

Clearwater, Florida, September 15, 2016

The Pinellas County Local Planning Agency (LPA) (as established by Section 134-12 of the Pinellas County Land Development Code, as amended) met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida at 9:00 A.M. on this date with the following members present:

Regina Kardash, Chairman  
Valerie Murray  
Susan Reiter (late arrival)  
Ronald Schultz  
Lauralee G. Westine

Not Present:

David Brandon, Vice-Chairman  
Bill Bucolo  
Steve Klar  
Clint Herbic (non-voting School Board Representative)

Also Present:

Renea Vincent, Planning Department Director  
Glenn Bailey, Planning Department Zoning Manager  
Chelsea D. Hardy, Assistant County Attorney  
David S. Sadowsky, Senior Assistant County Attorney  
Ryan Brinson, Planning Department  
Other interested individuals  
Tony Fabrizio, Board Reporter  
Jenny Masinovsky, Board Reporter, Deputy Clerk

CALL TO ORDER

Chairman Kardash called the meeting to order at 9:00 A.M. and reviewed the procedure for the public hearings; whereupon, she announced that today's cases will be heard by the Board of County Commissioners (BCC) on October 25, and any documents to be reviewed by the Board should be submitted to staff prior to October 11.

MINUTES OF JULY 14, 2016 MEETING – APPROVED

Ms. Westine moved, seconded by Mr. Schultz and carried unanimously, that the minutes of the July 14, 2016 meeting be approved.

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Ms. Reiter entered the meeting at 9:04 A.M.

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PUBLIC HEARING ITEMS

Legal notice having been published for the items on the agenda, as evidenced by affidavit of publication filed with the Clerk, public hearing was held on the following items. All correspondence provided to the Clerk’s Office has been filed and made a part of the record. All persons planning to give testimony were duly sworn by the Deputy Clerk.

PROPOSED AMENDMENTS TO THE PINELLAS COUNTY FUTURE LAND USE MAP AND ZONING ATLAS AND CONDITIONAL USES

1. APPLICATION OF MARGUERITE F. FREEBORN, EMIL AND MELINDA PRATESI, AND RICHARD LABELLE THROUGH ROBERT PERGOLIZZI, REPRESENTATIVE, FOR A ZONING CHANGE FROM E-1, ESTATE RESIDENTIAL, TO R-3, SINGLE FAMILY RESIDENTIAL (Z-19-9-16) – RECOMMEND APPROVAL AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Marguerite F. Freeborn, Emil and Melinda Pratesi, and Richard Labelle through Robert Pergolizzi for the above change in zoning (Z-19-9-16), re approximately 5.1 acres located at 3436 Fisher Road, 3440 Fisher Road, and 3446 Lake Drive in the unincorporated area of Dunedin.

Mr. Brinson referred to an aerial photograph and the zoning and land use map, pointed out the location of the subject property and described surrounding land uses. He indicated that the property consists of three parcels with one single-family home each; that the contract holder, Gulfwind Contracting LLC, seeks to subdivide the property into

17 single-family lots; and that adjacent developments have similar density limitations; whereupon, he stated that staff recommends approval.

Upon the Chairman's call for the applicant, Robert Pergolizzi, Gulfcoast Consulting, Clearwater, indicated that Gulfwind Contracting President Michael Willenbacher is developing eight homes (Highwood Estates) on the parcel to the west of the subject property, which the Board of County Commissioners rezoned from A-E, Agricultural Estate Residential, to R-3 in 2014; and that he plans to provide a continuous development with an internal road providing access from either Belcher Road or Fisher Road.

No one appeared in response to the Chairman's call for persons wishing to be heard; whereupon, Mr. Schultz moved, seconded by Ms. Westine and carried unanimously, that the LPA recommend approval of the application to the BCC in accordance with the staff recommendation.

