

2619A

LOCAL PLANNING AGENCY
LEE COUNTY, FLORIDA

Transcript of proceedings had at the public hearing conducted by the Local Planning Agency, Lee County, Florida, at the Board of County Commissioners Chambers, Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, on October 9, 2008, commencing at 8:30 a.m.

MEMBERS OF THE BOARD:

Carl Ryffel, Acting Chairman
Leslie Cochran
Noel Address
Leland Taylor

ALSO PRESENT:

Donna Collins, County Attorney
Matt Noble, Principal Planner
Brandy Gonzalez, Principal Planner
Janice R. Maline, Court Reporter

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1 (The proceedings were as follows:)

2 MS. COLLINS: Good morning, Donna Marie
3 Collins, Assistant County Attorney. I
4 reviewed the Affidavit of Publication for
5 this morning's meeting, and it is legally
6 sufficient as to form and content. You may
7 commence at this time.

8 MR. RYFFEL: Thank you. Let's stand for
9 the Pledge of Allegiance.

10 (The Pledge was had and the proceedings
11 continued as follows:)

12 MR. RYFFEL: Thank you.

13 MR. NOBLE: We really only have one
14 agenda item left to deal with today, that is
15 the Formosa Small Scale Amendment. The
16 Bonita Bay Group has filed a request to have
17 the North River Village Amendment moved to
18 next year's cycle. I believe it will be back
19 in front of you at the November LPA.

20 MR. RYFFEL: Okay. So we don't need to
21 take any further action?

22 MR. NOBLE: No, I don't believe.

23 MR. RYFFEL: We acknowledge that it's
24 being put into the next cycle?

25 MR. NOBLE: Correct.

1 MR. RYFFEL: We need public forum first.
2 Anyone in the public that wishes to talk
3 about any item not on the agenda, but would
4 like us to look at it in the future? Seeing
5 none, we'll go to the agenda.

6 The first item is Formosa, that's
7 CPA2007-61. It's a request to amend the
8 future land use map series for 9.9 acres, to
9 the classification shown on map one future
10 land use map from industrial development to
11 commercial, located in the northeast corner
12 of Alico Road and Lee Road. Brandy, are you
13 going to do this?

14 MS. GONZALEZ: Yes. Good morning. For
15 the record, Brandy Gonzalez, Lee County
16 Division of Planning. CPA2007-61 is a small
17 scale map amendment generally located in the
18 northeast corner of Alico Road and Lee Road.

19 The applicant is requesting a change in
20 the future land use from industrial
21 development to commercial. The requested
22 land use change will have minimal impact on
23 public service providers with the exception
24 of transportation services. Based on DOT
25 staff analysis of the amendment, there are

1 several roads that are within a three-mile
2 radius of the area that are projected to fail
3 with and without the proposed land use
4 change.

5 Therefore, staff cannot recommend
6 approval of the subject land use change, as
7 it contends that site development upon that
8 road segment is projected to fail.

9 In addition, staff also finds that it's
10 not consistent with the commercial and
11 industrial lands Comprehensive Plan amendment
12 that you reviewed previously. If you have
13 any questions, I'll be happen to answer them.

14 MR. RYFFEL: Any questions?

15 MR. COCHRAN: I was not sure of the last
16 point you made.

17 MS. GONZALEZ: Staff finds that it
18 wasn't consistent with the commercial and
19 industrial future land use amendment that you
20 reviewed previously. It's not consistent
21 with the staff recommendation.

22 MR. COCHRAN: That's the one that we
23 passed last week?

24 MS. GONZALEZ: Yeah.

25 MR. COCHRAN: I thought I asked the

1 question if that would affect this piece of
2 property during the meeting and Paul said it
3 would be consistent with it, as I understood
4 it.

5 MR. NOBLE: I believe the point staff is
6 making is we're still concerned about losing
7 industrial development land, specifically in
8 the Alico Road corridor, too. Does the
9 amendment have an effect on the land, as
10 currently proposed, we don't believe so.

11 It will actually broaden some of the
12 allowable uses that could occur on that land,
13 so I think Brandy is making the point that
14 continuing to remove industrial lands is not
15 really in keeping with the amendment, which
16 is fostering its additional uses within the
17 industrial land.

