

ESTERO COMMUNITY PLANNING PANEL
Minutes of Public Meeting #166 – October 20, 2014
Estero Community Park, Estero, Florida

CALL TO ORDER:

The Meeting was called to order at 5:00 p.m. by ECPP Chairman Lienesch.

Panel Members present: Jack Lienesch, Chairman; Estero Community Association, Roger Strelow, ECCL; John Goodrich, ECCL; Ned Dewhirst, Estero Development Community; Paul Roberts, Estero Development Community, Neal Noethlich, Emeritus Chairman, Jeff Maas, Estero Chamber of Commerce, Greg Toth, Founding member; Bev MacNellis, Treasurer and Howard Levitan, Secretary. No member of the Panel was absent for tonight's meeting.

Also present were Nick Batos, Chairman of the ECCL, Don Eslick, Chairman Emeritus of ECCL; various representatives of developers and their agents, and over 250 members of the public, mostly from the Breckenridge Community in Estero. Finally, Chip Block and Sharon Jenkins-Owen from the Lee County DCD Planning Staff were also present at this meeting.

Public Notice: Secretary Levitan reported that the meeting notice was posted on the ECPP website. The Agenda has been posted for over a week on the website, but was revised slightly today. He noted that a quorum of the ECPP was present for this meeting.

Minutes of the Prior Meetings. Chairman Lienesch reported that the minutes of the September 15, 2014 Meeting of the Panel were prepared by the Secretary, had been vetted by the Panel, and had been posted on our ECPP website. There were additional minor comments made by Chairman Lienesch that were described at the meeting. A motion was made, seconded and unanimously passed to accept the September minutes as modified by Lienesch's comments.

Treasurer's Report: Treasurer MacNellis gave her Treasurer's Report. \$1,324.48 is currently in the bank. Payments were made during the month to Land Architects for the Community Plan Revisions as approved by Lee County.

PRESENTATIONS:

1. Estero Grande:

Materials presented for review. Revised Master Concept Plan dated 9/18/2014 from Waldrup Engineering, including revised MCP dated 8/13/2014 showing parks and civic spaces, pedestrian crossings, and bicycle paths. The Panel also had available the Lee County Staff Report dated October 18, 2014 regarding this project (DCI2014-00004 and REZ2014-00004).

These revised MCP drawings were introduced by Alexis Crespo and Steve Hartsell, Esq. from the Pavese Law Firm. Stephen Hagenbuckle, principle of Terracap, owner of the project, was also present along with Kevin McCruw, and Lyndsay Rodriguez from Waldrup Engineering. This is the third time presenting this plan before the ECPP. The presenters described this 29.6

acre piece of property on the corner of Estero Parkway and US 41. Breckenridge Community is to the West along with Terra Vista to the Southwest. To the Southeast is a single-family residential subdivision. Walmart is across Estero Parkway to the northeast. This site is proposed for 235 residential units along with 100,000 s.f. of commercial space in four designated outparcels located on US 41. Hartsell stated that this is a difficult site for a mixed-use development. County Staff wants to integrate the residential and commercial phases of the development rather than just have two separate projects which are buffered. In terms of the site design, the developer originally wanted to put the commercial uses on US 41 and the residential uses in the rear to the west. They have now changed their plans to reduce the planned height to three story maximum 45 feet in height residential buildings. The lake and the preserve will be located at the very rear for additional buffering for the Breckenridge and Terra Vista communities.

As part of their power point presentation, they then showed the pedestrian connectivity plan for the development. The green areas shown on this Plan are amenity areas with a park in the center. All of the residential areas will have access to the commercial areas. Terra Vista, at its choice, will have pedestrian access through the property to US 41, Walmart and the other stores of both this development and other adjacent commercial sites in the area.