2. APPLICATION OF PAUL W. AND NANCY J. GUILMETTE THROUGH JOSEPH GILBERTI, P.E., REPRESENTATIVE, FOR A ZONING CHANGE FROM RPD-7.5, RESIDENTIAL PLANNED DEVELOPMENT, TO R-5, URBAN RESIDENTIAL, AND TWO VARIANCES (Z-21-9-16) – RECOMMEND APPROVAL AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Paul W. and Nancy J. Guilmette through Joseph Gilberti for the above change in zoning and variances to allow a single family subdivision with up to ten lots fronting a private road where frontage along a publicly accessible right-of-way is required, and to allow 6-foot front setbacks for structures on the east side of proposed lot 9 and the west side of proposed lot 10 adjacent to the T-type turnaround where 10 feet is required (Z-21-9-16), re approximately two acres located at 2881 Summerdale Drive in the unincorporated area of Clearwater.

Mr. Brinson referred to an aerial photograph and the zoning and land use map, pointed out the location of the subject property, and described surrounding land uses. He related that the BCC approved a rezoning of the property from A-E, Agricultural Estate, to RPD-7.5 in December 2015, after which the applicant discovered that multiple variances and waivers would be required due to the property's narrow dimensions and submitted a new request for the more flexible R-5 designation.

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Noting that the request is consistent with other residential districts in the area, Mr. Brinson indicated that staff's recommendation is approval of the zoning change and variances subject to the following conditions:

1. All required permits shall be obtained and applicable fees paid.
2. Full site plan review.
3. The development shall maintain substantial conformance with the submitted concept plan.

Responding to query by Ms. Westine regarding five letters received in opposition to the application, Mr. Brinson indicated that the letters are similar to those received before the property's previous rezoning, and cited a rift between wastewater provider Utilities, Inc. and Hammock Pine Condominiums over sewer problems that may be related to work performed by the Condominium Association; whereupon, he referred to a letter from Utilities Inc. stating that it does not object to the rezoning and that it has the capacity to serve the proposed development.

Responding to query by Chairman Kardash, Mr. Brinson indicated that the variances and waivers that would be required under the existing RPD-7.5 zoning would relate to the front and rear setbacks; whereupon, appearing on behalf of the applicant and responding to query by Chairman Kardash, Pete Kotsovolos, Palm Harbor, indicated that the applicant has not had any discussions with Hammock Pine residents about their concerns.

No one appeared in response to the Chairman's call for persons wishing to be heard; whereupon, Chairman Kardash closed the public hearing. Discussion ensued, during which Ms. Westine indicated that while she has concern for the Hammock Pine owners, she does not believe that their complaints are with the applicant; and Attorney Hardy provided an overview of the criteria for variances.

Thereupon, Mr. Schultz moved, seconded by Ms. Westine and carried unanimously, that the LPA recommend approval of the application to the BCC in accordance with the staff recommendation.

3. APPLICATION OF PINELLAS COUNTY REAL PROPERTY DIVISION FOR A CONDITIONAL USE FOR THE CONSTRUCTION OF A STORMWATER TREATMENT FACILITY (CU-22-9-16) – RECOMMEND APPROVAL AS PER STAFF RECOMMENDATION

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Public hearing was held on the application of Pinellas County Real Property Division for a conditional use for construction of a stormwater treatment facility (CU-22-9-16), re approximately 0.25 acre located at 11805 104th Street North in the unincorporated area of Largo.

Mr. Brinson referred to an aerial photograph and the zoning and land use map, pointed out the location of the subject property, and described surrounding land uses. He described the facility as an 800-square-foot concrete building that will contain tanks, pumps, and other related equipment, and showed photos of a similar building; whereupon, he indicated that no letters of opposition have been received; and that staff recommends approval.

Appearing on behalf of the applicant, Kelli Levy, Public Works Environmental Management Division Director, related that the proposed building falls under a restoration agreement with the Florida Department of Environmental Protection to improve water quality in Lake Seminole; that the pumps are only active during a rain event; and that the double-wall tank holds aluminum sulfate (alum), a chemical commonly used to treat drinking water and stormwater.

Responding to query by Chairman Kardash, Ms. Levy described the treatment process and indicated that the alum is delivered about four times a year; that building maintenance is performed only during business hours; and that if there is a mechanical failure during the storm, the pumps are turned off.

No one appeared in response to the Chairman's call for persons wishing to be heard; whereupon, Ms. Westine moved, seconded by Ms. Reiter and carried unanimously, that the LPA recommend approval of the application to the BCC in accordance with the staff recommendation.

