

ESTERO COMMUNITY PLANNING PANEL
Minutes of Public Meeting #165 – September 15, 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, Jeff Maas, Estero Chamber of Commerce, Greg Toth, Founding member; and Howard Levitan, Secretary. Absent for tonight's meeting were Neal Noethlich, Emeritas Chairman and Bev MacNellis, Treasurer.

Also present were Nick Batos, Chairman of the ECCL, Don Eslick, Chairman Emeritas of ECCL; Bill Prysi, EDRC Chairman, various representatives of developers and their agents, and several members of the public, including Bill and Joanne Ribble, Sis Newberry, and Matt Petra. 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 since Friday 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 August 18, 2014 Meeting of the Panel were prepared by the Chairman in the absence of the Secretary, had been vetted by the Panel, and had been posted on our ECPP website. Motion was made, seconded and unanimously passed to accept the August minutes as posted.

Treasurer's Report: Treasurer MacNellis was not present to give her Treasurer's Report.

PRESENTATIONS:

1. Pulte Administrative Amendment for University Highlands/Tiburon.

Materials presented for review: Application to Amend a Planned Development and Application for Final Plan Approval dated 7/17/14 with all exhibits, including, without limitation, Final Plan Approval Schedule of Deviations, Final Plan Approval Site Plans prepared by Barracco & Associates dated 7/31/2014, and Insufficiency Letter for Lee County Staff dated 8/13/2014. In addition a PowerPoint presentation was made showing project location, zoning MCPs, site plans, connectivity plan, deviation x-sections/plans, general buffer plans/renderings, entry sign/gatehouse/wall / ID sign plans/renderings, and landscaping plant pallette for trees and shrubs.

This subject was introduced by Neale Montgomery of the Pavese law firm on behalf of the developer, Pulte Group. Two representatives of Pulte were also present, Michael Hueniken and

David Heinkel, along with Al Moscato, representing the present owner of this site. Neale Montgomery presented for review the original Master Concept Plan (“MCP”) and the newly revised MCP prepared by Barracco & Associates. The MCP has always included a road between Estero Parkway and the Everblades Parkway as shown on both MCPs. She discussed the FDOT lake on the west side of the property which will be reconfigured in this new plan. The requested Administrative Amendment is to revise the MCP as shown on the new plan and to approve certain deviations in the context of a Final Plan Approval. All of the MU and R areas shown on the original MCP will become residential. The commercial uses as shown on the original MCP will be in the same areas and are not included in the requested amendment.

Jennifer Sapin for Barracco then gave a Power Point presentation explaining the new MCP of the proposed development. There is a reverse frontage road that goes through the site behind the commercial lots from Everblades Parkway to Estero Parkway. There will be a pedestrian underpass under this road to connect the two residential areas. The access on Estero Parkway has right in, right out turning lanes along with a left in off of Estero Parkway, but will have no left out onto Estero Parkway going West. The main access road is on Ben Hill Griffin Parkway (“BHG”), and will have full turns in both directions. The commercial lots will be accessed from the reverse frontage access road and Everblades Drive. Pulte will be marketing the residential units as an age restricted community 55 and older with single family residential and single family attached units similar to a villa with a common wall. Sapin stated that 393 +/- units are planned, however, the original zoning would have allowed significantly more residential density depending on the mixed uses that were allowed. She stated that it is Pulte’s intention that the project will be phased.

Neale Montgomery went on to state that they have held a meeting with the Grandeeza HOA officers who were generally agreeable with the development concepts shown to them. These officers did comment that they would have expected a higher price point on the sales, but were acceptable to the development as planned. The applicant represented to Grandeeza and the panel that the commercial areas fronting BHG would remain wooded/vegetated as existing until development is proposed. Some of the deviations requested includes stub-roads which have not yet been approved by Estero Fire and Rescue. Questions were asked from the Panel about who is responsible for the sidewalks and crosswalks at various locations, and the response from Sabin was that it was Pulte’s responsibility.

Sabin and Montgomery continued with a discussion as to the eight deviations requested in this Application. Three are related to stub roads without cul-de-sacs in the single-family section of the development. Florida Statutes allows this if they are not greater than 150 feet, but it still would require a deviation under the Land Development Code (“LDC”). Having a stub road also creates another requirement due to the definition of sidelines under the LDC, and a deviation for measurement of the lots would be required due to the sideline issues. She stated that the lots at the ends of these roads actually become premium lots when sold since they will be larger than the average lot not at the end of a road.

