

Miller, Janet

From: Gary Stilwell [sggoat@embarqmail.com]
Sent: Sunday, January 17, 2021 9:07 PM
To: Miller, Janet
Cc: Interested Parties
Subject: [EXTERNAL] Re: Local Planning Agency Meeting - 01-25-2021
Attachments: JAN252021-1 LPA 12-07-2020.pdf

Ms Miller,
Attch'd comments on the LPA---disseminate as you wish.

As always, thank you for the updates--

Gary Stilwell

From: "Janet Miller" <JMiller@leegov.com>
To: "Interested Parties" <xyz@leegov.com>
Sent: Friday, January 15, 2021 11:14:31 AM
Subject: Local Planning Agency Meeting - 01-25-2021

Good Morning:

For those interested, below is a link to view the electronic version of the agenda packet for the January 25, 2021 Local Planning Agency meeting, which will be held at **9:00** a.m. in the Administration East Building, 2201 Second Street, Fort Myers, FL 33901, Room 118 (First Floor). **It is Building Number 6 on the attached map.**

<https://www.leegov.com/dcd/Documents/Agendas/LPA/2021/JAN252021.pdf>

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If you like to get there in style, drive a Land Rover--If you actually want to get back home-Drive a Land Cruiser.

**MINUTES REPORT
LOCAL PLANNING AGENCY
DECEMBER 7, 2020**

MEMBERS PRESENT:

Ray Blacksmith
Dustin Gardner
James Ink (Chair)
Alicia Olivo

Don Schrotenboer
Stan Stouder (Vice Chair)
Henry Zuba

STAFF PRESENT:

Nic DeFilippo, Planning
Brandon Dunn, Planning
Dave Loveland, DCD Director

Janet Miller, Recording Secretary
Mikki Rozdolski, Planning Manager
Becky Sweigert, Planning
Amanda Swindle, Asst. County Attorney

Agenda Item 1 – Call to Order, Review of Affidavit of Publication/Pledge of Allegiance

Ms. Swindle, Assistant County Attorney, certified the affidavit of publication and stated it was legally sufficient as to form and content.

Agenda Item 2 – Public Forum - None

Agenda Item 3 – Approval of Minutes – October 26, 2020

Mr. Blacksmith referred to the second to the last paragraph on Page 3 of 7 and added the word “no” in front of “*objection*,” so that the sentence reads, “*Mr. Blacksmith asked what would happen in an instance where neighbors that initially provided a letter of no objection later have a nuisance complaint.*”

Mr. Schrotenboer made a motion to approve the October 26, 2020 meeting minutes with the above correction, seconded by Mr. Stouder. The motion was called and passed 7-0.

For the audio recordings for today’s meeting, type in the following link.

<http://www.leegov.com/dcd/committees/committeesearch>

Agenda Item 3 – Lee Plan Amendment

A. CPA2020-00001 & CPA2020-00002 Lee County Homes (Text and Map Amendment)

Amend the future land use designation from Sub-Outlying Suburban to Outlying Suburban on 345± acres located on the east side of Buckingham Road south of Palm Beach Boulevard and amend the Lee Plan Table 1(b) to correspond with the future land use change. The amendments would allow development of up to 1,035 dwelling units.

A Power Point presentation was provided by the applicant’s representatives. Mr. Steve Hartsell from Pavese Law Firm gave an introduction for the project. Ms. Heather Urwiller from Morris-Depew reviewed the project background. Mr. Ted Treesh from TR Transportation Consultants, Inc. reviewed the transportation analysis. Ms. Tina Ekblad from Morris-Depew reviewed the Lee Plan Consistency portion.

Mr. Ink referred to the PowerPoint presentation and felt there was an inconsistency between two of the slides. One of them states, “*NO Roadway Segments are shown to require widening as a result of the proposed Land Use Change on site.*” However, on the next page it says, “*...from SR 80 to Orange River should be accelerated...*” He asked for clarification. Mr. Treesh stated that the acceleration of SR80 to Orange River is already in the Long Range Transportation Plan for 2040 as well as the 2045 Plan. He explained that the acceleration is required whether this request is approved or not based on his analysis.

Mr. Ink asked if the existing PUD for 690 units is in place and valid. Ms. Ekblad stated that was correct.