4. APPLICATION OF MARTIN ROSATO THROUGH CYNTHIA TARAPANI, REPRESENTATIVE, FOR A LAND USE CHANGE FROM RECREATION/OPEN SPACE TO INSTITUTIONAL AND A ZONING CHANGE FROM A-E, AGRICULTURAL ESTATE RESIDENTIAL TO PSP-CO, PUBLIC/SEMI-PUBLIC-CONDITIONAL OVERLAY, WITH THE CONDITIONAL OVERLAY LIMITING THE USE TO A MEDICAL CLINIC (Z/LU-12-5-16) – RECOMMEND DENIAL

Public hearing was held on the application of Martin Rosato through Cynthia Tarapani, for the above changes in zoning and land use designation (Z/LU-12-5-16), re approximately two acres located on the east side of McMullen Booth Road, approximately 700 feet north of Curlew Road in Palm Harbor.

Mr. Bailey referred to an aerial photograph and the zoning and land use map, pointed out the location of the subject property, and described surrounding land uses. He indicated that the property was owned by the County until 2005, when it was part of a land swap with the Southwest Florida Water Management District (SWFWMD); that SWFWMD declared the property surplus in 2014 and sold it to Mr. Rosato; and that Mr. Rosato has it under contract for sale to Dr. Michael Pikos, who wishes to build a dental clinic on the site. Mr. Bailey indicated that staff's recommendation is denial, citing the following concerns:

- Approval would mean losing Recreation/Open Space (R/OS) in a Scenic Non-Commercial Corridor, which is discouraged under the Pinellas County Comprehensive Plan.
- Although the Conditional Overlay would assure that only a medical building or buildings could be built on the site, the maximum Floor Area Ratio (FAR) of 0.2 could permit buildings totaling 17,242 square feet, which would require parking and stormwater retention.
- The proposed development's interaction with McMullen Booth road cannot be determined because the applicant has not submitted a detailed traffic analysis or concept plan.

Responding to queries by members, Mr. Bailey indicated that the property sold for \$40,000 in 2014; that it was valued at more than \$300,000 in 2005; that it is undetermined who would pay for any necessary road improvements; that the R/OS designation could allow amenities such as tennis courts and/or a swimming pool if it had the proper zoning; and that he does not think the County expected SWFWMD to declare the property surplus.

Responding to the Chairman's call for the applicant, Cynthia Tarapani, Florida Design Consultants, New Port Richey, appeared and requested 30 minutes to make a presentation; whereupon, Ms. Westine moved, seconded by Mr. Schultz and carried unanimously, that the request be granted.

Ms. Tarapani summarized her qualifications and provided an introduction to Dr. Pikos, stating that he has operated his practice on Tampa Road since 1983 and is seeking to expand his services; whereupon, referring to a supplemental document containing data, photographs, and maps, a copy of which has been filed and made a part of the record, she asserted the following:

- After initially supporting Dr. Pikos' application, County staff sought a Development Agreement that would require Dr. Pikos to build a right turn lane, limit the development's FAR to 0.1, require that the proposed facility be operated only by him, and include a reversion clause that would return the land use designation to R/OS if the facility is not built.
- Dr. Pikos objected; whereupon, County staff indicated that it would support a Conditional Overlay, only to rescind that support after receiving letters of opposition from residents of the Landmark Oaks condominiums across McMullen Booth Road.
- County Code does not require a Development Agreement, and site plan constraints are typically addressed during site plan review and permitting.
- The property has no viable economic use with its existing designation.
- The BCC approved three other applications for the Institutional zoning category along McMullen Booth Road in recent years, and a recent court ruling found that applicants that are similarly situated in "relevant aspects" must be treated the same.

Dr. Pikos discussed his professional background, stating that his practice and educational institute are recognized globally; and that he has outgrown his existing facility; whereupon, responding to queries by the members, he indicated that he would see 10 to 12 patients a day and would have a staff of about 10 people; and that he does not yet own the property.

Mike Rayser, President of Rayser Transportation Consulting, Tampa, offered data on existing traffic speeds on McMullen Booth Road and asserted that the proposed facility would have little impact on traffic; and that a dedicated right turn lane would not be needed because the property is located sufficiently north of the merge lane from westbound Curlew Road to northbound McMullen Booth Road.

