MANATEE COUNTY PLANNING COMMISSION REGULAR MEETING

BRADENTON AREA CONVENTION CENTER

One Haben Boulevard Palmetto, Florida August 13, 2020

Meeting video link: https://www.youtube.com/channel/UCUlgjuGhS-qV966RU2Z7AtA

Present were Members:

William Conerly, Chairman
Paul Rutledge, Second Vice-Chairman (via Zoom)
John DeLesline, Third Vice-Chairman
Jedd W. Heap
H. David Roth
William W. Smock
Amy Anderson (non-voting member representing the School Board)

Absent was:

Mike Rahn, First Vice-Chairman

Also present were:

Rossina Leider, Planning Section Manager Sarah Schenk, Assistant County Attorney Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

Chairman Conerly called the meeting to order at 9:00 a.m.

All witnesses and staff giving testimony were duly sworn.

PLEDGE OF ALLEGIANCE

Lightarrian Conerly led the Pledge of Allegiance.

AGENDA PC20200813DOC001

6. Agenda Update Memorandum: 🚨

PC20200813DOC002

- Minutes for Approval June 11, July 9, and July 24, 2020
- Item 4, Z-20-02, Norah & Aaron LLC Revised traffic impact statement presented

MINUTES

A motion was made by Member DeLesline, seconded by Member Smock, and carried 6-0, with Member Rahn absent, to approve the minutes of June 11, July 9, and July 24, 2020.

1. <u>CITIZEN COMMENTS</u> (Future Agenda Items)

There being no citizen comments, Chairman Conerly closed citizen comments.

ADVERTISED PUBLIC HEARINGS (Presentations Scheduled)

2. ORDINANCE/LAND DEVELOPMENT CODE

A duly advertised public hearing was held to consider recommending adoption of proposed Land Development Code Text Amendment LDCT-20-05/Ordinance 20-33, Conservation Easements. Staff recommended adoption.

Rossina Leider, Planning Section Manager, submitted an objection letter (8/12/20) from Scott Rudacille, Attorney representing Medallion Home Gulf Coast, Inc.

William Claque, Chief Assistant County Attorney, explained proposed Ordinance 20-33 amends Section 706.8.B of the Land Development Code (LDC), which requires conservation easements over post-development wetlands and wetland buffers, and applies to all remaining wetlands and buffers around the wetlands regardless of whether they are associated with wetland mitigation. LDC Section 706.8.B is part of Section 706 that implements the County's Comprehensive Plan requirements for wetland protection. A lawsuit was filed against the County claiming this requirement violated the Constitutional standards for exactions of interested land from developers. Since the original trial court judgement, the County has not been requiring developers to comply with automated, across-the-board, conservation easements. Due to substantive concerns remaining, it is the advice of the County Attorney's office that LDC Section 706.8.B be amended to require conservation easements where there is a rational nexus and rough proportionality. Even without conservation easements over wetlands and wetland buffers, the provisions of the LDC and Comprehensive Plan that restrict development or impacts to those areas, remain in place. A scrivener's error exists in the recommended motion, which refers to the Code of Ordinances instead of the Land Development Code.

Discussion took place on the same process for individualized determination, would a conservation easement always be granted in favor of the County, flexibility of the language to accommodate other agencies such as the U.S. Army Corps of Engineers or the Southwest Florida Water Management District (SWFWMD), whether the amendment would affect the conservation easements required on habitats that are not wetlands, whether the amendment diminishes the obligations or permits future modifications to the conditions of the requirements, it is very difficult to gauge what is happening on the State level, because individual agencies do not follow the same practices, but the overall statutory framework, and the County's requirements for conservation easements are more restrictive than those of State agencies.

There being no public comment, Chairman Conerly closed public comment.

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 in accordance with Section 341 of the LDC, Member DeLesline moved to recommend adoption of Ordinance 20-33 (LDCT-20-05), amending the Manatee County LDC, as recommended by staff. The motion was seconded by Member Roth and carried 6-0, with Member Rahn absent.

3. ORDINANCE/LAND DEVELOPMENT CODE

A duly advertised public hearing was held to consider recommending adoption of proposed Land Development Code Text Amendment, LDCT-20-06/Ordinance 20-34, Requirements for Enforcement/Appeals/Schedule of Uses. Staff recommended adoption.

