

# LOCAL PLANNING AGENCY MINUTES

August 22, 2011

Acting Chair, Bill Cannon, called the meeting to order at 3:00 p.m.

Board members present were Bill Cannon, Laura Ward, Peter Aydelotte, Clyde Thodey, Jerry Jagrowski, Sue Schmitt, Ron McLellan, Tony Masone, and Loretta Goggin.

Staff members present were: Morris Richardson, Asst. County Attorney; Cindy Fox, Planning, Zoning & Enforcement Manager, Planning & Development Department; Stuart Buchanan, Planner II, Planning & Development Department; and Candy Hanselman, Zoning Support Manager, Planning & Development Department.

There were seven regular board members, and two alternates, present and voting throughout the hearing.

Bill Cannon – Ladies and gentlemen, this is the Local Planning Agency. We're an advisory board, which makes recommendations to the County Commissioners, who will make the final decision on these items. Item number one will go to the Commission on Thursday, September 1, 2011, at 5:00 p.m. Item number two will go to the Commission on Tuesday, September 6<sup>th</sup>, at 9:00 a.m. When a motion ends in any kind of a split vote, a roll call may be taken to ensure accuracy. As a reminder, each member who makes a motion, or a second, needs to turn their microphone on so that your voice is on the recorder. First of all, I'd like to introduce a new member today. We are very fortunate to have Ms. Sue Schmitt, who is the former District IV County Commissioner, on the board. So, welcome, Ms. Schmitt.

Sue Schmitt – Thank you.

Bill Cannon – You're welcome. Moving on to the minutes, approval of the LPA minutes from July 25, 2011.

Motion by Ron McLellan, seconded by Jerry Jagrowski, to approve the minutes from the LPA meeting on July 25, 2011. The vote was unanimous to approve the minutes, as submitted.

## **P&Z AGENDA ITEM:**

### **DISTRICT 1**

**V.B.1. (Z1108101) – FRANK D. DeGEORGE** - requests a change from RU-1-9 to RR-1 on property described in **Section 6, Township 21, Range 35**. (1.01 acres) Located on the east side of Brevard Rd., approx. 500 ft. north of Irwin Ave.; also having frontage on the west side of Turnbull Rd., approx. 500 ft. north of Irwin Ave. (3543 Brevard Rd., Mims)

**P&Z Recommendation: Thodey/Ward – Approved with a Binding Development Plan to limit the number of horses to one (1). Vote was unanimous.**

Bill Cannon – If you would, sir, please state your name for the record, and address.

Frank DeGeorge – Good afternoon. I'm Frank DeGeorge, 3543 Brevard Road, Mims, Florida, 32754. Regarding the zoning change request at 3543 Brevard Road, the only goal that I have for the zoning change is the desire to keep a horse on the property. I've spoken with most of the neighbors bordering the property, and no one has any issue with this. I think that most people who live in that area value a country setting. A lot of properties are zoned to keep horses. Regarding the zoning change, that's the only reason. That's all I had. I'd be happy to answer any questions at this time.

Jerry Jagrowski – Yes, sir. Horses. One horse, or many?

Frank DeGeorge – Just one horse, one small horse.

Jerry Jagrowski – Thank you.

Bill Cannon – Any other questions from the board?

Laura Ward – Any other kind of animals allowed under RR-1, or is it just horses?

Cindy Fox – Just horses.

Laura Ward – Thank you.

Bill Cannon – Is there anyone from the audience who would like to speak for, or against, this? (no response)  
Seeing none, thank you, sir.

Frank DeGeorge – Thank you.

Bill Cannon – I think we're ready for a motion, I believe. Moved, and seconded, to accept. (The motion was made by Ron McLellan and seconded by Jerry Jagrowski. Both the motion, and the second, were made without microphones; therefore, they are not audible on the record.)

Bill Cannon called the question, and the board voted unanimously in favor of the motion to recommend approval.

Bill Cannon – All right, sir, you need to appear before the County Commission on the date that I said.

Sue Schmitt – May I ask a question?

Bill Cannon – Yes, Ms. Schmitt.

Sue Schmitt – Did that have a stipulation that he could only have one horse on the property along with that motion?

Board members responded, away from their microphones.

Sue Schmitt – I think the staff kind of recommended that.