18 MR. COCHRAN: But is it inconsistent?

19 MR. NOBLE: Inconsistent with the
20 thought of preserving industrial land in the
21 Alico Road corridor.

22 MR. COCHRAN: What did we pass last
23 week?

24 MS. GONZALEZ: Last week the LPA had
25 recommended a portion of that language was

1 removed from the staff report, and that was
2 free standing commercial uses are developed
3 to meet the definition of corner store
4 commercial. So it wouldn't be inconsistent
5 with what the LPA recommended, but it would
6 be inconsistent with what staff recommended
7 in that report.

8 MR. COCHRAN: I understand.

9 MR. ANDRESS: That's the one we had some
10 concerns about.

11 MR. COCHRAN: That's why we raised the
12 question last week.

13 MR. RYFFEL: Anything else? Let's hear
14 from the applicant. Neil?

15 MS. MONTGOMERY: We had a great
16 presentation for the overhead projection, but
17 I think we'll just pass them out. It is
18 inconsistent with the staff recommendation
19 for the commercial, but it is consistent with
20 the LPA recommendation.

21 One of the reasons why staff's
22 recommendation, in our opinion, doesn't work
23 is because the corner store is, as staff has
24 defined it, is 5,000 square foot commercial
25 industrial with pedestrian interconnect.

1 If you go to Alico Road and look at the
2 industrial that's there, that's very intense
3 industrial, and most of those folks that work
4 there, and drive the trucks, aren't getting
5 out of their trucks and doing a jaunt to the
6 little corner store. When they need
7 commercial stuff, they want to drive their
8 trucks to the facility, get in and get out.

9 What we're really suggesting here is
10 given the extensive amount of industrial in
11 that location between 41 and 75 there are
12 very, very limited or restricted commercial
13 opportunities to meet the needs of those
14 industrial uses.

15 I would say if you look on Page 5 under
16 the commercial category in your staff report,
17 you'll see that even that commercial category
18 still allows limited light industrial
19 research and development, you know, in a
20 variety of uses. So it is consistent with
21 what's around it, and one of the things that
22 obviously the staff raises concern about is
23 traffic.

24 One of the benefits of providing
25 commercial, that industrial need in that

1 location, is that then those folks don't have
2 to drive to 41, and they don't have to drive
3 to Ben Hill Griffin Parkway or go under 75 to
4 get to those services.

5 One example, how many folks have gone
6 early in the morning and seen, for example,
7 the gas station on Daniels and Treeline, how
8 many, you know, maintenance vehicles and
9 industrial type uses are there? It's packed
10 because there is not a lot of those
11 opportunities down closer to the retail area.

12 This is a small scale, even though it's
13 on this cycle, and the intent obviously is
14 that it meets the local needs there, and,
15 again, there is limited opportunities.

16 One of the problems I think we had is
17 with the square footage. The applicant
18 doesn't need an FAR for one. As a practical
19 matter, retail isn't going to be multi-story
20 in this location. They're not going to have
21 a multi-story back there.

22 This is an industrial area. It's all
23 going to be one floor, so the most you can
24 really get reasonably on the property is
25 about 175,000 square feet, which is what the

1 applicant is asking. The staff makes the
2 point, yeah, but it's not limited to that.
3 Our response to that is we don't care if you
4 put a footnote or something that limits it,
5 and staff's response to that is but we can't
6 do that on a small scale. It can only be if
7 you're in a regular cycle.

8 Our recommendation is if they want a FAR
9 we're happy to do that, even though we are
10 small scale, we are in the regular cycle in
11 terms of hearing time. We don't mind if
12 you're recommending to approve us, send us up
13 to Tallahassee as though we were a large
14 scale amendment.

15 I think if we do that, that helps to
16 address the transportation issue. Which
17 isn't going to ever be a real issue, but Ted
18 Treise is here to address, in a more
19 professional manner, the traffic.

20 MR. NOBLE: If I could interject. Staff
21 is a well aware of this issue and we have
22 been trying to keep this amendment on a
23 track, that is if the board, or you-all.
24 Would recommend that, we are taking this
25 amendment to the October 22nd transmittal

1 hearing, as well, to preserve that right of
2 you guys to recommend that, and the board to
3 actually do that, if they so choose to do
4 that.

