

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2021-00042

IN RE: CENTERPLACE MPD

PROCEEDINGS:

PUBLIC HEARING

BEFORE:

Amanda Rivera
Hearing Examiner

DATE:

June 9, 2022

TIME:

9:00 a.m. to 9:30 a.m.

LOCATION:

Hearing Examiner's
Hearing Room
1500 Monroe Street
Second Floor
Fort Myers, FL 33901

REPORTER:

Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

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12 ALSO PRESENT:

13 Jackie Larocque, PE
14 Brett Bartek

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P R O C E E D I N G S

HEARING EXAMINER RIVERA: Good morning.

MR. FRANTZ: Good morning.

HEARING EXAMINER RIVERA: Excuse me.

My name is Amanda Rivera. I'm the Hearing Examiner presiding over today's hearing. The date is June 9th, 2020, and this is case DCI2021-00042. It's an amendment to the CenterPlace MPD.

Because this is a quasi-judicial hearing, all evidence and testimony must be taken under oath; so if you intend to speak, if you could please raise your hand.

(Participants sworn en masse.)

HEARING EXAMINER RIVERA: Thank you.

Are there any members of the public here this morning?

MR. BADAMTCHIAN: No.

HEARING EXAMINER RIVERA: Okay. I will dispense with those instructions then, and we can begin with the Applicant.

Good morning.

MR. FRANTZ: Okay, great. Good morning, my name is Jeremy Frantz with RVi Planning & Landscape Architecture. To begin, I'd like to be qualified as a witness for today's hearing.

1 HEARING EXAMINER RIVERA: I did receive your
2 resumé.

3 MR. FRANTZ: Good.

4 HEARING EXAMINER RIVERA: Have you testified in
5 this forum previously?

6 MR. FRANTZ: I have not.

7 HEARING EXAMINER RIVERA: Okay. Would you mind
8 providing just some information on your educational
9 background and your experience?

10 MR. FRANTZ: Sure, sure. So I have a Master's
11 degree in Urban and Regional Planning from the
12 University of Florida. I've been working as a planner
13 at various levels for Collier County and then Waldrop
14 Engineering before we became RVi Planning & Landscape
15 Architecture. So that's about ten years of experience
16 now in Southwest Florida.

17 In the private sector, I've worked on multiple
18 comparable types of PD -- you know, rezoning land --
19 land use projects. And prior to working for Waldrop
20 and RVi, with Collier County worked in the Zoning
21 Department and wrote Land Development Code amendments
22 and managed that team.

23 HEARING EXAMINER RIVERA: I know you mentioned
24 Collier County, but in Lee County specifically, it
25 sounds like you do have extensive experience with our

1 Land Development Code and Lee Plan?

2 MR. FRANTZ: I do. I've worked on a couple of
3 administrative amendments and have some other pending
4 projects in the pipeline, as well.

5 HEARING EXAMINER RIVERA: I don't have any
6 additional questions.

7 Does Staff have any?

8 MR. BADAMTCHIAN: (Shakes head.)

9 HEARING EXAMINER RIVERA: Okay. Well, welcome.

10 MR. FRANTZ: Thank you.

11 Okay, so I'll begin.

12 THE REPORTER: Jeremy, just make sure to keep your
13 voice up --

14 MR. FRANTZ: Sure.

15 THE REPORTER: -- so that I can get everything
16 you're saying.

17 MR. FRANTZ: This doesn't seem to be --

18 MR. BADAMTCHIAN: It's not working? Of course
19 it's not working.

20 MR. FRANTZ: The light works -- there we go, okay.
21 Now I'll begin.

22 So here with me today we have our Applicant,
23 Taylor Morrison; we have Keith Norton; Derek Rooney
24 with Gray Robinson is our attorney; myself, a land use
25 planner; Jackie Larocque is the project engineer with

1 the Atwell Group; and we also have Brett Bartek with
2 Passarella & Associates, our environmental consultant.

3 Our request today is a fairly simple one. We are
4 amending the CenterPlace MPD to add 40 acres to the
5 MPD. Those 40 acres are currently zoned AG-2, and
6 we'll just be incorporating that into the -- into the
7 PD and not making any changes to the development
8 centers or anything like that. It will allow for the
9 development of single-family residential dwellings on
10 that 40 acres and -- and incorporated as part into the
11 CenterPlace MPD.

12 As a part of that request, we're also reducing the
13 overall maximum residential dwelling units from 1,950
14 to 1,654. The purpose of that reduction is to allow
15 for an increase in single-family dwelling units, up to
16 800 single-family or zero-lot-line dwelling units,
17 and -- to balance that out so that there are no traffic
18 impacts.

