

August 1, 2013

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
August 1, 2013

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman  
Melissa Ahern  
Phillip Brougham  
Diane Ebert  
Karen Homiak  
Barry Klein  
Paul Midney  
Mike Rosen

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney  
Nick Casalanguida, Growth Management Division/Planning & Regulation  
Ray Bellows, Zoning Manager  
Thomas Eastman, Real Property Director, CC School District

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, August 1st meeting of the Collier County Planning Commission.

If you'll all please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay, will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Rosen?

COMMISSIONER ROSEN: Here.

COMMISSIONER HOMIAK: Mr. Midney is absent.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Addenda to the agenda. Does anybody have anything? Ray?

MR. BELLOWS: (Shakes head negatively.)

CHAIRMAN STRAIN: Okay. Planning Commission absences. Our next meeting is August 15th. Does anybody know if they're not going to be here for that meeting?

(No response.)

CHAIRMAN STRAIN: Okay, we'll have a quorum then.

There are no minutes to approve.

Ray, is there any BCC report?

MR. BELLOWS: No report.

CHAIRMAN STRAIN: Since they weren't -- yeah, they haven't been in session.

Chairman's report. I do want to take a moment to explain to everybody what our next meeting will be about. I know our last meeting you all received a rather lengthy three-ring binder, if I'm not mistaken, it's probably two or 300 pages, and it was changes to the Land Development Code to implement the admin. code. The admin. code language is -- most of it is direct -- directly taken from the Land Development Code or the applications that are being used over at the building services department.

And the reason I'm explaining all this is because when you read those, there may be some things that we don't see as being right or they shouldn't be the way they are. But this purpose is not to change the code but to create a new code from language already existing. So very few times will you see in there new language that would potentially require a change that we would be discussing, like a stakeholders process or something like that.

This is strictly moving from the Land Development Code to the new admin. code. And so when you read it, the changes need to be when you look at things that may be wrong with it or you feel are wrong, you need to kind of judge it against what was there before to make sure that what we're looking at is truly changes.

And if there are, if anything is a substantial change, it's not supposed to happen until the next cycle. This is supposed to be a movement of dialogue to create the admin. code. So when you read all the strikeouts in the LDC, it's not like we're taking all that stuff out. It's being moved to the admin. code. And a few instances where there's a change, they're usually grammatical or minor in nature. And so when we walk through it on the 15th, I was going to go through a few pages or a section at a time like we used to, depending on how many comments there are. But the comments aren't necessarily about all the language being changed because it isn't. It's the same language just being moved around. So when you read it, you may want to keep that in mind. It will help minimize the amount of discussion we'll have in regards to what are truly changes

and what aren't.

I think in the LDC section of it, Caroline was nice in providing a -- in the draft section some notes showing where there are actual changes. And those are something we should focus on if they're inappropriate.

But I wanted to make that clarification. Hope -- help you all get through it. Because it reads a lot faster if you're not looking at all the underlined and cross-throughs as things that are being eliminated or added, because they aren't, it's just being moved around.

And so with that we'll move into the consent agenda item and it's the PUDA-PL20130000141, Tuscany Pointe RPUD.

Does anybody have any changes, comments?

Phil?

COMMISSIONER BROUGHAM: I just have one question, and it's probably a coincidence, but on the master plan it shows right-of-way at 4.15 acres. And it just popped into my head that's exactly the same acres as the preserve.

MR. MULHERE: Coincidence.

COMMISSIONER BROUGHAM: Coincidence.

MR. MULHERE: Yep.

COMMISSIONER BROUGHAM: Okay. Good.

CHAIRMAN STRAIN: Okay, does anybody have any other comments or changes?

Bob, did you have --

COMMISSIONER HOMIAK: I do.

CHAIRMAN STRAIN: Okay, go ahead, Karen.

COMMISSIONER HOMIAK: I thought that on Exhibit G you were going to remove the word future over preserve in the abutting Bucks Run preserve area. Because it's already there.

MR. MULHERE: We were. And I missed it.

COMMISSIONER HOMIAK: Okay.

MR. MULHERE: That's a good catch.