Mr. Stouder asked what the impact fees would be that the developer will pay for the road. Mr. Hartsell stated he did not know the exact number; however, with the increased density, it will be 345 units more of impact fees.

Mr. Zuba stated that whenever the County considers increases in density, there are normally some benefits to the County. During the presentation, there was mention of buffers and open space, but he asked if they could enumerate more of the benefits to the County if they grant the increased density. Mr. Hartsell stated that Ms. Ekblad would address the increased buffers with regard to the increased density, but with regard to infill development, one of the benefits is using the available urban services, infrastructure, and land more efficiently and effectively. He also noted it was an area that easily supports Outlying Suburban densities since all of the surrounding area, except the Buckingham Rural Preserve to the south, is Outlying Suburban. To him, one of the benefits to the County is that this proposal provides additional area that can be used as infill as opposed to spreading everything out. In addition, there are enhanced buffers in terms of the width of the buffers and the types of the buffers. Ms. Ekblad stated it was important to start from a perspective of “*the County is growing.*” There are people that want to move here and the demand is outpacing the inventory. When looking at the demand and figuring out where the people and rooftops should go, it is her professional opinion as a planner that it is more appropriate and of greater benefit to put those rooftops in an area that has existing urban services rather than promoting a Greenfield Development someplace further east where the developer may pay to extend the utility lines but it is still on Lee County to provide that water service in the future. This applies to solid waste services and other government services as well. It will always be her recommendation to address population accommodation by placing the rooftops within an area that already has service such as utility service, solid waste, roadways, schools, etc. At a fundamental level, she felt this was the greatest benefit. Regarding the site plan, she reviewed all of the buffer requirements that would be part of this proposal. Due to some enhanced buffers by the Buckingham Rural Preserve, it will mean more open space. She reviewed the native landscaping that will be included in order to maintain the rural feel and community character. In terms of the layout and development pattern, the number of units that could be located along Buckingham Road will be less due to the roadway pattern internal to the community, which is another benefit.

Mr. Zuba referred to comments made about providing a location for transit services. Ms. Ekblad stated they would not be providing that. She noted they were within the “*Pedestrian Shed*” to get to transit service.

Mr. Zuba referred to the site plan and noted he did not see any indication of mass transit accessibility. Ms. Ekblad stated a sidewalk is required along Buckingham Road that will inter-connect to the greater network leading to where the current bus stop is.

Mr. Zuba asked for clarification that the 1 ½ mile walk would be on the sidewalk. Ms. Ekblad stated that was correct.

Mr. Ink asked how far along they were in the zoning process. Ms. Ekblad stated they responded to the second insufficiency letter. They hope to have a sufficiency letter soon.

Mr. Ink asked if they had been before the Hearing Examiner. Ms. Ekblad stated they had not gone before the Hearing Examiner because they will not hear the case until the Board of County Commissioners transmits this to the State.

Mr. Schrotenboer asked the width of the right-of-way that is being donated to the County and if they knew the value of that right-of-way in terms of dollars. Ms. Ekblad stated she did not know the value of it yet. However, she reviewed Condition 19 of the current zoning resolution which states they must reserve a 20 foot wide strip along Buckingham Road. It also says, *“It may be accomplished by recording an instrument that grants or dedicates county exclusive easement. The developer can be eligible for road impact fee credits for the land dedicated for Buckingham Road.”*

Mr. Stouder asked if they knew the road impact fees yet. Ms. Ekblad stated it would be \$5,580,470.00 in road impact fees.

Mr. Ink asked if that was the total or incremental. Ms. Ekblad stated that is for 1,015 dwelling units.

Mr. Treesh stated the impact fee number is based on the current fee schedule. The Board of County Commissioners reduced the fee schedule so that it is currently at a 55% rate. It is scheduled to be discussed again in 2022. This project will not begin construction until around that time. \$5.8M in impact fees is probably the lowest the figure will be. If the fees go back to 100%, then the impact fees will be around \$10M.

Mr. Stouder asked if they had any idea on the cost per mile to build a county acceptable standard road. Mr. Treesh stated he did not have that figure, but he did have the cost for the Buckingham Road project. The total cost identified in the MPO, which includes right-of-way, engineering, and construction, is approximately \$50M. And who would be responsible for this improvement??