William Clague, Chief Assistant County Attorney, stated a scrivener's error exists in the recommended motion, which refers to the Code of Ordinances instead of the Land Development Code. This text amendment provides for three surgical revisions to the LDC, that are driven by the County Attorney's office having to defend LDC provisions or decisions in court. He reviewed the following Sections (a) 106.3.A – amended to clarify that it does not authorize lawsuits by third parties against the County to require the County to enforce the LDC; (b) 370 – amended to clarify that "any aggrieved person" may file an appeal of an administrative decision under the LDC; and (c) 402.5 – amended to authorize interpretations of uses in planned development districts in the same manner as interpretations of uses in "straight zoning" district.

Discussion proceeded on LDC Section 106.3.A.

There being no public comment, Chairman Conerly closed public comment.

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 in accordance with Section 341 of the LDC, Member DeLesline moved to recommend adoption of Ordinance 20-34 (LDCT-20-06), amending the Manatee County LDC, as recommended by staff. The motion was seconded by Member Smock and carried 6-0, with Member Rahn absent.

PC20200813DOC004

4. ORDINANCE/ZONING

A duly advertised public hearing was held to consider recommending adoption of proposed Zoning Ordinance Z-20-02, Norah & Aaron LLC. Staff recommended adoption.

No ex-parte communications were disclosed.

John Foley, Agent for Hal Perdew and Brett Decklever (contract purchasers), concurred with the staff report and noted the previous applications on this site did not come to fruition because of the lack of sewer service in the vicinity. The request seeks a rezone from RSMH-6 (Residential Single-Family Mobile Home District, six dwelling units per acre) to RMF-9 (Residential Multifamily District, nine dwelling units per acre).

James Rigo, Principal Planner, utilized a slide presentation to review the location, aerial map, history, Future Land Use Category (FLUC) map, zoning map, request details, site characteristics, Coastal Planning Area (CPA), surrounding land uses, photographs of the site and surrounding uses, positive and negative aspects, mitigating measures, and conclusion/recommendation. Staff received phone calls from Gail Burnham and Deborah Elston.

Discussion took place on the removal of mobile homes from the CPA, the maximum allowable density per acre would be nine, minimum lot sizes, septic tanks would be allowed on a new project if State requirements are met, sanitary sewer options, whether Experimental Farm Road could accommodate additional trips, and the County cannot restrict septic tank systems.

Nelson Galeano. Transportation Planning, was available to address questions.

Thomas Gerstenberger, Stormwater Engineering Division Manager, stated Experimental Farm Road does not currently have the appropriate travel lane widths, and would need to be brought up to County standards. The traffic study may reflect that operational improvements are necessary for any proposed entrances to the project. He displayed (a) a Sewer Infrastructure map to discuss the location of the nearest gravity sewer system, west of the project and the railroad crossing on Experimental Farm Road; (b) the Federal Emergency Management Agency (FEMA) 2014 Flood Insurance Rate Map (FIRM) that does not reflect the 100-year floodplain delineation; and (c) the County 25-year Floodplain map in which the areas subject to 25-year inundation from a 25-year flood event were depicted in blue. Staff has requested, as part of the review of the rezone application, that any subsequent Final Site/Construction Plans submitted for development of the site, that the engineer calculate any associated 100-year flood stages and further delineate the 100-year floodplain that would be subject to floodplain mitigation.

There was discussion on the 1998 flood study being the best available information for this area, and whether the information from FEMA is dated.

Mr. Gerstenberger reported the County submitted a cooperative funding initiative application to SWFWMD for a water management plan for this area of the County including Tampa Gap Drain.

Gail Burnham, 49th Street East resident, expressed concern with rush hour traffic, and whether emergency vehicles would have adequate access on 49th Street East if it is left in its current condition.

Howard Keever, 49th Street East resident, stated he was not notified and the posted notice signs on the site were not visible. He expressed concern with the possible units utilizing septic tanks and an increase in area traffic.

Andrew Kane, Canal Road resident, expressed concern with the project's impact on area runoff and flooding, traffic patterns and sewer capacity.

There being no further public comment, Chairman Conerly closed public comment.

Mr. Foley stated the sanitary sewer options consists of tying into the gravity system along U.S. 41 to the west, or to the east on 28th Avenue East. Once the sewer line leaves the site it would be dedicated to and maintained by the County. There is adequate capacity for either option, so there should be no overflow issues. Experimental Farm Road is not up to standard, and during Final Site Plan approval, any improvements would be discussed. Upon question, he confirmed the Florida Department of Transportation would not approve access to U.S. 41 from the site.

Discussion ensued on sanitary sewer service for the site.

There were no staff or applicant closing comments.

Deliberations ensued.

Motion to Deny

Member DeLesline moved to recommend denial of Zoning Ordinance Z-20-02.

Sarah Schenk, Assistant County Attorney, clarified the proposed motion to deny: Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be inconsistent with the Manatee County Comprehensive Plan and the Manatee County LDC, I move to recommend denial of Manatee County Zoning Ordinance Z-20-02, as recommended by staff (staff recommended adoption).