The second type of deviation is in regards to curbside pickup at the amenity facilities rather than the use of a dumpster. They stated that this would be screened on some basis, but the volume of trash at such amenities facility, which will not have a restaurant, does not justify the loss of space

which a dumpster, access, and enclosure would require. They say that a dumpster is simply not needed with this type of facility.

Another deviation is that the lake setback is to go from 50 feet to 40 feet.

Deviation 5 involves the slope of the lake bank requirement of 6:1. They propose a 12:1 going to 4:1. Lee County has required certain additional protections as to the 4:1 areas.

Deviation 7 involves a utility easement on both sides of the reverse frontage road. There was a suggestion from the Panel that Pulte include a public amenity somewhere along the lake nearest to the reverse frontage road.

Finally, Deviation 8 deals with the ability of the residential signs to also identify the developer by adding "By Del Webb." It was noted that this deviation has been approved at EDRC for Neal Properties on Three Oaks Parkway, and the Panel was favorable to allowing this deviation.

An additional deviation may be needed for the lake located adjacent to the reverse frontage road if the applicant does not want to accept the liability in conjunction with it being a park area for the public.

Grant Wilbanks of Waldrup Engineering then presented the preliminary plans for landscaping and buffering. At the corner of Estero Parkway and BHG there is planned a Type D 25' foot buffer consistent with other developments along this roadway. The I-75 buffer is required to be 75' in width with berming and a wall. He then took us through the typical buffer types. BHG would have an elevated 25' buffer. At this point Chairman Lienesch requested that the subject of landscaping, buffering and signage should come before the EDRC at a separate public meeting at the time they are ready with their full development plans. Neale Montgomery said the LDC provides for one public meeting, and they want to do it all at one meeting. Bill Prys from the EDRC stated that they have not presented sufficient information as to these issues (landscaping, buffering and signage), for a development order, therefore, in his opinion, this meeting would not be sufficient with respect to a development order application. Neale Montgomery did not agree with this conclusion, and no resolution of this discussion was reached.

Waldrup Engineering continued with its presentation. Wilbanks stated that there will be very little impact on the residences located at Grandeeza due to the golf course on their property which is on the West side, and the extensive buffer at Grandeeza along BHG. The buffer on this property will be similar in size to that at Grandeeza. The only difference is that there is no wall on the Grandeeza buffer.

As to the northeast corner of the proposed development along Estero Parkway and BHG, they are planning to do an enhanced buffer. He stated that this will not be the same as the Neal Properties buffer at the corner of Three Oaks and Corkscrew. Their buffer would be enhanced well beyond the minimum requirement of the LDC. There then followed a disclosure by Ned Dewhirst concerning a workshop meeting with the developer held by certain of the Estero Community

leaders, and a suggestion of the Estero group was for them to have an enhanced buffer at this corner. Pulte has agreed that this enhanced buffer would extend from the conservation area on the North side of the property on Estero Parkway down to the commercial area on BHG with even more enhancement at the corner. Greg Toth from the Panel requested that this landscaping should be completed as soon as the site is cleared and the reverse frontage access road put in, essentially as soon as the berm is developed. Pulte stated that as they clear a portion of the site they will put the buffering in, but not until they are ready to clear that part of the development.

Waldrup went on to describe the I-75 75' buffer, which will be heavily vegetated and well in excess of the original MCP Zoning Resolution. They will also be enhancing the areas, which are only required to be a type A buffer under the Zoning Resolution. This is also true on the NW side of the property along the West part of Estero Parkway, which will be enhanced from the requirements of the Zoning Resolution especially where the roadway is elevated as it approaches the bridge. They then provided samples of a plant palette taken from the University window palette.

Bill Prysni asked about the Type A buffers along the Germain Arena side of the property and along the commercial areas. Waldrup said they would be having an 8' wall along the Germain side as well. Prysni stated that in his opinion an A buffer for the side facing the Arena and the commercial lots would be inadequate where the use of the property has changed to all residential. There is also a problem in the connection between the residential and the commercial areas, but that may be subject to the commercial properties having to enhance the buffer on their side. Waldrup feels that the wall will cover the situation with Germain. Several members of the Panel voiced their concerns about the lack of adequate buffering at these parts of the property, and Chairman Lienesch stated that this issue will be specifically stated in the minutes as being objectionable to the Panel.