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Responding to queries by members, Ms. Tarapani stated she would not speculate on whether Dr. Pikos would purchase the property if his application is denied; and that he plans a building with about 8,500 square feet, while reserving the right to add a second building later; and Mr. Bailey indicated that the Conditional Overlay would allow any type of medical building, provided it meets the FAR requirement.

Responding to the Chairman's call for citizens wishing to speak in opposition to the application, Landmark Oaks Condominiums resident Jacqueline Man approached and requested an extension beyond the allotted three minutes; whereupon, Ms. Westine, moved, seconded by Mr. Schultz and carried unanimously, that she be given five minutes.

Ms. Man indicated that she was speaking on behalf of the 152 owners of Landmark Oaks; that she would present 114 signed petitions opposing the rezoning; that residents are concerned about the impact on the single ingress and egress between McMullen Booth Road and their homes; that speeds on McMullen Booth Road are higher than Mr. Rayser estimated; and that site development could disturb a protected blue heron that nests at the entrance to the condominium property. Responding to query by Chairman Kardash, Ms. Man indicated that the petitions are specific to this application rather than an earlier one.

In rebuttal, Mr. Rayser acknowledged that some of the traffic travels faster than the speeds given, noting that the outliers are targets of law enforcement; and indicated that a photograph shown by Ms. Man illustrating the difficulty of turning out of Landmark Oaks is misleading. Dr. Pikos added that his patient visits are spread throughout the day; and that the one-story, aesthetically pleasing building he proposes would be more visually appealing than the existing vacant overgrown site.

Responding to queries by members, Dr. Pikos reiterated figures he cited earlier; and Ms. Tarapani stated that the rights of the Landmark Oaks residents should not overshadow her client's rights to make a reasonable use of the land.

During discussion, Attorney Hardy indicated that while a Development Agreement is not required, it is a valid tool to allow, but limit, a more intense zoning category that otherwise would not be appropriate; and explained that there is a high burden of proof that must be met to establish that a property is similarly situated under the equal protection clause of the U.S. Constitution; whereupon, Ms. Vincent added that the traffic analysis presented by the applicant had not been seen previously by staff.

Following discussion, Mr. Schultz moved, seconded by Ms. Reiter and carried unanimously, that the LPA recommend denial of the application to the BCC.

5. APPLICATION OF RENEE' LETOSKY-SMITH (BRIGGS) THROUGH HOUSH GHOVAEE, NORTHSIDE ENGINEERING, REPRESENTATIVE, FOR A MODIFICATION OF AN EXISTING CONDITIONAL USE AND TWO VARIANCES (CU-17-7-16) – RECOMMEND APPROVAL OF THE CONDITIONAL USE, AS AMENDED, AND CONDITIONAL APPROVAL OF THE VARIANCES

Public hearing was held on the application of Renee' Letosky-Smith (Briggs) through Housh Ghovae for modification of an existing conditional use to allow for the daycare, training, grooming, and overnight boarding of up to 100 dogs and to allow for the boarding of up to three horses on a property without a primary residential use, along with variances to allow an existing 6-foot-high fence to remain with a 0-foot front setback where 50 feet is required, and for the construction of a 36-square-foot sign where a maximum 24-square-foot sign is permitted (CU-17-7-16), re 1.3 acres located at 2845 Belcher Road in the unincorporated area of Dunedin.

Mr. Bailey referred to an aerial photograph and the zoning and land use map, pointed out the location of the subject property, described surrounding land uses, and provided historical background information regarding the application; whereupon, he indicated that staff is recommending denial of the conditional use modification, but would support a modified proposal, and approval of the two variances subject to the following conditions:

1. All required permits shall be obtained and applicable fees are paid.
2. Full site plan review.
3. The development shall maintain substantial conformance with the submitted concept plan with respect to the variance requests.