Regarding the bonus density, they are planning on offering moderate income and workforce housing to obtain bonus density of 108 units. Based on the so-called "Super Bonus Density Calculations for Mixed-Use Projects" as set forth in the Lee Plan, they are able to count the appropriate density over the full 29.6 acres as opposed to just the residential acreage. This would give them 177 units at a density of 6 units/acre plus the bonus density of 108 based on either the low and moderate housing or purchasing TDRs. The rents under the moderate income or workforce unit provisions of the LDC provide that the occupant must qualify for about \$1200-1300 per month with incomes of \$50-60,000. The same income formulas would be used if the units were sold as condominiums, including the qualification of no more than 30% of the income of the buyers at about \$200,000-\$300,000 sales price depending on the size of the apartment.

Questions and input from the Panel. Paul Roberts asked whether they will use both low or moderate income work force income rentals and Transfers of Development Rights (TDR)s. Hartsell responded that they are relying primarily on the moderate work force income rentals. He said that only a few TDRs are currently available but if they can do so, they may be utilized. At this point it is not clear if the units will be for sale or rental, and this fact should not make any difference to the process. Ned Dewhirst then asked them to walk through the calculations of density for the project. Hartsell responded that they are still requesting 285 units based on the 29.6 acres at 9.6 units per acre over the entire site. Ned says he is confused then since it covers the full property. Hartsell stated that they are asking for 108 units of bonus density based only on work-force development. Dewhirst said that at that calculation, they still are relying on the super density provisions. Alexis Crespo then responded that there are two different mixed use calculations because they are in the mixed-use overlay, first the so-called mixed use super-density formula based on their civic spaces and connectivity. Then they count the bonus density based on the workforce development provisions. The count is 177 base units and 108 bonus density based on the workforce development bonus provisions.

Greg Toth stated that he is saddened by this process because we in Estero expected more from the mixed use overlay provisions. His real concern is the schedule of uses including fast foods and drive-through restaurants. Estero Parkway as the gateway to the University should be different than just fast food etc. In past projects, he stated that we have limited drive-through restaurants to one per development. The same limitation should apply for fast food restaurants. He would like to see uses which include those that really will be frequented by the residents in the area. For example banking vs. fast food. He also asked about COP, and the response was only for a Group III restaurant with no outside seating and only a sit down restaurant. Toth would like to tie the drive-through use to one fast food restaurant or better yet to not allow fast food restaurants at all on the schedule of uses.

Neal Noethlich stated that as a point of interest there was a prior development proposed for this site which had the support of the community, but was never built. This is agricultural land, and is in the mixed-use overlay, which includes higher density and commercial uses. Jeff Maas asked about the buffers and the response was that the required buffer between residential developments is a 5 foot, Type A buffer.

John Goodrich agrees with Greg Toth and Paul Roberts that this project does not qualify for mixed-use bonus density calculations based on the current schedule of uses. He shares the concerns for somehow tying the uses of the property to those that residents of the apartments would utilize. He feels that the developer needs to do more cooperative work to make sure that this will look better in the end.

Roger Strelow said that the Panel has commented at great length about this proposal. The real issue as to the Breckenridge Community is that when you have a new type of use like this one, mixed use which is being put next to residential, it should be allowable only if the separate uses are compatible. He thinks we should hear from the Breckenridge community as to their concerns.

Ned Dewhirst spoke about his underlying issue. The project asks for density over the full site based on mixed-use concepts where there is a real interplay between the residential areas and the commercial. This is a subjective test for Lee County under the Lee Comp. Plan, and he feels this project does not meet the requirements. While it has pedestrian crossings, open space, and connectivity, this project is located at a nexus point of traffic at this important intersection. This plan does not speak to interconnectivity with the road to Breckenridge. He feels that not much thought has gone into the interconnection for vehicles between the various developments along US 41 in this area. Access arrows immediately west of the US 41 / main entry intersection appear too close for safety purposes. As to the height limitations, at 45 feet, the buildings in the Southeast abuts the single family homes next door. Dewhirst feels the residential buildings should be scaled down in that area. Hartsell says they will be meeting with Terra Vista about this development before the HEX Hearing scheduled for October 29th. With respect to adding two right in-right out access points on US 41, the applicant is still pressing for these approvals, although they did not get Staff approval in the Staff Report recently completed. FDOT will ultimately make that decision, and Hartsell feels that the County will have to go along, as this is a State regulated highway. He went on to state that they have agreed to an interconnect to the road to the south shown on the plat, if it gets developed.