The motion as read by Ms. Schenk was moved by Member DeLesline and seconded by Member Smock.

Member DeLesline explained a four-story building would not be appropriate for the neighborhood.

Member Smock pointed out the use is unknown at this time, and changing the zoning designation allows the applicant more flexibility.

AUGUST 13, 2020

Ms. Schenk explained LDC Section 342.3a addresses compatibility with existing development patterns and the zoning of the nearby properties, thus height goes with compatibility.

Member DeLesline stated his concern is confirmed compatibility with the surrounding neighborhood.

The motion failed 1-5, with Members Conerly, Heap, Smock, Roth and Rutledge voting nay and Member Rahn absent.

Motion to Adopt

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 LDC, Member Rutledge moved to recommend adoption of Manatee County Zoning Ordinance Z-20-02, as recommended by staff. The motion was seconded by Member Roth and carried 5-1, with Member DeLesline voting nay and Member Rahn absent.

5. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider recommending adoption of proposed Zoning Ordinance Z-20-04, Mixon Rezone/Mixon Fruit Farms, Inc./Hunt Real Estate Services, Inc. Staff recommended adoption.

No ex-parte communications were disclosed.

Marla Hough, Engineer for Hunt Real Estates Services, Inc. (contract purchaser), displayed photographs of the site and surrounding uses including the School District support center, Mixon's market, Glen Creek Subdivision, and agricultural property to review the rezone of 4.43 acres on the southeast corner of 27th Street East and 26th Avenue East from A-1 (Agricultural) to HC (Heavy Commercial). The site is owned by the Mixon Family and is currently used for citrus groves, an agricultural use. The FLUC is IL (Industrial Light), which is compatible with the HC zoning district, and the proposed use would be compatible with existing development patterns since the site is adjacent to two urban corridor roads. This is an infill project that would serve the residents, passing traffic, and neighboring properties. The site does not have any wetlands and is located outside of the 100-year floodplain. A traffic impact statement was prepared and approved for the site, but concurrency cannot be obtained until the Preliminary Site Plan/Final Site Plan stage. The site is currently served by potable water and central sanitary sewer. The County is in the process of developing improvement plans for 26th Avenue East, and the applicant is working with staff to ensure compatibility with the improvement plans.

Discussion took place on the intent for the site, the traffic impact statement reflects a 7-Eleven, which is an allowed use under the HC zoning district, and the traffic impact statement should not have reflected the proposed use since this is a straight rezone.

Jake Bibler, Planner I, utilized a slide presentation to review the request details, site characteristics, future land use map, zoning map, positive and negative aspects, and mitigating measures. The previous rezone request was for a 7-Eleven, but it was changed to HC at staff's suggestion.

Thomas Gerstenberger, Stormwater Engineering Division Manager, confirmed the project is not within the 100-year floodplain pursuant to the FEMA 2014 effective FIRM for this area; however, a watershed management plan performed by the City of Bradenton and SWFWMD reflects 100-year floodplain delineation on the site.

AUGUST 13. 2020

Chairman Conerly inquired if staff accepted the City of Bradenton's information as the best available information that the County would require in regard to any proposed design (yes), and if this information had been submitted to FEMA (no).

Mr. Gerstenberger reported the County is implementing a watershed management plan through a cooperative funding initiative with SWFWMD that would include this area since it drains into the Glen Creek and Sugarhouse Creek Watersheds.

There being no public comment, Chairman Conerly closed public comment.

Sarah Schenk, Assistant County Attorney, asked staff to clarify how adverse impacts for non-residential uses are generally addressed in the LDC (concern was noted in the School Report).

Rossina Leider, Planning Section Manager, stated during Final Site Plan approval, the applicant has to comply with all of the LDC requirements and LDC Section 542, General Requirements, addressing odors, vibrations, visual emissions, hazardous materials and toxic substances, etc.

Mr. Bibler confirmed the School Board is involved in the Final Site Plan approval.

Ms. Hough reported she responded to School District comments included in the School Report, and stated the applicant would conform to all LDC requirements during Final Site Plan approval.

Deliberations ensued on compatibility and uses.

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 LDC, Member DeLesline moved to recommend adoption of Manatee County Zoning Ordinance Z-20-04, as recommended by staff. The motion was seconded by Member Roth and carried 6-0, with Member Rahn absent.

PC20200813DOC006

ADJOURN

There being no further business, Chairman Conerly adjourned the meeting at 10:57 a.m.

Minutes Approved: September 10, 2020