5 MR. RYFFEL: Before you start, Ted, this
6 is a small scale, right, so it doesn't go to
7 Tallahassee?

8 MR. NOBLE: It does when it's adopted.

9 MR. RYFFEL: Okay.

10 MR. NOBLE: They may not review it
11 unless somebody intervenes and asks them to
12 review it.

13 MR. RYFFEL: Okay. Thank you, Ted?

14 MR. TREISE: Good morning, Ted Treise
15 for DR Transportation for the record. Our
16 analysis as Neil indicated, was not on the
17 1.0 FAR. If we utilize that analysis based
18 on Mr. Loveland's memo, that would be over
19 430,000 square feet of commercial uses,
20 obviously 9.9 acres in this area won't
21 support that amount and intensity.

22 So in our analysis we looked at 175,000
23 square feet of commercial uses, and based on
24 that analysis, Alico Road was projected to
25 operate acceptably in the 2030 plan. There

1 were lengths beyond site, for instance, the
2 Metro Parkway Extension which isn't built yet
3 was shown to have poor failing level of
4 service in Alico Road over next to the
5 interstate.

6 Based on our square footage, we analyzed
7 we have a diminimis impact on the lengths, so
8 even though they were within the three-mile
9 radius, the impact this project would have on
10 those lengths was diminimus, based on the
11 FDOT definition standards.

12 So based on the analysis we provided to
13 staff, the short-term capital improvement
14 program will be able to accommodate this
15 project, as we analyzed, at 175,000 square
16 feet, as well as the long-term transportation
17 plan without any modifications. I'll be
18 happy to answer any questions.

19 MR. RYFFEL: Any questions for Ted? No
20 thanks, Ted.

21 MR. TREISE: Thank you.

22 MR. RYFFEL: Neil?

23 MS. MONTGOMERY: I just want to say if
24 you look at the commercial that is allowed on
25 the other side of the interstate, that's

1 primarily to serve the traveling public and
2 for a regional kind of commercial center.
3 They are kind of restricted in the kind of
4 uses because the county, rightfully so, is
5 worried about the corridor to the airport and
6 to the university, so you can't do the kind
7 of petty commercial uses there that you want
8 to do, due to the urban industrial commercial
9 area because they're not allowed, so this is
10 an opportunity to do that.

11 And obviously the staff and the
12 commission get another chance to evaluate
13 that consistency when it goes through the
14 zoning process, and the graphics you have, if
15 you can imagine they're on the overhead
16 projector, show you where this location is
17 and show you land use categories and some of
18 land uses in the area, and we have Shelly
19 Constance here if you have in depth planning
20 questions.

21 MR. RYFFEL: Any further questions of
22 the applicant at this time? Is there any
23 public input on this case? Okay, seeing
24 none --

25 MR. ANDRESS: You want a motion?

1 MR. RYFFEL: Do you want to discuss it?

2 MR. ANDRESS: You want to discuss it?

3 MR. COCHRAN: Yeah, I do. I just live a
4 couple miles from this area, and if you're
5 not familiar with that area, the yellow part
6 on our map is San Carlos Park.

7 Half of the driving population in San
8 Carlos Park essentially dumps out at Alico on
9 Lee Road, the other half dumps out on 41, and
10 I don't see this as a point of destination,
11 as far as people coming in. It's going to be
12 local people for the most part going to
13 whatever kind of shops are there.

14 It doesn't bother me to have the
15 frontage looking decent, as the shops and
16 whatever might be there, rather than an
17 industrial area, so I'm not concerned with
18 the issues raised by staff. In fact, the few
19 people that I've talked to, would prefer to
20 have another little strip mall there.

21 I know we don't need it in most parts of
22 our county, but this area does need some
23 accessible, handy places to shop and do their
24 basic kinds of things. I'm assuming that's
25 what's going to be there. You're right, on

1 the other side of the freeway we have a
2 different environment, but this is really
3 almost residential -- well, it is residential
4 right across the street. I'm not troubled
5 with the proposal.