Ron McLellan responded, away from his microphone.

Cindy Fox – Do you wish to amend your motion to that?

Ron McLellan responded, away from his microphone, indicating that he did wish to amend his motion.

Laura Ward – I thought when he agreed to that, that was...

Bill Cannon – Is that acceptable to you, sir?

Clyde Thodey – We got a point of order here. We've already seconded it, and we voted upon it. I mean, you're going to have to dispense with the motion.

Frank DeGeorge – Absolutely. One horse is quite fine.

Bill Cannon – O.K. So we're okay.

Laura Ward – Well, no, Clyde's right. You got to get it back up.

Clyde Thodey – That's correct. You've already voted on it, and it's been passed. Now, you're going to have to...

Sue Schmitt – I'm going to move that we reconsider the prior motion. I was in the affirmative, so I can do that.

Clyde Thodey – I'll second it.

Bill Cannon – O.K., it's been moved, and seconded, to – you all help me out.

Sue Schmitt – To reconsider...

Bill Cannon – To reconsider. It's still the same result, is it not?

Laura Ward – No, we got to bring it back on the table.

Bill Cannon – I know. But the result is still the same.

Laura Ward – We would vote on the reconsideration.

Bill Cannon – I know that part. But the result would still be the same as what this gentleman wanted.

Laura Ward – No, not our motion – our motion didn't – I thought that it would include that, but it didn't. It didn't specify.

Cindy Fox – Was the motion to reconsider approved?

Bill Cannon – Yes.

Cindy Fox – Someone needs to make a new motion with a – limit it to one horse – with a binding development plan to limit it to one horse, in another motion.

Bill Cannon – O.K., Ms. Schmitt, you so moved.

Sue Schmitt – I moved for a reconsideration. That's what's on the table right now.

Bill Cannon – O.K. All in favor, please signify by saying "aye".

Peter Aydelotte – Time out. Time out. Now there has to be discussion on...

Bill Cannon – Excuse me. I'm sorry. I apologize, ladies and gentlemen. I was put up here at the last minute.

Cindy Fox – It's my fault, so whatever you need.

Bill Cannon – I apologize, sir, for the inconvenience. Clyde, if you'll straighten me out, or somebody.

Peter Aydelotte – Just real quick, because in the comments, they also – apparently some limitations on

horticultural activities that can be on the property, too. Is that correct or not?

Laura Ward – No.

Peter Aydelotte – The summary said you might wish to limit some of the other aspects of it, too. Is that correct or not?

Cindy Fox – The zoning that is being requested is RR-1. It allows horses and horticulture. The applicant has specified that he just wants one horse.

Peter Aydelotte – O.K. Now, just – then I have a question for the applicant. How many children do you have?

Frank DeGeorge – I have no children.

Peter Aydelotte – No children. Do you ever plan on having any children? You only want one horse? You'll never have two horses? I mean...

Frank DeGeorge – For one acre, that wouldn't be fair to horses, to have any more than one.

Peter Aydelotte – It's just because I knew somebody that had one acre, and they did have two horses there temporarily while they were doing some breeding activities, or something. But whatever. One horse is fine with you, it's fine with me. I don't have anything else. Thank you.

Laura Ward – Are we still – are we discussing the motion to have...

Sue Schmitt – To reconsider.

Laura Ward – Just to reconsider? O.K. I'm a little bit lost where we are. Has the motion to reconsider been voted yes or no?

Bill Cannon – Yes, it was.

Laura Ward – O.K. Are we now considering a new motion? And that motion is to approve, with the stipulation of one horse only? Then I'd second for discussion of that. And I'd like to ask staff, does he have to provide a binding development agreement?

Cindy Fox – Yes, ma'am.

Morris Richardson – Yes.

Laura Ward – So can that take a simplified form for this individual? I mean, is this some major thing he's going to have to hire a lawyer for?

Morris Richardson – No, the form's very streamlined, and they provide draft language. Most of it's boiler plate, except for any additional conditions that are imposed. In this case, it's going to be one simple line to limit to one horse only.

Clyde Thodey – Can we call the question?

Morris Richardson – I'm sorry, who made the motion? I heard Laura's second. Who made the new motion, with the limitation? I'm sorry.

