

DECEMBER 5, 2011

The Zoning Meeting of the Board of Lee County Commissioners was held this date with the following Commissioners present:

- John Manning, Chairman
- Ray Judah
- Tammara Hall
- Frank B. Mann

COMMISSIONER BIGELOW WAS ABSENT FOR THE ENTIRE MEETING.

The Chairman called the meeting to order at 9:30 a.m.

**A COPY OF THE HEARING EXAMINER’S RECOMMENDATION IS ON FILE IN THE MINUTES OFFICE.**

CASE NUMBER: REZ2011-00006

NAME: POWELL CREEK PRESERVE

REQUEST: Rezone 77+/- acres from Mobile Home Planned Development (MHPD) to Environmentally Critical (EC). This project will not connect to existing potable water and sanitary sewer.

LOCATION: Property is located at 15601 Hart Road, North Fort Myers Planning Community, Lee County, Florida.

PROPERTY OWNER’S REPRESENTATIVE: Mike Pavese, Lee County Public Works  
239-533-8360

Community Development Principal Planner Alvin “Chip” Block reviewed the request, noted that Staff and Hearing Examiner (HE) both recommended approval, and noted that there were no Participants of Record. Commissioner Judah moved approval, seconded by Commissioner Hall. The motion was called and carried with Commissioner Bigelow absent.

[RESOLUTION NO. Z-11-027](#)

CASE NUMBER: DCI2010-00008

NAME: SOUTHTRAIL PLAZA

REQUEST: Rezone +/- 1.91 acres from Agricultural (AG-2) and Community Commercial (CC) to Commercial Planned Development (CPD) to bring existing development into compliance with the Lee County LDC. The applicant proposes a maximum of 23,247 square feet of commercial floor area. The maximum height proposed is 35 feet. No development blasting is proposed. Any development will connect to public potable water service and public sanitary sewer service.

LOCATION: Property is located at 14510 South Tamiami Trail #20, South Fort Myers Planning Community, Lee County, Florida.

PROPERTY OWNER’S REPRESENTATIVE: Tom Lehnert, Banks Engineering  
239-939-5490

Community Development Principal Planner Alvin “Chip” Block reviewed the request, noted that the Hearing Examiner (HE) recommended approval, and requested that in any recommendation of approval the Board also consider the changes in the memorandum to the Board from Senior Planner Tony Palermo, and noted that the Applicant agree to those changes. There were no Participants of Record. Assistant County Attorney John Fredyma and Mr. Palermo provided clarification. Commissioner Hall moved approval as amended, seconded by Commissioner Mann. Following confirmation by Mr. Palermo with regards to the Britt’s Carpet sign that it has a 10 year duration, the motion was called and carried, with Commissioner Bigelow absent.

[RESOLUTION NO. Z-11-017](#)

CASE NUMBER: DRI2011-00002

NAME: NORTH POINT DRI

REQUEST: Notice of Proposed Change (NOPC) to the DRI Development Order for North Point DRI (State DRI #05-0203-162) to extend the buildout date from December 31, 2012 to December 30, 2015.

LOCATION: Property is located at 21651 South Tamiami Trail, Estero Planning Community, Lee County, Florida.

PROPERTY OWNER'S REPRESENTATIVE: Chuck Basinait, Henderson Franklin  
239-344-1204

Community Development Principal Planner Alvin “Chip” Block reviewed the request, noted that Staff and Hearing Examiner (HE) both recommended approval, and stated that there were no Participants of Record. Attorney Charles Basinait of Henderson, Franklin Law Firm, on behalf of the applicant, confirmed the applicant’s request was to extend the build-out date from December 31, 2012 to December 30, 2015. Commissioner Hall moved approval of the 1<sup>st</sup> Alternative of the HE, seconded by Commissioner Mann. After Chief Assistant County Attorney Donna Marie Collins and Assistant County Attorney Michael Jacob provided clarification on difference between the Alternative Language on page 6 of the HE’s recommendation and page 21 of the proposed Resolution, the motion was called and carried, with Commissioner Bigelow absent. ([Affidavit](#))

[RESOLUTION NO. Z-11-025](#)

CASE NUMBER: DCI2011-00009

NAME: OWENBY COMMERCIAL PLANNED DEVELOPMENT

REQUEST: Rezone 1.23± acres from Agricultural (AG-2) and Commercial (C-2) to Commercial Planned Development (CPD) to allow for a maximum of 10,005± square feet of commercial and light industrial uses including vehicle and equipment dealers (Groups I, II & III). The maximum building height is 35 feet. The development is connected to potable water and sanitary sewer.

LOCATION: Property is located at 2341 Crystal Drive, South Fort Myers Planning Community, Lee County, Florida.