Hartsell went on to state that they met with two of the Preserve Associations at Breckenridge two weeks ago. Alexis Crespo said she contacted the Breckenridge Master HOA Board in September who told her to meet with the Preserve Associations first, and then come the HOA master board for their meeting on October 21st. Hartsell also stated that the developer will not move back the HEX hearing to get the input of the Breckenridge Community. They say they have been to the ECPP twice before but will not anticipate postponing the HEX hearing.

Comments from the Public. Due to the overwhelming number of people present from Breckenridge, including many that could not fit into this room, Chairman Lienesch asked if they would limit the number of speakers representing this community to three people.

The first speaker was Bob Cook from The Breckenridge Master HOA Board. He was asked by the Executive Committee to give their consolidated response to this proposal. They have serious and significant concerns, including noise and light pollution and neighborhood security. He stated that they are specifically concerned with traffic and public safety for US 41 and the collector roads, especially with Walmart and Hertz being developed. He feels that the traffic studies presented by the developer do not consider the cumulative impacts of such new developments on this major intersection, and that there should be a new traffic study. The bonus density qualification is at the heart of their negative feeling about this project. Neither of the adjacent communities exceeds the 6 units per acre standard for the Urban Communities category on the FLUM. They feel strongly that this is not really a mixed-use project. They ask for ECPP and ECCL to recommend to Lee County Staff to rescind the Staff recommendation of approval and encourage the BOCC to deny the application for Bonus Density. They feel that the project should be slowed down to give them the time to adequately review and comment on the development's impacts on their community. They want the Panel to stand with Breckenridge and oppose this project.

Garth Errington from Breckenridge spoke next. He spoke about the November 13, 2010 workshop for the Estero Community Plan held at the Hyatt Regency. In that meeting the residents of Estero were asked to brainstorm what they saw as a future for Estero. The consistent reply of the residents was for Estero to have developments harmonious with neighbors, safer US 41 corridor, and strong design standards. His concerns are that the Community has not been given the opportunity to have its concerns addressed by the developer. They went on to state that they are late to the game, because they were not given the opportunity to learn about this project by the developer until late in September. They are mostly concerned with buffers, and the commercial uses along US 41, along with the requirements of mixed-use to achieve higher bonus density. This is just an attempt to evade the communities' oversight as to the newly incorporated area of the Village of Estero. They feel that this project does not meet the quality of life visions for Estero that have been established long ago.

Katy Errington from Breckenridge next spoke about her sleepless nights over the past several weeks concerning this proposal. She thanked the ECPP and ECCL for their volunteer work. Breckenridge has 16 associations and a large master board with over 842 units in total. The developer has not yet met with the full Breckenridge community. Two people representing the developer met with one of the association boards two weeks ago, however, the other boards were

not invited. She then went on to discuss Terracap's other projects which are shown on their website, and the general approval of their community for the prior Santorini project which unfortunately fell victim to the recession. She stated that the Breckenridge community looks at this land as their green space. They knew it would be developed at some point, but not with this kind of a proposal which they feel is out of line with the Community's vision for Estero. They will be exposed to the traffic, and will be seen from along US 41. They feel that this development proposal is like the BP oil spill. When the new Walmart is finished, this development will appear as not fitting in Estero. It is being presented at this level of density purely because of the builder's greed. The traffic noise will increase significantly along with the noise from 285 rental units, 500 cars for these residents, and the commercial areas with likely a 24/7 service station with carry-out availability. The Staff report discusses low or moderate income units which would be a real problem for their community. She discussed the fact that this will use 68,000 gallons of water each day. The proposed service station is not needed as there is already one close by. She warned that there might be potential use of vacant commercial space in the area for uses which might be allowed if Amendment 2 passes on November 4th. She urges this process to slow down and wait until after the November 4th election. Finally she requested that the ECPP report to the Hearing Examiner that the Community is not in favor of this project.