Clyde Thodey – I believe Sue did. Did you make it, Sue?

Sue Schmitt – No.

Bill Cannon – No.

Clyde Thodey – You can put me down. I'll make the motion.

Bill Cannon – O.K. Mr. Thodey moved, seconded by Laura. All in favor of the motion – would you please restate it, Candy, so we got it square this time?

Candy Hanselman – The motion is to approve the application with a binding development plan to limit it to one horse.

Bill Cannon – O.K. Any further questions? (no response)

Bill Cannon called the question, and the board recommended approval of the request, as stated above. The vote was unanimous.

**LPA ITEM:**

1. Transmittal of the 2011-2 Comprehensive Plan Amendments, as follows:

Stuart Buchanan – Good afternoon. Stuart Buchanan, Brevard County Planning & Development Department. The second item that you have before you is the fall transmittal packet of your comprehensive plan amendment. It consists of five different amendments, one of which is a private application, and the other four of which were initiated by the County.

a. 2.1 Plan Amendment - The Devereux Foundation (Applicant) to amend Part XI, the Future Land Use Element, to change the Future Land Use Map series designation from Neighborhood Commercial to Community Commercial for approximately 49 acres located at 8000 Devereux Drive, east of Murrell Road; South of Spyglass Hill Road; west of Baytree Drive; and north of Wickham Road.

Stuart Buchanan – The private application is for the Devereux Foundation. It's a change in future land use from neighborhood commercial to community commercial for approximately 49 acres. I'm sure all of you are already familiar with the Devereux Foundation, and the work that it does, and its location. Devereux was originally built prior to adoption of the comprehensive plan. And the purpose of the land use amendment being filed today is to take that existing use and make it conforming with the land use. There is a subsequent rezoning that will be filed for institutional that will come before you at – we're going to bring it, the zoning item, forward at the same time that we come back with the adoption package for the land use amendment. I'm sure you're all aware we have to send it to the State, and then there's a 60-day delay, and it comes back. And so what we would like to do is time that so the rezoning comes with the adoption package, which should be in December of this year, before the close of the calendar year. The applicant is here today for the owner. But if you have any questions, I'll be happy to answer them for you.

Bill Cannon – Any questions from the board? (no response) Anyone...

Sue Schmitt – I'll move approval.

Bill Cannon – Anybody from out here wish to speak?

Sue Schmitt – Oh, I thought you had already asked that.

Bill Cannon – No, I'm sorry, no.

Steve Monroe – Good afternoon, ladies and gentlemen. My name is Steve Monroe. I'm Vice-President of Engineering for ME Construction. I reside at 3080 Brandywine Lane, in Melbourne. I'm here to speak to you about the Devereux/Viera Wellness Learning & Activities Center. If you're not familiar with the site, it's located north of Wickham Road, east of Murrell. Devereux acquired the property from the Dudas in the early '80's. They've constructed their facility there, and they've owned and operated ever since. For quite some time, they've looked at doing an expansion and adding on a new learning facility. In the last year, they decided to move forward with an 11,000-square-foot building addition. ME Construction was hired to do the civil site plan engineering. We've put together a preliminary site plan – begin to put together our package for a pre-app meeting. In planning, we found out that the property is considered – the use of the property is now considered nonconforming to the zoning and future land use. Before we could move forward, we would need to request a future land use change, as well as a zoning change. In summary, it's very important that this gets approved today so that Devereux will be able to move forward with their new building expansion and their learning center. If you have any questions, I'll be happy to answer them for you.

Clyde Thodey – What's the purpose of the new building, sir?

Steve Monroe – It's going to be a wellness and learning center. If I could...

Clyde Thodey – An educational?

Steve Monroe – Yes.

Clyde Thodey – And how many people are you going to have in it?

Steve Monroe – Right now, I think they've got about 100 students, something like that. They're not going to add any more. There is going to be a new facility for the students to use on the site.

Clyde Thodey – So you have room to expand, if you need to, with further students in an 11,000-square-foot building?

Steve Monroe – No, the 11,000 square feet is going to service the existing students that are already there. They're not adding any more students, just going to give them more facilities to work with.

Clyde Thodey – O.K. Thank you.

Bill Cannon – Any other questions from the board? (no response) Anyone else like to comment from the audience? (no response) I think we're ready for a motion, are we not?