19 We're -- as a part of that request, we're
20 modifying Deviation Number 1, an existing deviation,
21 and Conditions 1 and 3, again, existing conditions but
22 just incorporating the changes required for this
23 40-acre addition.

24 So you can see the site location is the yellow
25 area, and the overall CenterPlace MPD, you may be

1 familiar with, does actually extend a little bit below
2 this map here; but it is mostly preserves down in that
3 area.

4 So the CenterPlace MPD is 871 acres. The
5 adding -- the parcel that we're adding is 40 acres.
6 It's about -- just less than a mile east of Ben Hill
7 Griffin Parkway and on the south side of Alico there.
8 It will -- the 40 acres would obviously be accessed
9 through CenterPlace. There are a number of access
10 points you'll see when we get to the MPD. And this --
11 this 40 acres, along with really the entirety of the
12 CenterPlace MPD, has previously been impacted by -- by
13 mining.

14 So you can see the future land use and zoning for
15 both the 40-acre additional parcel and the CenterPlace
16 MPD. So the 40-acre property, as I mentioned, zoned
17 AG-2. You can see it's kind of surrounded by MPD --
18 by -- by PD zoning around it. It was previously
19 donated to FGCU. Taylor Morrison is the contract
20 purchaser. That donation was previously required by
21 the Lee Plan, no longer a part of the Lee Plan, so
22 the -- hence the request to incorporate it into the
23 CenterPlace MPD.

24 You can see the future land use designation is
25 university community, not just the 40 acres but the

1 entirety, you know, surrounding the property, as well.

2 The CenterPlace MPD allows, as I mentioned, for
3 1,950 residential units. The current max for
4 single-family and zero-lot-line units is 487 units.

5 The nonresidential units that are listed there, or
6 uses that are listed there, we're not making any
7 changes to so I won't go through the process of reading
8 all of those and trip myself up, but a number of other
9 nonresidential uses, a lot of them in the PD, as well.

10 Surrounding the -- the 40-acre property itself you
11 see is -- is CenterPlace zoning, and then directly to
12 the west is the Miramar Lakes MPD. Those are
13 single-family homes there.

14 To the east of the CenterPlace properties is some
15 future right-of-way that's been designated; and the
16 Wild Blue MPD, another mixed-use planned development, a
17 lot of residential over there; and then there's a Lee
18 County property just to the north.

19 Expanding that view out to the surrounding area,
20 you see kind of a lot going on: FGCU to the south;
21 Florida Gulf Coast Town -- Gulf Coast Town Center to
22 the west, more -- more retail and commercial there; and
23 then to the north there's a number of industrial, ag,
24 and research types of uses allowed.

25 So here's the master concept plan. It's a

1 two-sheet master concept plan, so I'll walk through the
2 changes for each sheet separately.

3 On sheet one here you can see the access points to
4 Alico. The additional 40 acres is -- is down here.
5 We're only seeing a part of that on sheet one. It will
6 be -- and, again, you can't see it very well on this
7 view, but that will be designated residential
8 single-family, RSF.

9 Along this boundary here, which was adjacent to
10 Miramar Lakes, that will be a 15-foot Type D landscape
11 buffer. That was the existing landscape buffer in this
12 area before the addition of the 40 acres, so we're just
13 maintaining that same buffer.

14 And then we're modifying Deviation Number 1, as I
15 mentioned, and that modification is just to allow for
16 the indigenous vegetation restoration to occur here in
17 the community park area where there's already some
18 restoration planned, and so that allows us to kind of
19 keep all of our restoration -- have kind of a larger
20 contiguous area of indigenous vegetation in one spot.

21 Sheet two you get the remainder of that 40-acre
22 addition. Over in the notes table, there is a
23 breakdown of the lot uses, so we're modifying the
24 maximum residential dwelling units.

25 And then in the open space table, that larger

1 table, we are updating the acreages just to reflect
2 that addition of the 40 acres, the addition of the open
3 space that is required, and the -- the veg -- the
4 restoration that will occur.

5 HEARING EXAMINER RIVERA: And is that open space
6 going to be required on the 40-acre piece, or is that
7 being done elsewhere?

8 MR. FRANTZ: That's -- that's what will be
9 located -- there will be some open space on the 40-acre
10 parcel, and then the remainder of that open space will
11 be in that -- the restoration portion of that open
12 space will be in the community park area.