CHAIRMAN STRAIN: You'll clean it up?

MR. MULHERE: We can strike through that and then get it to Nancy.

CHAIRMAN STRAIN: Okay.

Anybody else?

(No response.)

CHAIRMAN STRAIN: With that in mind, is there a motion to recommend approval of the consent item?

COMMISSIONER KLEIN: So moved.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Mr. -- Barry, seconded by Diane.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROSEN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion passes 6-0.

MR. MULHERE: Thank you.

CHAIRMAN STRAIN: Thank you, Bob.

Next item up is the advertised public hearing for a project called Milan Center. It's CU-PL20130001108.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. (Speakers were duly sworn.)

CHAIRMAN STRAIN: Thank you.

Disclosures on the part of the Planning Commission?

COMMISSIONER EBERT: Yes, I did speak with Wayne.

CHAIRMAN STRAIN: Okay, and I spoke a couple of times with Wayne. I think he's going to change to -- some language changes he's bringing today.

I did visit the site and of had of course meetings with staff on the matter.

So with that we'll move forward. Wayne, it's all yours.

MR. ARNOLD: Good morning. Thank you, I'm Wayne Arnold with Q Grady Minor and Associates. And with me today is Jane Sullivan, who's with the East Indies Trading Company, representing the property owner.

CHAIRMAN STRAIN: So you're not in opposition here today, huh?

MR. ARNOLD: This is a request for conditional use approval for C-3 zoning district. Your C-3 district permits many retail uses but it caps certain retail uses at 5,000 square feet unless you go through the public hearing process for conditional use.

So we are here seeking the approval for use of the entire building that exists on the property for conditional use approval.

The initial tenant is going to be a furniture store, and the condition that we're going to offer I think will clarify potential future users of the site.

The project is located in Naples Park. It's at the corner of 95th Avenue and U.S. 41. On the site is an existing a little over 12,000 square foot building. It was originally approved for retail on the ground floor and office above. Most recently it's been -- it was acquired and has been occupied by Capital Bank.

And in this particular case the applicant had a chance to purchase the building and they wish to go ahead and occupy not only the first floor that was approved for retail but also the second floor to renovate the building and have the furniture showroom upstairs as well.

So the site really remains as-is. If you've been out to the site, I've got some photos of the site if you don't, but really the material changes to the site would be the side of the building that doesn't face U.S. 41 is really the entrance to what were condominiumized (sic) tenant spaces. And the new owners hope to enclose the under-building parking and get about another 2,500 square feet of usable space out of that.

We had our neighborhood information meeting. I think we had three people attend that; two nearby property owners and another resident from Naples Park. No opposition to the proposal.

The site, as you can see, I think it's in pretty good shape considering it's been up and down through the market downturn, but it's a nice building. The owners are going to spend a substantial amount of money painting, renovating, upgrading some landscaping and things like that.

Again, it's a pretty straightforward request.

One of the things that I did speak with Mr. Strain about really I think came about because of the one condition we have in the resolution. Nancy offered a condition that says it's really -- I forget the exact amount, but 14,900 and something square feet could be used for retail space. And the conversation I had with Mr. Strain was you can't park 14,900 square feet of retail space on the site, and I said I understand that, but we're a furniture store initially. The East Indies Trading Company would be locating there, and the furniture store, there's ample and excess parking for it.

So out of that we discussed that we need to acknowledge that every retail user shouldn't expect that they can occupy the entire building. So maybe it's the appropriate time to put the condition that I drafted up on the visualizer.

I've got hard copies, if anybody would rather have one of those. Would that be easier to hand that out? I can certainly read it into the record.

But the condition essentially says that the maximum retail square footage available for use really is based on the parking standard for a particular use and that the property owner acknowledges that 100 percent

of the building may not be available for all retail uses unless parking is made available through -- there's a couple means in the LDC for doing either offsite or shared parking or parking agreements and things of that nature.

So the owner truly does understand that, you know, if they were a general retail user or a restaurant or anything else that also has a limitation on square footage, they can't just go and occupy the entirety of this building. But it certainly does work well for a furniture store, and we end up with many excess parking under the parking code for furniture store.