6 MR. ANDRESS: I think that commercial,
7 and blending with industrial uses has worked
8 quite well on Metro Parkway, and to me this
9 is a similar situation here, so I really
10 think that the uses are compatible, and I
11 think it, as far as the frontage on the
12 highway, it makes a lot more pleasant
13 appearance in the area there, to have the
14 commercial up on the highway with all the
15 industrial behind there, so I don't have any
16 problem with supporting the request.

17 MR. RYFFEL: Any problem?

18 MR. TAYLOR: Move forward.

19 MR. RYFFEL: I had a whole bunch of
20 comments here, I'm not going to go into that
21 because I think I can count to three. One of
22 the things I would not want to be part of
23 this recommendation, that the project meets
24 the definition of a corner commercial store.
25 I think it should be approved as submitted.

1 Commercial corner store does not fit this
2 area, and I also don't think you can put a
3 condition on a land use change. So I, too,
4 am in support of the application as
5 submitted.

6 I'm not going to go through all the
7 detail of why I thought it was a good idea,
8 suffice it to say I think it's appropriate,
9 so I would support a motion.

10 MR. ANDRESS: I move that CPA2007-61,
11 that map one of the future land use map be
12 amended to redesignate the subject area from
13 industrial development to commercial.

14 MR. COCHRAN: Second.

15 MR. RYFFEL: Second, motion and second;
16 discussion? Anything further? All in favor?

17 (All members said aye.)

18 MR. RYFFEL: Opposed?

19 (No response.)

20 MR. RYFFEL: Motion passes.

21 Next item on the agenda is other
22 business, Matt or Brandy, do you have
23 something?

24 MR. NOBLE: We do.

25 MS. GONZALEZ: Brandy Gonzalez. Staff

1 wanted to go over real quick and make a note
2 that upon closer review, staff found that the
3 previous recommendations made in CPA2007-59,
4 which was the hurricane evacuation coastal
5 high hazard amendment were not supportive of
6 the required statutory changes.

7 Staff will be using an updated staff
8 report for the transmittal with the revised
9 policies that we handed out. We have
10 basically determined that the required
11 changes to the hurricane evacuation portions
12 of this amendment would apply only to a
13 comprehensive plan amendment, and if you have
14 any questions about this policy, we can go
15 over them.

16 MR. NOBLE: It's kind of a shame that
17 Ron is not here, because this really is
18 answering some of the questions he raised
19 during the hearing. I believe the county --

20 MR. COCHRAN: Argued his way?

21 MR. NOBLE: Yes, he was concerned we
22 were setting ourselves up for some kind of a
23 moratorium in the coastal high hazard areas.
24 On further research we took that to heart,
25 and looked at the legislation and I believe

1 that's the modifications that were based on
2 what we've learned.

3 MR. RYFFEL: So you basically extended
4 it to 2030?

5 MS. GONZALEZ: That's part of it. The
6 first policy removes the outdated references,
7 and it specifies that we will work towards
8 attaining the standards.

9 If you go down to Policy 109.2.1 towards
10 the bottom that also updates the target date
11 for shelters on the 2030.

12 MS. COLLINS: And the other changes were
13 made to clarify the proposed amendments to
14 the plan, because on further examination of
15 the bill that prompted the amendment to the
16 Florida Statutes, we realized that the
17 enhanced mitigation requirements up to
18 category five pertained to future
19 comprehensive plan amendments that increased
20 density in coastal high hazard areas.

21 MR. COCHRAN: Okay.

22 MS. COLLINS: So the proposed text
23 amendments have been retyped to tailor it to
24 respond to the specific statutory change.

25 MR. RYFFEL: Thank you. Any questions?

1 No.

2 MS. GONZALEZ: Basically we just want to
3 update this. We will be revising the report
4 and taking it to a transmittal hearing for
5 this language.

6 MR. RYFFEL: Donna Marie, what do we
7 need to do, revote on this? It's not on the
8 agenda.

9 MS. COLLINS: No, we wanted to bring you
10 up to date so you were aware there was
11 changes to the proposed language since you
12 last reviewed it. We wanted to provide you a
13 copy since you had it.