13 HEARING EXAMINER RIVERA: So the calculation
14 includes both, the additional 40 acres and --

15 MR. FRANTZ: Correct.

16 HEARING EXAMINER RIVERA: -- what's existing
17 on-site?

18 MR. FRANTZ: Yeah, I think it's -- one of the next
19 slides, I'll get into the calculation a little bit
20 more.

21 I think I mentioned everything here. We updated
22 the open space table and -- yeah, those are all the --
23 those -- those two changes to the tables, and then
24 adding the 40 acres there are our changes.

25 Yeah, so here's the -- here's Deviation Number 1.

1 The 40-acre addition to the MPD would require eight
2 acres of indigenous vegetation retention. In the
3 application, we identified that there is some already
4 planned indigenous vegetation restoration in the
5 community park area. We'd like to keep all of that
6 together. It will make it a more viable restoration
7 project. And as I mentioned, the entire site has, in
8 the past, been impacted by mining, so that vegetation
9 retention -- you know, there's going to be restoration
10 as a result and -- and keeping that all together,
11 rather than separating it out into multiple areas is
12 kind of a better plan for the community.

13 We're not making any other changes to the
14 indigenous vegetation -- you know, anything that was
15 previously approved, you know, we're not making any
16 changes to -- to that vegetation retention requirement.
17 And the Staff recommendation for this deviation is
18 approval subject to Condition 3c, which I'll go into
19 now.

20 So just a couple of changes to the conditions.
21 Condition 1, you'll see in the Staff Report, is much
22 longer than this. I did -- I did leave off some areas
23 that weren't really changed or germane to the issue.
24 So we're updating the date of the master concept plan,
25 updating the maximum dwelling units, and allowing for

1 that 800 single-family units in Condition 1.

2 Condition 3, you can see, was previously a
3 10.95-acre restoration area in the community park area,
4 increasing that by 8 acres to account for this
5 additional 40 acres.

6 All the remaining deviations and conditions, as I
7 mentioned, previously approved, no other changes to
8 those deviations or conditions.

9 So we're increasing from 487 residential
10 dwelling unit -- sorry, single-family dwelling units to
11 800. So, you know, obviously multi-family and
12 single-family have different transportation generation
13 rates, so that is the reason for reducing the overall
14 number of dwelling units.

15 And you can see on the left, Table 1, that's your
16 existing approved residential uses: 487 single-family
17 detached; 1,463 multi-family units. And on the right
18 is the proposed. There it's the 800 single-family.
19 And in order to keep these total trips in both the
20 weekday a.m. and weekday p.m. peak hours the same or
21 less, that reduces the multi-family housing to 854
22 dwelling units.

23 So, yeah, as you can see, weekday trips 1,090 in
24 both scenarios. The weekday a.m. trips actually are
25 reduced just slightly.

1 So really short presentation today, but, you know,
2 I think this presentation and the Staff Report you'll
3 see were consistent with both the Lee Plan and the LDC.
4 I won't run through all of the individual policies
5 there, but, you know, consistent with findings and
6 conclusions within the LDC and with those goals,
7 objectives, and policies in the Lee Plan.

8 And we don't have any disagreements with Staff.
9 In their Staff Report, Staff recommendation is approval
10 with those changes to the conditions.

11 We're consistent with the Lee Plan and Land
12 Development Code. We are reducing the maximum
13 residential units and providing for compatibility with
14 the surrounding land use pattern.

15 And so with that, I can open it up to any
16 questions or --

17 HEARING EXAMINER RIVERA: I just have a couple --
18 you know, Policy 15 --

19 MR. FRANTZ: Sure.

20 HEARING EXAMINER RIVERA: -- or Goal 15 is riddled
21 with specific policies, so I just wanted to touch on a
22 couple.

23 15.1.9 requires modeling before zoning approval,
24 but the one -- the only water information I had in my
25 documents were back from 2016, I think it was. Do

1 those still accurately reflect the water resource
2 conditions that are being addressed through the
3 rezoning?

4 MR. FRANTZ: That's my understanding. If we'd
5 like to have the engineer speak to that, we can -- we
6 can do that. But, yeah, that's my understanding.

7 HEARING EXAMINER RIVERA: If we could just have
8 some testimony on the record --

9 MR. FRANTZ: Sure.

10 HEARING EXAMINER RIVERA: -- so I can find
11 compliance with that policy.

12 MR. FRANTZ: And I think we'll ask for Jackie to
13 be qualified as an expert, as well.

14 HEARING EXAMINER RIVERA: Good morning.

15 MS. LAROCQUE: Good morning, Jackie Larocque for
16 the record. I would like to be deemed an expert. I
17 have not testified before you before.