Next, there followed a discussion of signage, which will be located at the main entrance on BHG and the secondary entrances at Estero Parkway and Everblades Drive. They will also have identification signage at various points along BHG. The entrances will be defined by landscaping and manned gates. Entrances will have pavers at their beginnings. Chip Block from DCD asked about the access point to the commercial areas off of the main access roads to the residential development from BHG. He suggested that the drawings will need to be redesigned, although at this point that they do not know where the actual access points to the commercial areas will be. Block stated that they will need to revise these when they resubmit.

The signage will be Florida vernacular style with respect to both the signage and the gatehouses. The walls will have color, and will include columns and caps. Toth went back to the point about a separate public meeting with the EDRC to go over these particular design issues and others relating to how the project is seen from the outside, rather than the residential architecture. Prysni asked how these relate to their amenities center, which he feels is a commercial building and subject to review by the EDRC under the terms of the LDC. Chairman Lienesch feels that continuing the discussion at this point concerning further appearance at the EDRC would not be productive, apart from specifically noting in the minutes that the Panel strongly urges Pulte to come back to the EDRC with their final development plans.

Comments from Panel. Neal Noethlich asked in an email to Chairman Lienesch whether they are going to piecemeal out the commercial parcels without a design standard for the entire development. Neale Montgomery stated that included with the approvals obtained with the original MCP and Zoning Resolution, they were required to develop an image book of the architectural standards for this overall development, which have to be complied with as to every aspect of the entire development.

Jeff Maas talked about sight lines for this project to keep the lower buildings near the front on the Grandeeza side. Neale Montgomery stated that the original height limits for the site are staggered and are not being changed. She went on to state that this issue was discussed at Grandeeza's HOA officers who stated that they were satisfied with the new plans.

John Goodrich stated he is concerned with the finality of their discussion about further community review. He thinks that they should come back to the EDRC as to the development order. Paul Roberts and Greg Toth are fine with the deviations, but requested that Pulte present the final plans in detail at the EDRC. Ned Dewhirst stated that the applicant has significantly reduced the approved intensity of the project, has taken our suggestions about enhancing the highly visible buffers at the major arterial road corner, and we should be embracing this project. Several members of the Panel, including Strelow, Toth, and Secretary Levitan also stated that they are disappointed with the position taken by Pulte's attorney, and that it clearly would be in Pulte's interest to reconsider.

Chairman Lienesch summarized that Pulte has been clearly advised by the Panel that they need to reconsider coming to the EDRC at the DO stage when the final plans are ready. He also stated that Pulte should reconsider and clarify the Type A buffering between the residential sites and Germain Arena and the commercial lots.

Community Comments: Don Eslick wanted to know about the process as to administrative amendments regarding the deviations. He asked whether at some time in the future they plan to go to the EDRC when they have more detailed plans? Nick Batos feels that understanding what the Community is looking for is important, and they should expect that the leadership of the Community will be going to the County to object to their plans not going to the EDRC. Toth again commented that the EDRC has always looked at buffering, signage and landscaping with respect to residential projects. Ned Dewhirst felt we should have done this at one public meeting with both the Panel and the EDRC present. The attorneys do not seem to agree (Neale Montgomery, Matt Uhle, and Michael Jacob from the County Attorney's Office). Dewhirst stated that this could all have been resolved if the Community could have facilitated one joint meeting.

2. Miromar Development Administrative Amendment for COP.

Materials presented for review: Site Plan marked Exhibit A dated September 11, 2014 and document entitled "Miromar Outlets COP Special Exception Draft Conditions" dated September 11, 2014.

This Administrative Amendment request was introduced by Neale Montgomery of the Pavese Law Firm, on behalf of the owner, Miromar Outlets. They currently have a special exception for entertainment and liquor at existing restaurants (areas in red on the Site Plan, which are roped off or gated areas for outside seating in connection with such restaurants. Miromar now wants to have a COP license at certain points in the outside areas of the mall. The issue for the Panel's consideration is how to control where this would occur and the necessary security.

Mike Elgin of Miromar Development described the roped off areas for the existing restaurants. Now they are requesting that COP be allowed in the entire area in yellow shown on the Site Plan (essential, all of the interior walkways of this mall, but limited as to any one time to specific areas within the overall yellow area. These specific areas would be designated by signage, ropes or guards in order to prevent anyone taking liquor beyond these specific areas and especially into the parking lots, which would be prohibited by law. This concept would allow a restaurant to have consumption at a specific area of the mall in the yellow area.