Sue Schmitt – I'll move approval.

Bill Cannon – All right. Ms. Schmitt moved for approval. Is there a second? Seconded by Ron (Mr. McLellan's second was made away from his microphone; therefore, it is not audible on the record).

Bill Cannon called the question, and the board recommended approval of the item. The vote was unanimous. Mr. Cannon reminded the applicant that the item would go before the County Commission on Tuesday,

September 6<sup>th</sup>, at 9:00 a.m., back in the same room.

b. 2.2 Plan Amendment - Brevard County (Applicant) to amend Part XIV, the Capital Improvements Element adopting transportation related projects for funding eligibility.

Stuart Buchanan – Amendment 2.2. This is amending the Capital Improvements Element, adopting transportation-related projects. These are projects that are being added to the Capital Improvements Element so that funding can be applied for through the State and Federal Government. Both of these projects, transportation-related projects – there’s a short summary in the CIE that describes each of them. I’ll be happy to answer any questions that you have.

Bill Cannon – Do we have any questions for staff?

Clyde Thodey – Are you going to need a motion to approve that?

Stuart Buchanan – Yes, sir. Each of the amendments actually has its own ordinance associated with it, its own legislative item. I’m sorry to ask you to do that, but if you could make a motion for each amendment.

Clyde Thodey – I’ll make the motion to go ahead and approve, as submitted.

Bill Cannon – Do we need to take any comments from the audience before that, or no? Any comments from the audience? (no response) O.K., I’m sorry. Go ahead, sir.

Clyde Thodey – I make a motion to go ahead and approve, as submitted.

Bill Cannon – Is there a second? Ron seconded that (Mr. McLellan’s second was made away from his microphone; therefore, it is not audible on the record).

Bill Cannon called the question, and the board recommended approval of the item. The vote was unanimous.

c. 2.3 Plan Amendment - Brevard County (Applicant) to amend Part XI, the Future Land Use Element to amend Industrial Land Use policies for consistency with the Zoning Code of Ordinances.

Stuart Buchanan – Amendment 2.3. This is an amendment to the Future Land Use Element, to the Policy 3.6, 3.7 and 3.8. And what this does is, several years ago Brevard County adopted, in the zoning code, a reference to a national industrial index, a North American Industrial Classification System, NAICS. It was adopted by Ordinance 2000-7. What we’re simply doing here is, we’re taking the language that was adopted in the comp plan in 1988, and clarifying that there’s no inconsistency between our comprehensive plan and our zoning code. This is more of a housekeeping item than anything else. I’ll be happy to answer any questions that you have.

Laura Ward – I have a question. The only change you’re making to what exists now is what’s lined through?

Stuart Buchanan – Correct.

Laura Ward – Removing just that language?

Stuart Buchanan – Yes, ma’am.

Laura Ward – O.K. Thank you.

Bill Cannon – Any other questions from the board? (no response) Anything from the audience? (no response) O.K., we're ready for a...

Laura Ward – I'll make a motion to approve the changes to the industrial land use sections

Bill Cannon – Seconded by Jerry (Mr. Jagrowski's second was made away from his microphone; therefore, it is not audible on the record).

Bill Cannon called the question, and the board recommended approval of the request. The vote was unanimous.

d. 2.4 Plan Amendment - Brevard County (Applicant) to amend Part IX, the Transportation Element, to adopt polices relating to the Complete Streets Program.

Stuart Buchanan – Amendment 2.4. This is the adoption of the Complete Streets Program. The Complete Streets is a State initiative that's been presented to each of the Transportation Planning Organizations. This would adopt it into our comprehensive plan. And then, from there, we could implement it in our land development regulations. For those of you that aren't familiar with the Complete Streets Program, it's designed to – it encourages that when new roadways are designed, and new subdivisions are designed, that safe access is provided for all users, not just vehicular users, but also pedestrians and bicyclists.

Bill Cannon – Any questions for staff? Ms. Schmitt.

Sue Schmitt – Yes. In 11.2 and 11.3, I realize that "shall" and "will" mean the same thing, but for the sake of consistency, what don't you have "shall" all the way.

Stuart Buchanan – Yes, ma'am. Could we include that in the motion, just for clarification for the record?