18 HEARING EXAMINER RIVERA: Okay.

19 MS. LAROCQUE: A little bit about myself: I am
20 the director of engineering at the Atwell Group,
21 formerly Waldrop Engineering. I've been with that
22 company for ten years. Graduated from Florida Gulf
23 Coast University in 2014; was a licensed PE in 2018;
24 worked on a multitude of projects in Lee County. My
25 main specialty is infrastructure design, so surface

1 water management, roadway design, utility design, all
2 aspects of a land development consultant.

3 HEARING EXAMINER RIVERA: Thank you.

4 MS. LAROCQUE: Thank you.

5 HEARING EXAMINER RIVERA: No more questions from
6 me. Does Staff have any questions?

7 MR. BADAMTCHIAN: No.

8 MS. LAROCQUE: The policy that was mentioned, that
9 is still compliant with what we're doing today.

10 HEARING EXAMINER RIVERA: Okay. So the
11 information that was included, again, just because of
12 the age of it, I just wanted to be sure that that was
13 still pertinent and that there wasn't any newer
14 information that's available that would speak to that
15 policy.

16 MS. LAROCQUE: No.

17 HEARING EXAMINER RIVERA: Okay.

18 MS. LAROCQUE: We're still following that today.

19 HEARING EXAMINER RIVERA: Okay, thank you.

20 MS. LAROCQUE: Thank you.

21 HEARING EXAMINER RIVERA: And then the only other
22 specific policy, again, that's a little tricky was
23 15.1.16. The Staff Report mentioned it very briefly to
24 say that the additional 40 acres didn't change the
25 qualification as an associated support development as

1 that's defined in the Lee Plan glossary, but I didn't
2 see anything in the Applicant's narrative that
3 addressed it. So, again, if you could just put
4 something on the record.

5 MR. FRANTZ: Sure. So that policy, you know,
6 contemplates a range of residential/nonresidential
7 types of uses in support of FGCU. The CenterPlace MPD,
8 as a mixed use planned development, has been
9 previously, you know, considered a supportive
10 development for -- for the FGCU area. And we're
11 really, you know, incorporating this 40 acres into that
12 same development program, and so, you know, we do see
13 that as -- as supportive so...

14 HEARING EXAMINER RIVERA: Thank you.

15 Did Staff have any questions?

16 MR. BADAMTCHIAN: No, ma'am.

17 HEARING EXAMINER RIVERA: Okay, thank you.

18 MR. FRANTZ: Thanks.

19 HEARING EXAMINER RIVERA: Were there any other
20 witnesses the Applicant wanted to call before we switch
21 to Staff?

22 MR. ROONEY: (Shakes head.)

23 MR. FRANTZ: I don't think so.

24 HEARING EXAMINER RIVERA: Thank you.

25 Whenever you're ready, Chahram.

1 MR. BADAMTCHIAN: Good morning.

2 HEARING EXAMINER RIVERA: Good morning.

3 MR. BADAMTCHIAN: Chahram Badamtchian from Lee
4 County Zoning. My resumé is on file. I was recognized
5 as expert in zoning and land use issues in the past. I
6 would like to be recognized as such.

7 HEARING EXAMINER RIVERA: Yes.

8 MR. BADAMTCHIAN: Thank you.

9 This is an amendment to add 40 acres to the
10 CenterPlace Planned Development. In 2014, when they
11 originally came for rezoning, there was a requirement
12 in the Lee Plan that they had to donate 40 acres to the
13 University, which they did. Now that same 40 acres is
14 coming back and being added to the project. And some
15 of us thought that that may or may not be okay, that
16 the donated project land is back to the original
17 project. So we asked the County Attorney's opinion on
18 that, and I have an email from Mr. Joe Adams basically
19 saying that the requirement was to donate the land to
20 the University. We don't have any requirement what the
21 University will do with the land, so they are within
22 their rights to sell it back to the developer, and the
23 developer has residential. So that takes care of that
24 issue.

25 HEARING EXAMINER RIVERA: Is that something you

1 want to include in the record? I can accept that --

2 MR. BADAMTCHIAN: I have a copy of it --

3 HEARING EXAMINER RIVERA: Good --

4 MR. BADAMTCHIAN: -- if you're interested, sure.

5 HEARING EXAMINER RIVERA: -- since you're
6 testifying about it. So that will be Staff Exhibit 2
7 because Staff Exhibit 1 is the Staff Report. Thank
8 you, Chahram.

9 (Staff Exhibit 2 presented and marked.)