There followed many questions by the Panel about the specific draft conditions. Number 1 is the existing allowances in the red boxes with outside areas. They say that the conditions as drafted would presently limit the use of this concept to two areas, one near the restaurants shown in red on the west, and one near Ford's Garage and Naples Flatbread. It was disclosed that several members of Estero's leadership had met privately with Miromar with respect to this proposal. At that meeting, the discussion was about security at each of the 4 access points of a particular location to assure that there was no spillover of liquor outside of controlled areas. This security discussion does not appear to be reflected in the conditions as drafted. Two recommendations from the Panel were that there be checkpoints manned at all access points to a specific area, and service has to come from a restaurant. Chip Block stated that on first look Miromar needs to clarify when they need a special events permit with respect to this type of activity. In other words, when would such activity also have to comply with the requirements for special events. Secretary Levitan believes that we should limit this proposal to two specific areas of the mall on a trial basis. Miromar stated that they will commit to these two locations, revise the conditions to increase the security and deal with special events permits, and then come back to the Panel for further review.

Comments from the public. Nick Batos asked if this plan would be legal under state liquor law. Without knowing the legalities, he felt that the ECPP should not approve this concept. Neale Montgomery stated that she will look into this legal issue and get back to the Panel when they return.

Chairman Lienesch summarized that they will revise the conditions and the map to designate two specific areas and bring it back to the Panel for further review.

3. Terezei Administrative Amendment.

Materials Presented: Memorandum dated September 8, 2014 from Ensite to the Panel re Terezei CPD Administrative Amendment, and Revised Site Plan entitled Estero 4.2 dated 9-4-14 consisting of Exhibit 1 Existing MCP, Exhibit 2 US 41 Access Location, Exhibit 3 Revised Site Plan, and Exhibit 4 4.2 Acre Plan/South Project.

Amanda Brock from the Henderson, Franklin law firm, and Shelley Johnson from Ensite presented this proposal on behalf of the owners. This project came before the Panel in 2005 and is an approved MCP. They want to change the US 41 access by moving the previously approved **temporary** right in, right out access point 55 feet to the south to satisfy FDOT requirements and make it **permanent**. They stated that no changes are requested to the design standards or other features of the Zoning Resolution. To the West and North of this site is the Breckenridge Community. They are also asking for a deviation in the buffer along US 41 to decrease this from 30 feet to 25 feet.

In discussion among the Panel, several members stated that the problem is that they are planning to use a frontage road along US 41, which is specifically what Estero does not want. Since this road on the US 41 side matches up with the development to the South, it may also have a tie in on the North with the Terracap property currently under development. They stated that having the road and parking in the front on US 41 was necessary due to a drainage easement issue with FDOT. Ned Dewhirst stated that these cards regarding access patterns have been already dealt from the existing / constructed projects to the north and south, and we may need to go along with the proposed north / south access locations. He went on to ask how this application could be done by administrative amendment when they only had a temporary US 41 access on the original MCP and now wish to be permanent. He surmised that the temporary access was granted at a time when the north/south access points did not exist and would go away when tied into the north/south road access system. Also, he believes from the plans that the proposed buildings are going closer to the residential, and the northern building is going from 1 story to two stories. Dewhirst went on to state that the Panel should be looking at the entire Zoning Resolution even if it is not changing as to the conditions. We would need to determine if there any external impact on the abutting residential areas. The Panel also asked whether they had met with the Breckenridge Community to apprise them of these plans, however they stated that they had not met with Breckenridge. Ned Dewhirst felt that he was not comfortable going forward administratively until they have met with Breckenridge. This project went through a public hearing process originally, and the people who are most impacted have a right to rely on this. The question is then whether there is any external impact, and they should go to Breckenridge to explain what they propose before they come back to the Panel.

Chairman Lienesch summarized that the Panel understands the underlying problem of moving the access point to satisfy FDOT, but we encourage them to have a meeting with Breckenridge with some site lines prepared, and get written feedback before we advise whether or not the Panel supports this proposal. They have some issues of timing with the County, and Administrative Amendments are discretionary on the part of the DCD Director. The Panel also feels that we should have the full administrative amendment in front of us, including the original zoning resolution when we review such a proposal.