Mr. Stouder asked if they knew how many road miles that would be. Mr. Treesh believed it was about 3 miles. He did not have the distance in his information.

Ms. Olivo referred to the impact fees where the representatives mentioned a credit for the donation of the 20 foot wide strip along Buckingham Road. She asked if there was a dollar value assigned to that credit. Mr. Hartsell stated the credit is based on an evaluation that will be done at a later time. At this point, they do not have that information yet.

Ms. Olivo asked if they knew how much of the impact fee would be reduced by that credit percentage wise. Mr. Hartsell stated he could not answer that without knowing the value.

Mr. Loveland stated that if credits are sought for the right-of-way, then it is not considered a donation.

Mr. Ink referred to Condition 19 and asked if there would be any changes to it.

Ms. Ekblad stated they were still in the zoning process, but her understanding was that there would be some changes to those conditions. She could not speak to the specifics since they were still in the review process. Condition 19 currently says that *“A 20 foot wide strip along Buckingham Road for County right-of-way purposes will be dedicated. This may be accomplished by recording an instrument i.e. deed or plat that grants or dedicates to the County an exclusive easement for right-of-way purposes. The developer will be eligible for 100% road impact fee credits for land dedicated for Buckingham Road.”* Ms. Ekblad stated she could not predict at this time whether or not that language will stay in the zoning resolution.

The County already OWNS ROW on Buckingham Road, to the tune of 50 ft-why would dedication of additional lands from the developer grant them ANY credit???

Mr. Stouder asked if they could give the amount of frontage the subject property has on Buckingham Road. Ms. Ekblad stated it was 2,286 feet.

Mr. Loveland stated the County recognizes the condition of this segment of Buckingham Road from Orange River Boulevard to SR80. The annual Concurrency Management Report produced by the County every year identifies both existing traffic congestion conditions and projected conditions based on an already approved development that has not been built yet. This segment has shown up as a projected failure for several years. It is on the County’s tiered priority system for transportation projects. It is a Tier 3 project. If conditions worsen and it becomes a projected issue, the County can readdress it through the Capital Improvement Program

The intersection of Buckingham Road & Orange River Blvd to SR 80 has already been targetted for failure due to the Portico development-re-address through CIP puts the Co. taxpayers on the full hook for paying for a development that should have paid their own way here.

system has been in place for approximately 5 years. Most of the Tier 1 projects are funded now, under construction, or funded in the Capital Improvement Program. Because of this the Board is now focusing on the Tier 2 projects. Generally, the projects are addressed in this tiered order. There are about 20 years worth of projects on the list. Tier 3 is generally projects that will get addressed further out, but they can get advanced. The Board updates the priority list every year.

The Board had no further questions at this point, so staff proceeded with their presentation.

Mr. Dunn reviewed the staff report and recommendations for the text and map amendment along with a PowerPoint presentation.

Mr. Zuba referred to Policy 1.1.11 on Page 3 of the staff report. He noted that bonus densities are not allowed in the Sub-Outlying Suburban but they do seem to be allowed in Outlying Suburban. Mr. Dunn stated that bonus density is not allowed. The standard density range will change from 2 units per acre to 3 units per acre. There is no bonus density in either of these categories.

Mr. Zuba asked for clarification that the 30% increase is not considered to be a bonus. Mr. Dunn stated it is merely a change in the land use category. The difference in density happens to go from 2 to 3.

Mr. Zuba asked if the infrastructure needed for higher density would be a problem. Mr. Dunn stated that in looking at the description of the Outlying Suburban future land use category there is mention of having most public services planned or in place. However, in Sub-Outlying Suburban, there is mention that not many of those public services are available. Although there might be some constraints on the road, most public facilities are available at this location.

Increasing from two to three IS NOT a 30% increase--it is 50%--what arithmetic are you using here???

Mr. Ink referred to the Future Land Use Map where it shows two wetland areas. He asked if those will be remaining or if they will be changed. He noted one of them was on the southern property boundary and the other is SE of Portico. Mr. Dunn stated the applicant went through the process to get a jurisdictional determination. The applicant stated they would be preserving all their wetlands on site.