Hartsell was asked to respond to the previous speakers. He stated that they understand the concerns of the Breckenridge community, and will try to address them, but cannot promise them to postpone the HEX hearing. The project has been under review for a long time. They do not want to be held up by the Estero incorporation. They will take some concerns into account, but are going to move forward. He said that they heard the concerns of the Panel as to the schedule of uses and will look into them.

Nick Batos spoke for the ECCL. He provided two points for consideration. To the Panel and County Staff, the intent of our Estero procedures over the years was to focus on having the developer go to the communities to work out difficulties and problems before it got to the Planning Panel. This developer could have met with the Breckenridge community long before it got to this point. As to deviations, it is ECCL's position that under the Charter if it passes on November 4th, no variances or deviations are thereafter allowed to be granted by the County.

Chairman Lienesch summarized the process with respect to this applicant. Roger Strelow moved that the Panel recommend to the County to defer any decision by them on this matter until the new Village of Estero is in place and can review this development in detail. This motion was seconded and unanimously approved by the Panel.

2. Corkscrew Crossing MPD (fka Monte Christo).

Materials presented for review: 11 page document dated October 20, 2014 entitled "Corkscrew Crossing PD Amendment, including approved PD Plan under Zoning Resolution Z-07-047, proposed Master Plan, and draft corridor exhibit.

This subject was introduced by Wayne Arnold of Grady Minor on behalf of the developers. This is the previous Monte Christo Site between Wildcat Run, the Preserve at Estero and Bella Terra.

They are seeking to amend the MCP, and they brought their full project team to answer any questions. This is going to be a preliminary discussion only, and not a public hearing, since we have not been provided for review the full application, and they agreed to come back to us when they have received the sufficiency comments from Staff.

They have also made their application and submittals to the Army Corps of Engineers and SFWMD. It is a reverse L shaped parcel of about 400 acres. It is designated Suburban on the FLUM, along with portions of the property designated as wetlands. The previously approval was for 732 units. They now propose to reduce this to 625 single-family units. They provided the proposed master plan revisions, which show a proposed emergency interconnect with the Wildcat community. They moved the entrance somewhat to the east to align with the Wild Blue project to the north across Corkscrew Road. They have added several single-family products including zero lot line villas. One of the issues raised by Staff is for them to maintain an adequate corridor for panthers and bears. They have planned to have a small corridor on the east side near the Preserve of Estero community. Their preserve area abuts other preservation property to the southwest side, and ultimately Edison Farms to the South. Chairman Lienesch noted that the Panel has seen this property under four previous iterations.

Greg Toth asked several questions about the panther crossing which is to be built under Corkscrew Road in front of the Preserve at Estero. While some of the funds are being held, this project awaits further funding. Neal Noethlich stated that when the CRSA was established, this land was expected to be only 30 home sites. What we wind up with a lot more contribution towards the CRSA. However, it was pointed out that the CRSA is going to sunset in September, 2015 if it is not renewed by the County. At that point, the remaining money could be used for capital improvements. It was further pointed out that the CRSA is not likely to be extended as it has fulfilled its use. Toth stated that he is fine with the project and hopes for the emergency interconnect. Ned Dewhirst feels that this is an improvement on prior plans, and hopes that they can work out the interconnection with Wildcat Run. Jeff Maas lives in Bella Terra, and he is concerned about walking and biking on Corkscrew Road. Both the Preserve and Corkscrew Shores have a bike path/ walkway along Corkscrew Road, and they should consider this as well.