CHAIRMAN STRAIN: The reason that I asked to have this added is because if we were to approve a building at approximately 15,000 square feet for general retail, knowing that it didn't have the parking in the back, someone might construe that we knowingly did that and therefore they have a right to use the building, regardless the amount of parking spaces. So I just wanted the clarification. So that's what this came about as. They had no problem providing it, so --

MR. ARNOLD: And the other comment, Ms. Ebert and I had a conversation just really about the ownership, because this was a condominiumized building and the condominium association had been formed. It's been dormant since 2008. The current property owners which is the Milan 34108 LLC, it's owned -- all the condominium units for the deed were purchased by that entity. So we have a single owner entity and the condominium association is in the process of being abandoned by their attorney. So hopefully that answers your question, Ms. Ebert.

I don't think I have anything more to add. I'd be happy to answer questions, if there are any.

CHAIRMAN STRAIN: Phil, go ahead.

COMMISSIONER BROUGHAM: I have one and it's reference to attachment C and it's the letter from East India.

MR. ARNOLD: Okay.

COMMISSIONER BROUGHAM: And just a question, or clarification. They state that they plan to update the exterior lighting. Could you be more explicit in that? I know that it's surrounded -- or not surrounded -- I know there are residential units at least on one side, if not two, and exterior lighting could go all the way from lighting trees to lighting parking lots. So exactly what is meant there?

MR. ARNOLD: Well, I think the intent was the facade enhancements that they intend to make on the U.S. 41 side. That really will be the showroom visibility side to the traveling public. And I think the enhancements are really to highlight that aspect of the building, not the parking lot side of the building.

COMMISSIONER BROUGHAM: And also the relandscaping the front and sides of the building.

MR. ARNOLD: That grew out of a comment that Nancy had made, and her background as landscape architect, had visited the site and noticed that some of the landscaping just -- and its vacancy of the building over the years is maybe not as nice as it should be and probably needs to be upgraded.

And I think not speaking for Nancy, but I think she felt like it didn't really rise to warrant a condition of the conditional use approval. It's just something they would make any tenant upgrade the landscaping that would bring it closer to code.

COMMISSIONER BROUGHAM: That's where I was going, Ray, as to whether it should be as a condition of approval or not. I haven't -- I didn't get an opportunity to visit the site so I really can't make a judgment call on whether it is or it isn't.

MR. ARNOLD: Well, I think as you can see the landscaping, I have a couple of shots, if you want to look at it. That's just one shot from U.S. 41 and it doesn't highlight the landscaping. But the building's been well maintained. I think the comment was really there's some building perimeter foundation shrubs that probably need to be installed. It's a minor thing. They're going to need to do a Site Improvement Plan to enclose the parking. It'll -- the landscaping plan will be modified at that time.

COMMISSIONER BROUGHAM: So that'll take care of that at SDP or --

MS. GUNDLACH: It will.

COMMISSIONER BROUGHAM: Okay, that's all I have.

CHAIRMAN STRAIN: Anybody else?

Go ahead, Mike.

COMMISSIONER ROSEN: Yeah, I visited the site myself and I drove specifically in the back to

take a look at the privacy wall against the one residential unit to the west. And I felt it was very adequate, actually. And the landscaping probably does need a little sprucing up here and there, but I thought that that wall was adequate.

From a maintenance standpoint of view, I'd let your client know that it looked to me that the drainage swale that's against the wall, you know, on the western side there didn't look like it was working properly. But it looked like the maintenance item. It had not rained for a few days when I was there and that swale with the grate was still holding quite a bit of the water, so you might check into that. Could be a blockage.

MR. ARNOLD: Thank you.

CHAIRMAN STRAIN: Okay, anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, thank you, Wayne.

Nancy, did you have anything you wanted to add?

MS. GUNDLACH: Just that staff is recommending approval.

CHAIRMAN STRAIN: Do you have any problems with the suggested change regarding the parking and the general retail that Wayne has submitted?

MS. GUNDLACH: We accept the revised condition.

MR. ARNOLD: So that would -- I'm sorry to interrupt, but to clarify, that would become condition number two in your resolution.