Mr. Ink asked for a status on the Population Accommodation Table. He also asked how many residential units are left in the district. Mr. Dunn stated staff was adding approximately 190 acres to the Outlying Suburban future land use category. Most of this came from this property, which was previously Sub-Outlying Suburban. A few more were moved as well from Lehigh Acres which typically has excess residential density to share. The County is not changing the overall density allowed within the County with this amendment.

This is NOT true--the density is increasing by 50%

Mr. Ink asked if anyone from the public wished to comment on this item. No members of the public wished to comment, so the public portion segment was closed.

Mr. Stouder stated he viewed this as a quintessential example of excellent planning. He also stated that GL Homes had been a valued community partner in Lee County with its project on Plantation Road. He felt they bring a noted product to the table in a market area that relieves some of that pressure in the Estero/Bonita areas. He felt this project would also foster continued revitalization of the east corridor. Regarding SR80, it seemed not long ago that Commissioner Frank Mann was promoting the expansion from 2 lanes to 4 lanes. However, we are now requiring 6 lanes. To him, this project was a natural migration towards what is inevitable as things in our world continue to change.

Mr. Ink agreed with Mr. Stouder's comments and did not feel this project was proposing an overreach of density. He felt it was a natural infill progression on their part.

Mr. Schrottenboer also felt it was appropriate planning and was in support of it.

Mr. Gardner stated he agreed as well.

Mr. Stouder referred to Page 2 of 8 in the staff report where it states, "*Staff notes that even with the recommended transmittal of the proposed map and text amendments, the applicant must demonstrate consistency with the Lee Plan, including the proposed amendments, in order for the companion rezoning to receive a favorable recommendation. Staff recommends that consistency with Policy 20.1.6 be demonstrated by the concurrent rezoning, on the MCP and/or as conditions, prior to proposed map and text amendments being adopted.*" Mr. Stouder stated that while he understands that the County is

adopting a plan amendment that is not tethered to a zoning case, he still wanted it noted in the public record that the zoning being proposed is influential in his support for this project to be transmitted. He noted the applicant is showing a willingness to: 1) have enlarged lot sizes along the southern border; 2) enhance to a Type C in a 30 foot buffer between them and the Buckingham Rural Preserve; and 3) meet with Buckingham as well as other considerations that are indicative of them being a good community partner.

Mr. Stouder made a motion that the Local Planning Agency recommend the Board of County Commissioners transmit the requested amendments based on the analysis and findings provided in the staff report. This motion includes both the text and map amendment (CPA2020-00001 and CPA2020-00002), seconded by Mr. Blacksmith. The motion was called and passed 7-0.

The applicant may say all they want about 'mitigation', the fact remains that the density increase at the border of this project with the Buckingham Community preserve is in direct violation of that Planning communities' charter and approved limits--unless the County is willing to negate that Communities' planning act, this project is NOT in compliance with the Lee Comp Plan. This is a 100% increase in density--certainly Not transitional in nature.

Agenda Item 5 – Other Business

- A. Request for LPA to issue letter of Lee Plan consistency, as required by FDEP, for a dredging project of an existing public channel in Jug Creek and for use of state lands in Bokeelia, Lee County.

Mr. Nic DeFilippo gave an overview of the project and what is required along with a PowerPoint presentation. He explained that Hans Wilson and Associates is the applicant and they are preparing an application to dredge the portion of Jug Creek. As part of that project, state lands will be used as the material handling area. The FDEP application process requires a letter from the LPA that finds that this request is consistent with the local comprehensive plan. He noted that this dredging project is consistent with policies 24.1.4 and 114.1.3, which support maintenance dredging in existing channels to approved or historic depths and widths. Therefore, staff is recommending that the LPA make a motion allowing the LPA chair to sign the prepared letter stating that the use of state lands is consistent with the Lee Plan for the dredging project.

Mr. Stouder asked what the current depth was and what the proposed depth would be at completion. Mr. Paul Domke from Hans Wilson and Associates stated that the general depths are currently low and are tide dependent. It will be dredged to a negative 4 mean low water, which is consistent with Lee County development and channel rules. The worst depths in the center of the channel are about a negative 2.