Chairman Lienesch asked if Estero Fire and Rescue is acceptable with only one entrance and exit? This was a deviation approved previously, but they will try to get the emergency interconnect with Wildcat. As to the Bella Terra commercial property, and taking into consideration Wild Blue, there needs to be some development of a commercial nature in front of Bella Terra.

Comments from the Public.

Nick Batos said that the environmental groups will likely require a plan or fence on the panther and bear corridor to prevent interaction with residents. Jeremy Frantz from the Conservancy wants the corridor as wide as possible for the animals and this one is too narrow in their opinion. Even though the number of units in this development is decreasing, the Conservancy feels that this site plan is expanding the development area, which comes out of the preserve area and panther corridor.

Chairman Lienesch summarized the conclusion of the Panel that based on this preliminary discussion, the development seems much improved, and the Panel will look forward to seeing the full application when they return.

3. Springs of Estero Administrative Amendment.

Materials Presented to the Panel. One page Plan for Springs at Estero prepared for Continental 305 Fund LLC by Barraco Engineering dated 10/13/2014, along with 2-page undated Deviation Written Narrative and Justifications for Springs at Estero.

Neale Montgomery introduced this proposal on behalf of the developer. This is a sign deviation request. She stated that normally you would have one big monument sign in the entrance median or two smaller ones on both sides of the entrance road. In this instance, due to the entrance being off of Everblades Parkway, they want a large monument sign on Ben Hill Griffin not on the side road. They want to also add another sign on Everblades Drive as you go to the entrance. They do not have the sign designed at present, but must comply with the Estero requirements and have the sign reviewed by the EDRC. A representative of the developer stated that he wants the signs to mimic the design of the nearby Grandeeza community signs. He says stone pillars would be used with enhanced landscaping.

Comments of the Panel:

Ned Dewhirst commented that this is a perfect example of something that is more appropriate to go to EDRC for a deviation request. Most of the Panel felt we could handle this without getting into the sign design. Greg Toth wanted to know the size of the monument sign before allowing the deviation as a zoning matter. He agreed with Dewhirst that we would have been better off to see the design of the signs before approving it as a matter of zoning.

Chairman Lienesch summarized that the Panel had no problem with this requested deviation subject to the approval of the EDRC as to the design and size of the sign.

4. Corkscrew Palms Administrative Amendment.

Materials presented by the Developer: 31 page Application to Amend Planned Development filed with Lee County DCD dated 9/12/2014, Original Zoning Resolution #Z-7-03-12, and Memorandum from DCD Zoning Division dated 7/24/2012 re Corkscrew Palms Commerce Center case no. ADD2012-00075.

Tom Lehnart of Banks Engineering presented this request for Administrative Amendment on behalf of the developer Mooring Capital. This project was originally permitted by DJamoos on the SE corner of Corkscrew Palms Boulevard which leads to the Community Park. The parcel outlined on the site plan is the remaining parcel to the original Declaration of Condominium for the buildings in this office park. They need to do a new condominium regime for this last phase in order to legitimize the parcel, which came into separate ownership due to the foreclosure of the mortgage on this parcel. They now need to change the development order with respect to this new parcel which was created by the foreclosure process. The original Declaration of

Condominium can no longer add additional parcels due to a seven year limitation in Statute. There is an agreement between the existing condominium associations for this development to share amenities and infrastructure. The Administrative Amendment will need to allow different development order requirements due to the fact that the lot lines have changed for the parcels due to the foreclosure. Any new buildings will have to come through a development order process including the EDRC or whatever board would follow under the Village of Estero.

Following discussion among the Panel, the feeling of the members is that we are concerned only with protecting the common architectural style. The County Staff said that they are only doing a lot split with respect to setbacks. Otherwise it has to comply with the LDC as to architectural requirements. The underlining zoning and the LDC would still apply.

Chairman Lienesch restated that the Panel supports this Administrative Amendment, subject to later review by the EDRC of the development order proposed to be used.

