

ESTERO COMMUNITY PLANNING PANEL

Minutes of Public Meeting #142 – November 19, 2012

Estero Community Park, Estero, Florida

Panel Members Present: Jack Lienesch, Chairman, Estero Community Association; Neal Noethlich, Emeritus Chairman; Ned Dewhirst, Estero Development Community; Greg Toth, Founding Member; Paul Roberts, Rockford Development Group; John Goodrich, ECCL; Howard Levitan, Secretary, and Bev MacNellis, Treasurer. Absent: Jeff Maas, Estero Chamber of Commerce, Roger Strelow, ECCL.

Also present: Daniel DeLisi, DeLisi Fitzgerald, Inc., Kathie Ebaugh, Lee County Principal Planner, Mike Zaccheo, Sumo Suchi Restaurant, Jeff Kleeger, Jeremy Frantz, Conservancy, Jean and Fred Moore, Marilyn Edwards, ECCL.

Public Notice: Lienesch reported that the meeting notice was posted on the ECPP website and notice was also posted on the bulletin boards of several local banks. Lienesch introduced Howard Levitan who has been appointed as the Secretary of the ECPP.

Minutes and Treasurer's Report: Lienesch noted that the minutes of the October 15th meeting had been vetted by the Panel and the updated version is posted on our ECPP website. Treasurer MacNellis reported a balance of \$1,007.04. Motion to approve both the minutes and treasurer's report were made, seconded and both were approved.

PRESENTATIONS

Estero Ridge Administrative Amendment. Mike Zaccheo, representing the proposed Sumo Sushi Restaurant to be located in the existing development of Estero Ridge at the corner of US 41 and Estero Parkway, presented several proposed administrative changes to the Development Order for Estero Ridge. The proposed restaurant would like to have a patio area in the rear of the building, and to place a walk-in refrigerator in the rear as well.

The proposed restaurant will initially have a beer and wine license and with more than 150 seats will eventually seek a liquor license associated with a Group III restaurant based on attaining food sales greater than 50% of total sales as permitted by Florida statutes and the Estero LDC. The closest

residential area to the proposed restaurant patio is the Cypress Bend mobile home park approximately 0.2 miles away. He is seeking an administrative amendment to the Development Order to permit outdoor restaurant seating and the walk-in refrigerator.

Several members of the Panel asked questions about hours of operation (closing no later than 12:00 Midnight) and whether or not there would be entertainment outside (none planned at present). Greg Toth suggested that it might be preferable for the outside patio to have some sort of covering for daylight operations, however this was not made a condition.

The ECPP by consensus agreed to support the proposed administrative amendment to the Estero Ridge Development Order.

ECPP ISSUES

1. Community Plan Update. Dan DeLisi reported that further changes have been made to the draft Community Plan following comments by County staff. The group of consultants for this project met a few weeks ago to update the current timeline. They all agreed to shoot for a submission for approval in March, 2013. Dan would like to start wrapping up the current plan drafting and get public input by the end of 2012. Dan and Jack Lienesch went to the last meeting of the EDRC and presented the current draft. Dan is waiting for their comments. Jack has discussed getting on the December, 2012 ECCL Meeting Agenda for a 20 minute or so update of the current draft. Dan will produce his next draft of the Plan in time for distribution to the ECCL Board of Directors for their November 30th meeting. John Goodrich will discuss with the ECCL the timing for a public hearing on the Plan either in conjunction with a monthly ECCL membership meeting or at a special meeting. Dan stated that it might be preferable to do a Community Workshop on the Plan rather than do a special ECCL Meeting, but his first preference is to present to the ECCL meeting itself, as this will ensure an audience different from that which would attend a workshop.

2. Bella Terra Commercial. Jack Lienesch reported that the Bella Terra Commercial development zoning change was extended for 120 days with expiration now set for March 21, 2013.

3. Walmart Update. Jack Lienesch reported that two items remaining in the discussions with Walmart have now been resolved. The issue of water pressure and the potential requirement for a water tower has been resolved by the engineers by looping the system, and therefore no water tower will be needed.

The second issue was a potential conflict between the parking requirements in the Estero portion of the LDC with the main portions of the LDC. Jack reported that this will be resolved by an administrative amendment to their rezone and we could accomplish it via email when their attorney submits it to us.

4. Midtowne Estero Lawsuit. Jack Lienesch reported that he, Don Eslick and Neal Noethlich had a discussion with John Turner in the Lee County Attorney's Office concerning documents for this continuing lawsuit. The ECPP is looking through its documentation to provide copies to the County which is defending a lawsuit by the developers who are alleging a temporary taking of the property resulting in damages to them. Much of our documentation is already on our website or in County records. Turner reported that he may need someone to be deposed in discovery from the ECPP point of view. There was a discussion of how involved ECPP would be in this lawsuit and our potential liability going forward. Jack will discuss this further with Turner and report at the next meeting.

5. Horizon Council Business Issues Task Force. Kathie Ebaugh reported that she had no further information about the concerns of the Horizon Council with the Community Planning process, as this was within the purview of Mary Gibbs at the County Community Development Staff. Jack Lienesch had written an email to the commissioners last June citing the ECPP's opposition to several of the Horizon Council proposals, particularly those which would limit community participation in the development approval process. To date Jack has heard back only from Comm. John Manning with respect to the emails, although he had heard that there is to be some sort of county review scheduled for these proposals in the future. Jack will follow up with Mary Gibbs to ascertain the current standing of this issue and report back at the next meeting.

6. Director Issues. The Panel entertained a discussion of the current status of the system of designation of Directors for the ECPP and the fact that at least one of the member organizations (Estero Civic Association, now named Estero Community Association) was no longer meeting even though it still officially exists. A discussion ensued about the need to modernize the By Laws of the ECPP, and Howard Levitan, as Secretary, was given the task of reviewing and redrafting the By Laws of the ECPP for approval by the directors and member organizations. The Secretary was asked as a part of his duties to maintain the existence of the organization on an annual basis with the Florida Secretary of State's office.

7. David Graham Award 2012. The Panel then discussed finding a place to hold the David Graham 2012 awards ceremony, but no conclusion was reached. Jack will work on this further.

8. Feedback on Time of Meeting. Jack Lienesch asked for further feedback on the 5:00 p.m. start time for the meeting. After discussion, it was decided to continue to hold the meetings at 5:00 p.m. on a trial basis.

9. Adjournment. The meeting was adjourned at 6:17 p.m. by unanimous vote of the Panel.

Respectfully submitted,

Howard J. Levitan, Secretary