearings (10/24/06 and 11/7/06) to comply with the Florida Impact Fee Act, which requires a 90-day notice prior to adoption of new or amended impact fees. Included in the Ordinance are requirements to pay impact fees with the issuance of the building permit, not the Certificate of Occupancy (CO). Currently, impact fees are assessed, an estimate is given at the time of building permit application, and they are due prior to the issuance of the CO. The value of any contribution for which credit is sought shall be calculated as of when, in the development approval process, the needed improvement was identified and made a condition of the approval.

Paul Tischler, TischlerBise Consultants, began a slide presentation and spoke of the process followed and the revenues that could accrue from implementation of the impact fee increase. There were some changes in the Florida Impact Fee Act such as using the most recent and localized data, which was done in this study. He explained the three methodologies used are cost recovery, incremental expansion, and plan-based. He spoke of growth-related capital improvements and the summary of projections for that growth. Parks, roads, law enforcement, and public safety were addressed as was the implementation and administration of impact fee collection. He noted this is a defensible, comprehensive study using the best data available and it is tailored for the County. The three requirements for impact fees are the need, the direct benefit, and the proportional requirement.

Carol Clarke, Planning Director, explained that credits are the sources of revenue that would be used to pay for the major thoroughfare road network in the future. Property taxes do not generally go to the thoroughfare system as it is paid by gas tax and impact fees.

Jason Henbest, Associate County Attorney, noted the Ordinance changes are the results of the new study. Many changes are the result of the Florida Impact Fee Act, and most of the changes are for clarification of applicable processes. Many changes are also for scrivener's errors.

Discussion: Recommend maximum supportable level; refund provisions; maximum fee schedule; growth not paying for itself; impact fees cannot be used for existing deficiencies; funds collected must go back into the district in which they were collected; Federal and State governments used to fund more of the road construction costs; local share has increased; etc.

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 CONSISTENT with the general purpose and standards of Section 8 of the Manatee County Land Development Code, Mr. Guyton moved to recommend ADOPTION of Manatee County Ordinance **06-75**, amending the Manatee County Land Development Code (Ordinance 90-01, as amended) as recommended by the Planning Commission. The motion was seconded by Ms. Stasica and carried 4 to 3, with Ms. Hastings, Mr. Wick, and Mr. Bedford voting nay.

Mr. Wick explained his opposing vote saying he is concerned that by front-end loading the impact fees, the developers will pass the cost on to the homebuyers.

Ms. Hastings noted she has not had enough time to review the study and does not have a full understanding of where the fees were being spent.

Mr. Bedford explained he also opposed the front-loading of fees. He has road cost concerns as to how much those costs may increase in the future.

Discussion: Impact fees were last updated in 2003-04 with a gradual increase; these fees can be reversed; etc.

Peggy Curtin, Financial Management Department, distributed a handout on the Impact Fee Recap 1986 through 7/31/06 with needs and expenditures. She noted it will be brought back for the November work session so that backup documentation may be added. [PC20061012DOC013](#)

ORDINANCE 06-51 - LAND DEVELOPMENT CODE

Public hearing (Notices published) was held to consider

ORDINANCE 06-51

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; PROVIDING FINDINGS; AMENDING SECTION 201 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE TO PROVIDE CERTAIN DEFINITIONS; AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE TO ESTABLISH PROCEDURES FOR PROPORTIONATE FAIR-SHARE MITIGATION AS REQUIRED PURSUANT TO SECTION 163.3180(16), FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Bill Clague, Assistant County Attorney, reviewed a slide presentation on Proportionate Share Mitigation and noted the requirement for all local governments to adopt an ordinance by December 1, 2006. It applied an existing process used in DRIs, to all development, authorizing developers to satisfy all transportation concurrency requirements by contributing or paying proportionate share for mitigation. It is a new process with no judicial interpretations and no standard practices; however, there are basic guiding principals for structure.

Mr. Clague noted the Florida Department of Transportation (FDOT) and the Florida Department of Community Affairs (DCA) have a responsibility to provide technical assistance and guidance to local governments in implementing the new growth management requirements. In Manatee County the Certificate of Level of Service (CLOS) is used as the guideline to determine when a developer has satisfied concurrency. He noted Capital Improvement Element (CIE) requirements and explained the method for calculating mitigation. Money, land, and improvements are the largest forms of mitigation, and the County retains the discretion to decide which form is acceptable. The mitigation must be formalized in an agreement and approved by the Board of County Commissioners. The CIE must have programmed funding for the 3 most recent years and the last 2 years must have anticipated revenues, such as impact fees, developer contributions, and ad-valorem and non ad-valorem funds. He reviewed sections of the Ordinance on applicability, intergovernmental coordination, the application process, determining the proportionate fair-share obligation, impact fee credits, agreements, and appropriation of fair-share revenues. He noted changes as:

Removed: Concept of submitting a written request for submitting an application;
Language that spelled out the determination that an application was incomplete (already provided by the LDC); and
Right-of-way dedication language (instead of being in the ordinance) is referred to in the impact fee section of the LDC.

Added: Language for impact fee credit reimbursement to the developer; and
Agreement and appropriations clarification, regarding timing.

Discussion: Legal issues; CIE; interpretation; guidance from DCA and FDOT; implementation; incorporate long-term planning principals; pay more attention to the CIE; developer share mitigation provisions; multi-party agreements; proportionate fair share; etc.

Finding Ordinance **06-51** to be CONSISTENT with the Comprehensive Plan, Mr. Guyton moved to recommend ADOPTION by the Board of County Commissioners in the form provided to the Planning Commission. The motion was seconded by Mr. Belack and carried 7 to 0.

[PC20061012DOC014](#)

NEXT MEETING

Mr. Bedford announced the next scheduled meeting on November 9, 2006, will have a work session on Impact Fees.

[PC20061012DOC015](#)

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Adj: 1:48 p.m.
/mh

Minutes Approved: January 11, 2007