10 MR. BADAMTCHIAN: This project was originally
11 approved in 2014. In 2017 we did the major amendment.
12 It was a compact planned development, and it didn't
13 work out, so they changed it to a mixed use planned
14 development in 2017. And it was originally approved
15 with one deviation. Over the years we had 11
16 amendments, which added deviation after deviation.
17 Right now we have 17 deviations.

18 And they are planning to build single-families on
19 that 40 acres, and their single-family was limited to
20 400 and -- 487 to be exact. They are trying to
21 increase that to 800 minimum single-families, so they
22 are reducing the overall number of units. So from
23 1,950 the number of units is going down to 1,654.

24 And with that said, they are basically asking to
25 amend one of the deviations. Everything else stays the

1 same.

2 And the Staff reviewed, they are in full
3 compliance with the requirements of the Land
4 Development Code and the Lee Plan. Staff recommends
5 approval.

6 We tried to bring all the deviations and
7 conditions from all 12 resolutions into this so we can
8 get rid of the old resolutions. Hopefully we did a
9 good job. It wasn't easy to because some of the
10 resolutions, they were contradicting each other, so we
11 did our best.

12 And with that, Staff recommends approval of this
13 request, subject to all the Staff conditions, and
14 recommends approval of all deviations that were, most
15 of them, previously approved, one of them being
16 amended.

17 HEARING EXAMINER RIVERA: There's a lot in 15
18 about diversification of uses and mix of uses, so is
19 Staff still satisfied that swapping the single-family
20 for the multi-family reaches the intent of that?

21 MR. BADAMTCHIAN: Well, they are building
22 single-families -- more single-families than we asked
23 originally for -- we were hoping for; but they are
24 building like some projects within the development.
25 Technically they are single-families, but they are not.

1 They are -- we have a large development in the center
2 that's approved for, I believe, 140 single-families,
3 but they are like one-bedroom, one-bath single-families
4 clustered together on a single lot. Technically it's a
5 multi-family. It's student housing for kids who want
6 to have their own little independent unit. It is kind
7 of -- it's not all single-families that they -- they
8 have a variety of projects, and Staff is satisfied with
9 that.

10 HEARING EXAMINER RIVERA: So it's not a
11 single-family in the traditional sense, it sounds like
12 is what you're saying.

13 MR. BADAMTCHIAN: Correct. I mean, we didn't know
14 what to call it. The definition of single-family is a
15 single lot on a single -- a single building on a single
16 lot. Multi-family is two or more homes under the same
17 roof. So we called it single-family, but it's not
18 really a single-family, that project. That's north of
19 the development.

20 HEARING EXAMINER RIVERA: Thank you. I didn't
21 have any other questions. You did a very good job in
22 the Staff Report, thank you --

23 MR. BADAMTCHIAN: Thank you.

24 HEARING EXAMINER RIVERA: -- with the task you had
25 to incorporate all the prior approvals, so I thank you

1 for that.

2 Did Applicant have any questions of Staff?

3 MR. ROONEY: No questions.

4 HEARING EXAMINER RIVERA: Okay, thank you.

5 Could I get a copy of the Staff -- I'm sorry, the
6 PowerPoint that you referred to? And that will be
7 Applicant's Exhibit 1 because A is the 48-hour letter.

8 If you can just get that -- if you have it
9 electronically, you could email it to my office, also,
10 if that's easier.

11 MR. FRANTZ: I could do either way.

12 HEARING EXAMINER RIVERA: Okay. Well, if you have
13 a copy, I'll go ahead and take that. Both would be
14 excellent.

15 (Applicant Exhibit 1 presented and marked.)

16 HEARING EXAMINER RIVERA: Thank you.

17 With that, there wasn't anything I had further.
18 Thank you, everyone, for coming today. We'll conclude
19 the hearing.

20 I think everyone is familiar with the process, but
21 I'll issue a recommendation to the Board in the case,
22 and that will be the final hearing in this matter.

23 Thank you, everyone, for coming and stay well.

24 (Proceedings concluded at 9:30 a.m.)

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1
2
3 CERTIFICATE OF REPORTER
4

5 STATE OF FLORIDA)

6 COUNTY OF LEE)
7

8 I, Deborah Bruns, Florida Professional
9 Reporter, do hereby certify that I was
10 authorized to and did report the foregoing
11 proceedings, and that the transcript, pages 1
12 through 22, is a true and correct record of my
13 stenographic notes.
14

15 Dated this 17th day of June, 2022.
16

17 
18

19 Deborah M. Bruns, FPR
20

21 (This transcript was electronically signed.)
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