CHAIRMAN STRAIN: Right.

MR. ARNOLD: Because my hope was not to come back on your consent hearing, if everybody was in agreement that this language was acceptable.

CHAIRMAN STRAIN: That's a good point. Since we are running towards the end of our time here and we could just as well on the smaller ones accept them without another date for consent, after this is over we'll consider that.

Anybody else have any que -- anybody have any questions of staff?

(No response.)

CHAIRMAN STRAIN: I just have one clarification from John. And since he drove all the way here for this meeting, I figured I'd give him a reason to be here.

COMMISSIONER BROUGHAM: Did you come up with that on the fly?

CHAIRMAN STRAIN: Yes.

MR. PODCZERWINSKY: Good morning, Commissioners.

CHAIRMAN STRAIN: John, I forgot to bring it up earlier to you, but it wasn't that big of a deal, it's more of an interest concern.

Under your traffic impact, or analysis, you basically said that the project generates seven net new trips which represents a plus .2 percent impact increase.

And I'm just curious, they had 43 spaces, they're now being reduced to 27 and they're going to a lesser use. I know that the general retail that they have in their request could be a greater use.

So did you base your impacts on the maximum greater use they could have? Is that how you got to that number?

MR. PODCZERWINSKY: You're going to have to bear with me for a moment, I'm going to look to Nancy and ask which version of the staff report. Because there were a couple different versions of the traffic study that we looked at, and they were both, you know, relatively small scale. There wasn't much difference between them.

CHAIRMAN STRAIN: Yeah, it wasn't an issue of complaint. I was just curious how you calculated. Because the condition that we just put on it would limit their retail to the parking that is available, which is 27 spaces. And if that is the case, I'm not sure they'd have any increase in traffic. Because actually it's a reduction in space.

MR. PODCZERWINSKY: That's incorrect. I think this scenario was looked at as the worst case scenario that they could have had.

CHAIRMAN STRAIN: Okay, I just wanted to verify that.

So even if they were to somehow find additional off-site parking or qualify for the additional

parking, they'll still looking at a .2 percent.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Thank you.

Anybody else have any -- any public speakers?

(No response.)

CHAIRMAN STRAIN: No? Then we will close the public hearing and entertain a motion.

Anybody have a motion? There's two recommended conditions.

COMMISSIONER BROUGHAM: I'll motion for approval of CU-PL20130001108 Milan Center, including the two revised conditions.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Made by Mr. Brougham, seconded by Barry.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER ROSEN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Now, since these matters are pretty clear, the recommendations are already written out in front of us, there isn't much that can go wrong with this. So I would recommend that we waive consent and hear it today. Is that okay with everybody?

COMMISSIONER EBERT: That's fine.

CHAIRMAN STRAIN: Okay, acknowledged yes. So let's consider this on consent. Do I have consent for item CU-PL20130001108, the Milan Center.

Everybody's read the language. Is there a motion to approve on consent?

COMMISSIONER EBERT: Make a motion to approve.

CHAIRMAN STRAIN: By Diane. Seconded by Barry.

COMMISSIONER KLEIN: Yes.

CHAIRMAN STRAIN: Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

MR. ARNOLD: Thanks very much.

CHAIRMAN STRAIN: You're done. You can go on your vacation and not have to worry about coming back, Wayne.

MR. ARNOLD: That's great. Thank you.


CHAIRMAN STRAIN: Thank you.

Okay, old business, there's none.  
New business, there's none.  
Public comment? There's nobody left.  
Discussion of addenda, we've done that.  
Planning Commissioner comments? Anybody have any issues?  
(No response.)  
CHAIRMAN STRAIN: Okay, with that is there a motion to adjourn?  
COMMISSIONER EBERT: I make a motion to adjourn.  
CHAIRMAN STRAIN: Made by Diane. So moved, we're all out of here. Thank you.

\*\*\*\*\*

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 9:18 a.m.

COLLIER COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
MARK P. STRAIN, Chairman

ATTEST:  
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 9-5-13, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
GREGORY COURT REPORTING SERVICE, INC.  
BY CHERIE' NOTTINGHAM