Mr. Stouder asked if there were any creatures in the excavations and the spoils that are of concern. Mr. Domke stated there were no concerns about that. He noted that anytime you are in a regular maintained channel, many of the rules from FDEP and the Corp are more relaxed because it is a regular maintained channel. You are always going to make an impact, but it does not impact overall because the channel is currently at those depths and has previously been at those depths.

This is a blatant example of circular reasoning--what horse manure! 10 yrs of State benthic studies refute this

correct. He noted there are many requirements. The request before the LPA today is only so that FDEP can review the application to use their upland. They will still need to go through all the DEP and environmental impact permitting. Because they are improving an area directly impacting that upland, they meet all requirements because of the upland improvement.

Mr. Ink asked if the Inland Waterway was funding this project. Mr. Domke stated they were not funding it. This is being completely driven by the marina and the applicant is basically taking on all the costs. After the permitting goes through, there may be some crossover as far as the cost of construction because it is a public waterway and they will be improving it. He noted that this part of it was being handled by Hans Wilson and Mr. Boutelle as well as other County representatives.

Mr. Zuba stated it appeared that a lot of material will be dredged. He asked if this holding site was sufficient of if they would need more room. Mr. Domke stated the site is small, but they are doing the work hydraulically by using a wet vacuum. The wet vacuum is going to be in the back of the truck. The truck is the size of a medium dump truck. It has a water filtration system in it. Once it is full and drained out, they will drop the hoses off of it, drive the truck to the drop off site (an approved upland site), drive back, and park the truck on the pad.

Mr. Zuba asked if they had done the analysis of how much material might be excavated. Mr. Domke stated that was correct. He stated the amount should be listed on the plans. He believed it would be about 1,000 yards. He noted this is generally a small dredge project. He showed the LPA where the shallow depths concentrate. He stated they would be taking out inches per square feet, so the amount of material versus a normal dredging project is minimal.

Mr. Stouder asked what the typical reuses would be for that kind of dredge material. Mr. Domke stated it was very site dependent. In this case, there is a fairly decent sandy material because it does get a wash in and out. When you go to the sides, there is more sediment that is silty. As you get more silty, the uses go down. Generally, it is used as fill or landscaping fill. It will most likely go into a dirt parking lot to raise some areas, but it is site dependent. There will be parts of that material that are not very usable. At that point, you can mix it with good dirt and still use it in an area. However, in this case, most of that material is going to be very usable. As it mixes up through the dredge, it will probably be used as is.

Mr. Schrotenboer referred to the approvals that would be needed and noted that so far he heard FDEP, the Water Management District, and Lee County mentioned. He asked if there were any other entities they needed to get approvals from. Mr. Domke believed this proposal would mainly fall under FDEP and the Corp. They are hoping some of the construction funding will go back through the County because it is a private waterway and this project will enhance things for everyone in the area.

Mr. Schrotenboer asked what the estimation was for the timing of this project. Mr. Domke felt it would be anywhere from 45 days to 60 days. If they can handle the project hydraulically, it will be completed sooner, but if they must do it mechanically, it will take longer with more impacts. He noted that as part of this project they will be lining the area with filter fabric and will be placing hay bales around it. It is currently a rock driveway making it a great drain field. This proposal will bring the impacts and costs down.

Mr. Schrotenboer asked when they anticipate starting the project. Mr. Domke stated he did not know because they still have to go through FDEP and the Corp for all the required permits. However, he has been in touch with them for a long time and several items have been submitted already. He hoped that as a result of this they would begin the project next year.

Mr. Ink asked the Attorney's office if this item was a public hearing. Ms. Swindle stated it was not advertised as a public hearing. Ms. Rozdolski stated there was no one to notify about this meeting.

Mr. Ink read the draft letter that he would be signing today on behalf of the Local Planning Agency for the record.

Oops! This is a public meeting of the LPA - It MUST be notified pursuant to chapt 125-fs!!

Mr. Schrotenboer made a motion to support the letter staff drafted for signature that was read into the record by Mr. Ink, seconded by Ms. Olivo. The motion was called and passed 7-0.

Agenda Item 6 – Adjournment – Next Meeting Date: January 25, 2020

The next Local Planning Agency meeting is scheduled for Monday, January 25, 2020, at 9:00 a.m.

The meeting adjourned at 10:10 a.m.