PROPERTY OWNER'S REPRESENTATIVE: Robert Hutcherson, AICP, Robert Hutcherson Planning  
239-850-3232

Community Development Principal Planner Alvin “Chip” Block reviewed the request, noted that Staff and Hearing Examiner (HE) both recommended approval with conditions, and stated that there was one (1) Participant of Record. Commissioner Judah moved approval, seconded by Commissioner Hall. The Chairman called on the Participant of Record; however, no one came forward. The motion was called and carried, with Commissioner Bigelow absent.

[RESOLUTION NO. Z-11-026](#)

CASE NUMBER: DCI2011-00002

NAME: THE GULFCOAST HEALTH PARK CPD

REQUEST: Rezone of 17.05 +/- acres from Agriculture District – AG-2 and Commercial Planned Development-CPD to Commercial Planned Development-CPD to allow for the development of a maximum of 160,000 square feet of commercial use, 130 hotel rooms, and assisted living facility with a density equivalency of 125 dwelling units. The proposed maximum building height is 75 feet (7 stories). The development will connect to potable water and sanitary sewer. No development blasting is proposed.

LOCATION: Property is located at 14131 Metro Parkway & Right-of-Way, South Fort Myers Planning Community, Lee County, Florida.

PROPERTY OWNER'S REPRESENTATIVE: Stacy Hewitt, Banks Engineering  
239-939-5490

Community Development Principal Planner Alvin “Chip” Block reviewed the request, stated that Staff and Hearing Examiner (HE) both recommended approval with conditions, noted the HE’s corrective memorandum dated

10/20/2011, and stated that there were two (2) Participants of Record. Attorney Neale Montgomery, of the Pavese Law Firm, representing the applicant, further reviewed the request and responded to questions. Following further Board discussion, Commissioner Hall moved to accept the HE’s recommendation to allow consumption on premises and eliminate fast food restaurants with drive-throughs and allow fast food without drive-throughs, and including the HE’s memorandum of 10/20/2011, seconded by Commissioner Mann, called and carried with Commissioner Bigelow absent.

[RESOLUTION NO. Z-11-018](#)

**CASE NUMBER:** DCI2010-00010

**NAME:** DELAWARE ROAD MARKET

**REQUEST:** Rezone 0.89+/- acres from Commercial (C-2) and Single-family Residential (RS-1) to Commercial Planned Development (CPD). The proposed project consists of converting 2,633 square feet of existing single-family residence use, to a proposed 3,399 square feet building, for commercial/retail uses and 1,535 square feet building for office use. Maximum height proposed is 35 feet. No development blasting is proposed. The development is connected to public potable water service, and currently utilizes an on-site sewage treatment system but will connect to central sewer in Phase 2.

**LOCATION:** Property is located at 101 Delaware Road, Lehigh Acres Planning Community, Lee County, Florida.

**PROPERTY OWNER’S REPRESENTATIVE:** I K Steuart, Barbot, Steuart & Associates  
239-936-7353

Community Development Principal Planner Alvin “Chip” Block reviewed the request, noted that Staff and Hearing Examiner (HE) both recommended approval with conditions, and stated that there were three (3) Participants of Record. Board discussion ensued with Mr. Block responding to questions. Applicant/Property owner Rodolfo Naranjo addressed the Board. The Chairman called on the Participants of Record and the following citizens came forward:

- Vice President of Landex Corporation Ruth Anglickis
- Attorney Neysa Borkert of Pavese Law Firm speaking on behalf of an adjacent neighbor
- Metropolitan Planning Organization (MPO) Chairman Richard Anglickis

Development Review Senior Engineer Robert Price and Zoning Division Senior Planner Shawn Lamey provided clarification. Mr. Naranjo provided further explanation of the case. During Board comments, Chief Assistant County Attorney Donna Marie Collins provided legal opinion concerning the proposed use. At the request of Staff and the Applicant, Chairman Manning called for a brief break.

Following a short break, the Chairman called the meeting back to order with all Commissioners present with the exception of Commissioner Bigelow.

Attorney Collins opined that the only legal impediment to rezoning to Commercial Planned Development (CPD) is the request to maintain the Residential use to the site. Following Board discussion, Mr. Naranjo confirmed withdrawal of the residential uses if the Commercial Planned Development (CPD) moves forward. Commissioner Hall moved approval of the Staff recommendation, recognizing that the applicant has withdrawn the request for a residential use to continue after the zoning, along with the flexibility to relocation of the dumpster. Commissioner Manning turned the gavel over to Commissioner Judah and seconded the motion. Following Board discussion, the motion was called and carried, with Commissioner Mann dissenting, and Commissioner Bigelow absent.

[RESOLUTION NO. Z-11-019](#)

The Chairman adjourned the meeting at 11:05 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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[Chairman, Lee County Commission](#)