

**ESTERO COMMUNITY PLANNING PANEL**  
**Minutes of Public Meeting #164 – August 18, 2014**  
**Estero Community Park, Estero, Florida**

**CALL TO ORDER:**

The Meeting was called to order at 5:02 p.m. by ECPP Chairman Lienesch.

Panel Members present: Jack Lienesch, Chairman; Estero Community Association, Roger Strelow, ECCL; John Goodrich, ECCL; Paul Roberts, Estero Development Community, Greg Toth, Founding member, Neal Noethlich, Emeritus Chairman and Bev MacNellis, Treasurer. Absent for tonight's meeting was Ned Dewhirst, Estero Development Community and Howard Levitan, Secretary.

Also present were Don Eslick, Chairman Emeritus, ECCL; Nick Batos, Chairman ECCL, Bill Prysi, EDRC Chairman, and several members of the public, including Jane McNew. Finally, Sharon Jenkins-Owen from the Lee County DCD Planning Staff was also present at this meeting.

Public Notice: Chairman Lienesch reported that the meeting notice was posted on the ECPP website. The Agenda has been posted for over a week on the website. A quorum of the ECPP members was present for this meeting.

Minutes of the Prior Meetings. Chairman Lienesch reported that the minutes of the July 21, 2014 Meeting of the Panel were prepared by Secretary Levitan, had been vetted by himself and the Panel, and had been posted on our ECPP website. Motion was made, seconded and unanimously passed to accept the June minutes as posted.

Treasurer's Report: Treasurer MacNellis presented her Treasurer's Report, and reported a balance of \$938.44. Motion made, seconded and unanimously passed to accept the Treasurer's Report as made.

**PRESENTATIONS:**

1. Coconut Trace ALF.

Ildes Robles, LaSalle Group, returned to repeat the developers' request for the new usage (ALF) and to subdivide the currently designated Lot C-D and E parcels to create three lots: Lot C containing 3.47 acres, Lot D containing 1.34 acres, and Lot E containing 1.20 acres. At last month's meeting, the major issue raised by the panel was that this plan would eliminate any possibility of a future connection between Coconut Trace and the Marsh Landing entrance road to the North. Connie Mansfield, President of the Marsh Landing Community Association of Estero, submitted a letter to the panel stating that "Our Board . . . decided to not proceed with further exploration of an interconnect road for vehicular traffic from Marsh Landing Boulevard into Coconut Trace." She was present and explained the Board's reasoning for this decision. She also indicated that Marsh Landing would like to pursue the possibility of a pedestrian interconnect onto the property at some time in the future. After some discussion among panel

members, it was agreed to support the administrative amendment to the MCP for Coconut Trace to accomplish this.

## 2. Downtown Estero MPD

Materials Presented for Review: Chairman Lienesch had circulated several documents from the developer to the panel and these were reviewed with slides at the meeting (Existing Master Concept Plan from Resolution Z-10-017, Proposed Master Concept Plan, Narrative, Deviation Requests with Justification, Sign Plans and Unified Sign Conceptual Plans). Lienesch had also requested copies of the original staff report and zoning resolution from 2010-2011 and circulated these as well.

Paul Roberts and Gerard Ripo representing CH Estero Development Corporation gave the presentation for the owners with assistance from Steve Hartzell, Pavese Law Firm, John Wojdak, DeLisi Fitzgerald, and Greg Biserio, David M. Jones, Jr & Associates.

Paul indicated that the entrance from US 41 has been approved by FDOT, so there will be two ingress/egress points for the property. He stated that they are now requesting changes to the MCP and some additional deviations from the Estero requirements.

None of the already approved 17 deviations for the property were changed. There are an additional eight (8) deviations requested for this application to change the MCP administratively. These were discussed in detail and centered around setbacks and not requiring internal buffers due to the Mixed-Use classification, moving the landscaping for the RR from the outside to the inside of the fence, moving the residential accessory building closer to the relocated lake via use of a seawall and several signage deviations that better suit the concept of a downtown area.

### Comments from the Panel:

Greg Toth indicated that by clustering the residential MF units toward the SE section of the property, the developer has eliminated the mixed-use function and should not be allowed to achieve the density that MU can enjoy. The developer should go through a land use change, not an administrative amendment. Much discussion ensued as to how this change affects the design guidelines ("beauty book") and how if the commercial properties were sold outright, what zoning requirements would still pertain to their properties. There was also discussion regarding bike/ped and walkability amenities on the site. Neal indicated he had no basic problem with the new concept but "we have been burned in the past" and wanted some assurance that the architecture variation along the street shows some consistent planning.