Mr. Bailey indicated that the business has been operating under a conditional use approval granted in 1995 allowing a maximum of 15 dogs on site for the purpose of breeding Labrador Retrievers; that the number of dogs on site has increased well beyond that, with as many as 70 documented during a 2006 inspection by Animal Services; and that staff believes 100 dogs are too many because of the impact on neighbors due to noise and traffic. He suggested a fair compromise would be to allow a maximum of 45 dogs (the current average during the peak season) and the existing two horses, since the

property does not have the full one acre of pasture area required for three horses, noting that additional conditions are set forth in the staff report.

Responding to queries by the members, Mr. Bailey and Blake Lyon, Director of Development Review Services and Code Enforcement, indicated that the business has been found in violation of County Code for the number of dogs found on site, for the size of its sign, and for the height of its fence; and that Animal Services has inspected the property and has not found any problems with the care and quality of the animals.

Responding to the Chairman's call for the applicant, Housh Ghovae, Northside Engineering, Clearwater, appeared and, referring to photos and charts, indicated that Ms. Letosky-Smith has operated her business on site for 14 years; that the business is seasonal and brings in a varying number of dogs; that she seeks to add agility training and grooming to the services offered; and that she is no longer seeking the modification allowing for a third horse. Referring to the conditions proposed by staff for a compromise modification, Mr. Ghovae asked the members to not limit the number of employees on site to four, citing the need for adequate staffing; whereupon, responding to query by Mr. Schultz, he indicated that there would be 13 parking spots on premise, noting that the applicant concurs with the remaining conditions.

Ms. Letosky-Smith provided input, stating that it would be rare for her business to have 100 dogs on site at the same time; that the number requested would reflect the total dogs on site for all parts of the business; that she has letters of support from surrounding neighbors; and that the abutting property between the business and Belcher Road is in Chapter 7 bankruptcy. Responding to queries by members, she indicated that the business does not use kennel cages, but rather allows the dogs to roam free within 12 suites in the business's former single-family home; that there is no county ordinance limiting the numbers of dogs allowed per square foot; that the business currently has 10 employees, but would add more if allowed to expand; and that the current average for overnight boarding is 45 dogs.

Upon the Chairman's call for citizens wishing to speak in opposition to the application, Richard Anderson, Dunedin, approached and asked for additional time; whereupon, Chairman Kardash allotted him five minutes. Mr. Anderson indicated that he owns the abutting property and single-family home; that he has had difficulty renting the home because the easement to the business runs across his property; that he and Ms. Letosky-Smith had planned to go into business together at one time; and that she does not have legal access to the easement. Responding to queries by the members, he stated that the

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property is in bankruptcy, but he still possesses the title; and that the home is not rented out.

William Crone, Holiday, appeared and indicated that he is the former owner of Digital Engineering Consultants of Clearwater, which did digital mapping for Dunedin, Clearwater and the County; and that Ms. Letosky-Smith's easement agreement allows her to use 25 of the westerly 220 feet of the property, but it lacks the required 10-foot aprons on either side required for ingress and egress.

In rebuttal, Ms. Letosky-Smith discussed details related to Mr. Anderson's bankruptcy and her involvement with it; and asserted that Mr. Anderson stated in a court deposition that he is currently renting the property for \$600 a month. Responding to query by Ms. Westine, she indicated that she is a creditor of Mr. Anderson as a result of a ruling in her favor in a lawsuit over the easement dispute.

Ms. Westine stated that she would support allowing up to 100 dogs, citing the positive inspection reports from Animal Services and lack of complaints from other neighbors; and that she would eliminate the proposed condition limiting employees to four on site; whereupon, Mr. Schultz, Ms. Reiter, and Chairman Kardash indicated their general support, and Attorney Hardy explained that a conditional use allowance would stay with the property in the event of a change in ownership.

Following discussion, Ms. Westine moved, seconded by Mr. Schultz and carried unanimously, that the LPA recommend approval of a modification of the conditional use allowing up to 100 dogs at any one time, with a limit of 75 for overnight boarding, and subject to the other conditions set forth in the staff report, with the exception of condition No. 5 pertaining to the number of employees allowed on site.

Thereupon, Ms. Westine moved, seconded by Mr. Schultz and carried unanimously, that the LPA recommend approval of the fence and sign variances in accordance with the staff recommendation.

## ADJOURNMENT

Chairman Kardash adjourned the meeting at 11:41 A.M.

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Chairman