5. Miromar Administrative Amendment for COP.

Materials Present to the Panel. Site Plan dated 9/30/2014 for Miromar Outlets showing event location boundary areas, along with document entitled “Miromar Outlets COP Special Exception Draft Conditions dated 9/29/2014.

Neale Montgomery led the discussion for the developer Miromar Outlets. She stated that they revised the graphics and the draft conditions to reflect the comments at the last meeting. Mike Elgin from Miromar stated that the barricades along the edges of the highlighted areas would be in addition to staffing for control.

Nick Batos from the ECCL asked again about whether such a plan is allowable under Florida State liquor licensing law. He stated that Rep. Rodrigues talked to the State Liquor authority about this situation, and was told by them that Miromar cannot do this without making the area in question part of one of the licensed premises. Neale Montgomery responded that they need to get the zoning approved first before they can get the County and State approvals necessary under the liquor laws. Batos suggested that we should only be in favor of this plan on condition that the County and State approves it. Montgomery stated that condition number 6 in the draft Conditions requires that all COP must be in accordance with the laws of the State of Florida, which would include all local, County and State approvals.

Neale Noethlich asked about the electronic signs within Miromar, but Elgin stated that they were not able to get their final approvals, and since it became cost ineffective, they have tabled these discussions. This still would need an EDRC discussion.

Chairman Lienesch stated that the Panel supports this plan as currently proposed.

6. Regal Cinema COP.

Materials Presented to the Panel. Document entitled Regal Cinemas “Alcohol Control Plan for the Entire Premises,” along with copy of wristband control stickers, Menu, and Application for Administrative Approval of Consumption on Premises for Coconut Point 16.

This plan was presented by Marbet Lewis from Regal Cinemas along with Claudine Radford, District manager. They have filed an Administrative Application for approval for this on premises consumption of beer and wine along with the food that they now serve. The licensed premises for purposes of the liquor license will be the entire theatre including the lobby and the theatres. There will be no outside consumption. They discussed the liquor control procedures based on identification checks and wrist banding which marks the number of drinks per patron to a limit of three.

Comments by the Panel. Roger Strelow noted his concern that an adult could still buy wine and beer and then give it to a minor. In a dark theater it would be impossible to police such activity. The Regal representatives said that their company does this nationwide and that no problems are being experienced of this nature. They say that this concept is similar to that currently allowed by the County at Gulf Coast Mall, and at other movie theatres in Bonita Springs and Collier County.

The sticky point is the Estero portion of the Lee Comprehensive Plan, which allows stand alone bars only in connection with a Group III restaurant. We do not have a problem with the concept of beer and wine sales in a movie theatre, but this may run afoul of our Comp. Plan. Chip Block noted that Coconut Point has a schedule of uses, and previous uses like the Kiosk outside the cinema had a 2COP license without any seating. This must be looked at both under the Coconut Point DRI as well as the Estero Comp. Plan.

Chairman Lienesch summarized that the Panel is conceptually acceptable to such a plan subject to the County approving this for liquor purposes as complying with our Comp. Plan. This needs to be interpreted by the County Attorney. Howard Levitan was asked to talk with the Staff person assigned to this application to advise them of our concerns.

ECPP ISSUES:

1. LDC Steering Committee. Roger Strelow discussed the last meeting of the LDC Steering Committee which talked about incentives for future development in Estero. The Panel was concerned that this was a little far afield of the topics we considered for the LDC Revision project, and Chairman Lienesch will talk with Bill Prysi about this.
2. Rustys. Chairman Lienesch reported that he wrote a letter to the Liquor Licensing Bureau supporting the new business plan for Rustys.
3. Estero Apartments. The signage will not have the Welcome to Estero language, but the BOCC approved the project without this.
4. Member Issues: None

5. Public Comments: None

Next Meeting is November 17, 2014

Meeting was adjourned at 8:19 p.m.

Respectfully Submitted,

Howard Levitan, Secretary