### Audience comments:

Don Eslick asked what Estero is getting for the increased density -- is there internal circulation for bike and pedestrians?

Bill Prysi noted that the residential component hasn't really changed from the first MCP and these deviations appear well thought out. The signage looks good and the developer appears to be cognizant of Estero's requirements.

Nick Batos was assured that all architectural details for the commercial buildings will be reviewed by the EDRC.

Chairman Lienesch summarized that the administrative amendment discussed here tonight shows general support. There remain some concerns regarding the density allowed using the MU designation and the ability of the developer to include features commensurate with this designation in the plan going forward. However the majority of the panel was supportive of the administrative amendment sought by the applicant.

### 3. Rusty's Raw Bar COP Issue

Amanda Brock spoke on behalf of the applicants, Patty Walbert and Kyle Landry.

Rusty's is operating under a 4 COP SRX liquor license which requires the establishment to achieve >50% revenue from food sales as opposed to alcohol sales. This is a requirement for a Group III license in FL and is a requirement in Estero's Community Plan (no free-standing bars or cocktail lounges). Rusty's was audited and found to be at 46% which is in violation of their license. They wish to transfer a quota license (no restriction on alcohol sales) to this location. This will require a special exception to be approved by the county. Their focus is on being a family oriented restaurant with low prices for their customers.

#### Comments from the Panel:

The panel is in a no-win situation here, as evidenced by the current situation. Roger asked how long this situation has existed. Is Rusty's in this box because their business model (under pricing food) caused this to happen? Jeff and Paul feel that if Estero wants to attract young people to come, we need establishments like Rusty's. Neal and Greg feel that a special exception for Rusty's may backfire by opening the door for other establishments to request the same exceptions (World of Beer history). A quota license is essentially a bar license with take-out capability. Several panel members mentioned that other restaurants with a Group III designation appear to operate without difficulty. Lienesch noted that a HEX hearing in July 2010 approved extending their operating hours from midnight to 2:00 AM. This might be one potential cause for the problem, since food sales after midnight are probably much lower than alcohol sales. The applicant indicated she would be willing to condition the special exception to change the hours and make other accommodations to gain our support with the county.

#### Audience Comments:

Jane McNew indicated she likes the restaurant but has on occasion seen a relatively full parking lot very late at night with a sheriff's deputy car parked there. She is concerned about inebriated

drivers and increased traffic. Nick Batos indicated that Estero wants the applicant to succeed but their strategy of lowering food costs appears flawed with regard to the Group III requirement. Chairman Lienesch summarized that the panel cannot support this special exception for the reasons noted above. He offered to draft a letter with the owner to the FL Liquor Control Commission asking for another chance for Rusty's to maintain their license, consistent with a change in their business plan which would be detailed.

3. Hertz Signage Package

Matt Uhle, representing Hertz, indicated that the signage package approved last week by the EDRC needs to be supported by the ECPP because they need to file it as an administrative amendment requiring panel support. Lienesch indicated that copies of their submission were circulated to the panel last week. After a brief discussion of the package the panel agreed to support the amendment.

ECCP ISSUES:

Update of the LDC Rewrite.

Bill Prysni reported on this issue as consultant to the ECPP. Because of the extremely tight time frame available to submit the LDC update to the staff and make the September LDCAC review, it was decided to stop the Phase I full court press for the September review but to continue the rewrite efforts with the panel, the committee and the county staff. In that regard, Bill reported he had received feedback from county staff on the 62 page document and has addressed many (but not all) of their concerns regarding the language. The county also indicated how much of the matching funding grant was still available for this purpose, as the LDC update has at least been partially completed and eligible for invoicing. Lienesch indicated that we do not want to stop the effort for three major reasons: 1.) if the Estero referendum does not pass in November, nothing has changed and we will continue working as we have with the county, 2) if it passes, then we have until 12/31/2014 to continue to work with the county and refine our LDC, as they will remain our government source for operation and 3.) This approach will allow LDCAC, EROC and LPA input comments which may be valuable as we go forward. We want to be able to generate regulations that will be consistent with our vision of Estero and be able to present them in a package to the elected Village officials next Spring.

BoCC Approval of our Community Plan is scheduled for Wednesday, August 20th. Lienesch will represent the panel should any questions arise.

4. Member Issues: None

5. Public Comments: None

Next Meeting is September 15<sup>th</sup>.

Meeting was adjourned at 8:04 p.m.

Respectfully Submitted,

Jack Lienesch (for Howard Levitan, Secretary)