14 You don't have to take any official
15 action, although we will reflect in the staff
16 report it was brought back to you and a
17 change was made since you last saw it, and
18 that will be changed.

19 MR. RYFFEL: That will be the amendment;
20 any comments?

21 MR. ANDRESS: Well, one of the comments
22 I have here is on Policy 109.1.3. I'm
23 concerned about State Road 78 because of
24 living on Pine Island that's our major
25 evacuation route. I'm not sure why that was

1 taken out. Was there opposition to
2 identifying just one road, evacuation road;
3 is that the problem?

4 MS. COLLINS: Basically we were just
5 cleaning this up, and maybe John can help us
6 more. We took out that terminology because
7 we're just stating that critical roadways
8 causing congestion on any evacuation route.

9 MR. RYFFEL: Any.

10 MS. COLLINS: Road improvement to any
11 evacuation route is going to be a priority
12 for Lee County, so it didn't really seem
13 necessary to call out one in particular. The
14 plan is setting a benchmark that says if it's
15 an evacuation route, improvements to that
16 road is going to receive high priority.

17 MR. ANDRESS: Then my next question is
18 what does the county -- what criteria does
19 the county use in prioritizing the roadways
20 that are identified as such that meet this
21 criteria? How do you say this road over here
22 gets the funding before this road over here?

23 MS. COLLINS: I have to have the
24 planning department and DOT respond to that.

25 MR. ANDRESS: Okay.

1 MR. RYFFEL: He's not here.

2 MR. NOBLE: I know that is taken into
3 account in the early priorities list. I
4 can't tell you the exact criteria today off
5 the top of my head, but I know I sit through
6 those rankings and it's a function of the
7 available funds, how much the project costs,
8 the perceived bang for the buck, and, of
9 course, there is some political -- we have to
10 keep in mind, you know, Cape Coral versus
11 South Fort Myers, there's a balancing act. I
12 can't tell you the actual criteria of that.

13 MR. RYFFEL: It's easy to tell; those
14 places that have the blue signs that say
15 evacuation routes, those are the ones.

16 MR. ANDRESS: Okay. I'm just concerned
17 how we move State Road 78 up to the top of
18 the priority list.

19 MR. RYFFEL: I see John here.

20 MR. WILSON: Yeah, I'm sorry. John
21 Wilson, for the record, Division of Public
22 Safety, it took me a while to go back into my
23 rather fading memory to put into context why
24 this language was put into the amendment when
25 it was.

1 At that time there was a concern that
2 the segment of 78 from Bayshore to I75 would
3 not get funding to the current configuration
4 it is now. It's now a four-lane road,
5 certainly improved the clearance time on that
6 segment, so I think that was why this was put
7 in back then, to kind of give the historical
8 perspective. So the reason that it was put
9 in was addressed. It was that segment of
10 State Road 78 between Bayshore and the
11 interstate.

12 MR. ANDRESS: The segment I'm
13 specifically concerned about is from Chiquita
14 going west to Burnt Store Road.

15 MR. WILSON: Okay, and, again, there is
16 some extremely difficult issues with making
17 that a four-lane road, and it's one of the
18 two roads that we have plans for in the
19 county to do reverse laning.

20 As a result of that, the cost of the
21 right-of-way, the environmental issues
22 associated with it, you know, necessary to
23 maintain the 3-1 slope factor, you know, all
24 precluded very high costs for making that
25 road a reality, given the current situations,

1 so we have made a plan with the sheriff's
2 office, with the Pine Island folks, to make
3 that a one-way road outbound, to address that
4 particular deficiency.

5 MR. ANDRESS: Thank you.

6 MR. RYFFEL: Thank you, John. Any
7 questions for John? Okay, anything else? We
8 acknowledged we received this, and seems like
9 there are no problems from the LPA associated
10 with it. Any further business?

11 MR. ANDRESS: The Lee Plan regular cycle
12 amendments.

13 MR. NOBLE: That list did go to the
14 Board of County Commissioners on September
15 30th. They did initiate, I believe, although
16 I can't seem to be -- we did add one
17 amendment, I think it was continuing of the
18 evaluation of the commercial industrial
19 study, so we will pick that up again next
20 year.