4. Estero Apartments Gateway Sign.

Materials Presented: Estero Apartments DC12013-00024, Proposed Corkscrew Road Gateway Sign Dimensions, Deviation 8 dated 3/20/14.

Laura DeJohn from Johnson Engineering and Jeff Graef from Focus Development Group made the presentation.

DeJohn presented the history. This project has been before the Panel several times and has received its support. It has now gone through the Hearing Examiner who had issues with the Gateway Sign adjacent to the I-75 ramp. This project proposes 136 residential units in Interstate Commerce Park. The BOCC has approved the Comp. Plan Amendment to allow residential use at this site. On July 17th they had a public hearing at the office of the Hearing Examiner (“HEX”) for the zoning approvals, along with a Staff Report generally recommending approval. On 8/27/14 the HEX issued its report, which stated a problem with the Gateway sign on the corner of Corkscrew and I-75. The Panel had said this was a good idea at the time of its review. The developer had requested deviations for height (19.9 feet high) and for a secondary residential sign for the project. The HEX accepted the location for the Gateway sign, but said it should only identify the residential community. The HEX found that there is no mechanism in the LDC to allow the additional reference on the sign to the Estero Community. Our new Community Plan now has the enabling language for gateway signs, but there has been no corresponding LDC provisions enacted as of yet. The HEX would not accept the height and the language on the sign. The developer wanted to inform the Panel of this and is moving forward for a hearing on the zoning at the BOCC on October 8. They want to know if we still want them to go to the BOCC and push this Gateway sign issue.

Comments of the Panel: John Goodrich and Jeff Maas are in approval of the sign deviations. Greg Toth said we already approved this. Chairman Lienesch stated that he can go to the BOCC and state that it meets the new Community Plan, and request that they approve it. The HEX could not find any justification for this sign, since it is not in the right of way of what would be the Village of Estero. Chip Block commented that he does not think that the text would be allowable, and the County Attorney’s Office may object if it went before the BOCC. He thinks they should go ahead with the sign structure and just request the height deviation without the Gateway text / lettering details. If the vote allows the incorporation they can wait and work with Estero on the LDC changes to facilitate the sign lettering details. They have the opportunity to go forward to the BOCC to allow a further deviation, but this may complicate the issue and cause them problems. Roger Strelow asked that we look at this from a different perspective. The Community is working on the transition book for the new Council, and this would be a good thing for the new council to deal with after March 17th. Chip Block thinks they can get a deviation as to height with the BOCC, without the lettering as to “Welcome to Estero.”

Comments from the Public. Nick Batos said that ECCL is supporting this as long as it is compatible with the style of other gateway signs that the Village may approve. Graef stated that the sign was designed based on the sign at the EFR headquarters building.

Chairman Lienesch summarized that ECCL will support at the BOCC the deviation required to build the structure, but without the lettering. This would have to be enabled later at the Village Council based on our new Community Plan revisions.

ECCP ISSUES:

1. LDC Revisions Steering Committee. The subject was presented to the Panel by Bill Prysi. He had made several recommendations for representation on the Steering Committee from the various community groups. These included Ryan Binkowski, representing EDRC. Jack Lienesch representing the ECPP, and Roger Strelow representing the ECCL. The goal would be to finish the work on Phase 1 of the LDC Revisions and move on to Phase II. Jack Lienesch stated that having two members of the Panel on such a committee at the same time could cause a Sunshine Act violation. Roger Strelow stated that this may not be true, since the ultimate end product will have to be approved by the Village Council not the BOCC. Several others commented that this scope of work is part of the contract between the ECPP and the BOCC, and that if the County is sharing in the costs, we have to comply with the Sunshine laws. Sharon Jenkins-Owen stated that since we are using County funds with the County scope of work, then we are contractually bound by Sunshine provisions.

Nick Batos said ECCL had got the list on Friday for the first time, and felt strongly that the ECCL as an equal partner should have the right to designate its own representative, not someone proposed by others. He stated that ECCL will ask Howard Levitan to be its representative on the Steering Committee. Jack Lienesch then stated that since we will be under Sunshine rules, and the fact that he will be away for a while, he will designate Roger Strelow to represent the ECPP in his place.

2. Member Issues: None

3. Public Comments: None

Next Meeting is October 20, 2014

Meeting was adjourned at 8:35 p.m.

Respectfully Submitted,

Howard Levitan, Secretary