Sue Schmitt – I make a motion that we approve, with 11.2 and 11.3 changing the word "will" to "shall".

Laura Ward – Second.

Bill Cannon – Any more questions from the board? (no response) Anything from the audience? (no response). Ready for a motion.

Several board members responded, away from their microphones.

Bill Cannon – I'm sorry, I thought we were just working on the language.

Sue Schmitt – All right, I'll make it again. I made a motion that we approve, with 11.2 and 11.3, with the word "will" in both of those policy numbers to be changed to "shall" for consistency.

Morris Richardson – Would you like to include 11.6 in there, as well, for consistency? That one also uses "will" rather than "shall".

Sue Schmitt – I'm sorry. Yes, you're right. Absolutely.

Bill Cannon called the question, and the board recommended approval of the item, as stated above. The vote was unanimous.

e. 2.5 (a) and (b) Plan Amendment - Brevard County (Applicant) 2.5 (a) to amend Part XI , the Future Land Use Element, to correct a scrivener's error on policy numbering. There are no policy text amendments associated with this amendment, only policy numbering; and 2.5 (b) to correct scrivener's errors on the Future Land Use Map to amend privately held parcels from a Public Future Land Use.

Stuart Buchanan – Last item. This is actually two items, but it's a single amendment. Both of these are correcting scrivener's errors. The first one is correcting policy numbering in the Future Land Use Element. There's no changes to the policy language itself. We are simply changing the numbers so that they will be consistent with what was already adopted. This is at the very end of the element. And the numbering just needs to be shifted one number down. The second part of this, which is the 2.5 (b), is correcting parcels on the future land use map that have a public future land use assigned, but they are actually privately-owned. These errors occurred when the maps were changed from the hard copies to the GIS system. The properties themselves, the privately-held properties, are up against publicly-held property. And it was a simple mapping error. We pulled all the records from the Property Appraiser's Office. They're all privately-owned, and they shouldn't have the public future land use. So we're simply correcting them and giving them the land use that they were assigned when the maps were converted.

Clyde Thodey – My question is, what does that do to the property owner? Explain if a little further, if you would.

Stuart Buchanan – Certainly. The property, right now, has a public future land use. And so, obviously, the – but not a public zoning. You know, it has whatever the correct zoning is that was assigned to it. And so we've got these privately-held lands that are in a – the inconsistency situation. The zoning map doesn't match the future land use map. And what we're doing is, we're changing the future land use to be consistent with the zoning. In other words, we're changing the future land use to be consistent with the zoning to remove that anomaly. Obviously, private individuals can't own public lands. And it was clearly a mistake.

Laura Ward – So are you going to have that back in front of us? Will that be back in front of us for a rightsizing or something? Is that what you're doing?

Stuart Buchanan – No. We're simply taking the land use and making it consistent with the zoning. We're removing the public future land use designation, because they're privately-held.

Laura Ward – I understand. But off the map, or did you actually take an action where you assigned them a future land use of public?

Stuart Buchanan – No, no, no. No, we did not. When the maps...

Laura Ward – It's just a map.

Stuart Buchanan – Yes. When...

Laura Ward – O.K.

Stuart Buchanan - ...the hard copy maps were converted to the digital system, because these lots were actually up against...

Laura Ward – O.K.

Stuart Buchanan - ...a public future land use – I don't want to use the word "bled over", but it somehow identified them as being...

Laura Ward – O.K.

Stuart Buchanan - ...publicly-owned.

Morris Richardson – And they're only going back to the designation that they...

Laura Ward – Should have had.

Morris Richardson - ...had prior. Right.

Laura Ward – But you took an action to place on them. O.K.

Clyde Thodey – It makes it a lot clearer. Thank you. Thanks, Laura.

Bill Cannon – Any other questions? (no response) Anyone in the audience? (no response) Now, will one motion take care of...

Stuart Buchanan – Yes.

Bill Cannon – Jerry moved for approval (Mr. Jagrowski's motion was made, away from his microphone; therefore, it is not audible on the record). Is there a second? Ron seconds (Mr. McLellan's second was made, away from his microphone; therefore, it is not audible on the record).

Bill Cannon called the question, and the board recommended approval of the request. The vote was unanimous.

The meeting was adjourned at 3:23 p.m.