21 MR. RYFFEL: Okay.

22 MR. ANDRESS: Is it too late for the LPA
23 to provide any input into this?

24 MR. NOBLE: No.

25 MR. ANDRESS: Okay. So we can recommend

1 adding some categories?

2 MR. NOBLE: We're open to that.

3 MR. ANDRESS: Okay. I don't know how we
4 want to include that, but right now there's a
5 lot of focus on the drainage pattern for the
6 104 square mile area of North Fort Myers,
7 including the water that's ending up in the
8 north spreader canal system, and I'd like to
9 see something on here where the county has a
10 commitment to participate in that.

11 I know that the county has sent staff
12 meeting -- staff people to the meetings, but
13 we're talking a very large problem here with
14 drainage for the whole northern part of Lee
15 County, and so I think there needs to be
16 something in here concerning the drainage
17 study.

18 We need to take a look at redirecting
19 flows into Yellow Fever Creek and Daughtry's
20 Creek. Historically a lot of flows from that
21 area out east of I75 that were coming south
22 out of the Cecil Webb and Babcock Ranch,
23 those flows were going south into the
24 Caloosahatchee River. The county has done a
25 lot of projects to redirect a lot of that

1 water west, which led to blowing out the
2 spreader canal, and 13 breaches have occurred
3 in the berm that separates the mangrove
4 fringe on the Charlotte Harbor from the
5 spreader canal itself.

6 This is a major issue that's going to
7 require major funding in the future to
8 correct these problems. We flew that area
9 last week in helicopters and we could see
10 that a lot of the water right now is bermed
11 up and dyked in the Cecil Webb area and they
12 are -- Florida Fish and Wildlife is spending
13 a lot of money right now designing drainage
14 projects where they're going to send their
15 excess water south, which is going to
16 escalate our problem even more in the area.

17 We really need to have a regional focus
18 into this drainage issue in the whole
19 northern part of the county. It's an area
20 that's been overlooked, because the -- you
21 have overlapping of the South Florida Water
22 Management District with the Southwest
23 Florida Water District, so there is
24 jurisdictional problems. There is a lot of
25 water that's coming -- 30 percent of this

1 water is coming south out of Charlotte
2 County, and with the future development of
3 Babcock Ranch, we're going to have additional
4 water there to contend with, so we have a
5 real major problem here in the future, and
6 the county needs to be looking at that.

7 MR. RYFFEL: I don't know how you say
8 that in a nutshell, but it's a pretty big
9 issue. Do you think you have enough from
10 Noel to --

11 MR. NOBLE: I think so.

12 MR. RYFFEL: -- to convey that?

13 MR. NOBLE: Yeah.

14 MR. ANDRESS: Okay. Thank you.

15 MR. RYFFEL: Anyone else? Is there a
16 motion to adjourn?

17 MR. COCHRAN: Motion.

18 MR. ANDRESS: Second.

19 MR. RYFFEL: All in favor?

20 (All members said aye.)

21 MR. RYFFEL: We're done.

22 (Said proceedings were concluded at 8:59
23 a.m.)

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C E R T I F I C A T E

STATE OF FLORIDA)

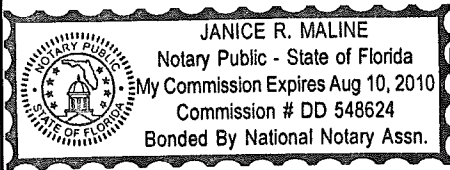
COUNTY OF LEE)

I, JANICE R. MALINE, Court Reporter and Notary Public in and for the State of Florida at large, do hereby certify that, pursuant to notice of hearing in the above-titled cause, the foregoing proceedings were reduced to print by means of computer-assisted transcription under my personal supervision, and that the said transcription constitutes a true record of the proceedings.

I further certify that said proceedings were taken at the time and place specified hereinabove and that I am neither of counsel, nor solicitor to either party in said suit, nor interested in the event of the cause.

WITNESS my hand and official seal in the County of Lee, State of Florida, this 16th day of November, 2008.

Janice R. Maline



JANICE R. MALINE
Notary Public, State of Florida