

Clearwater, Florida, June 8, 2017

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  
Gerald Figurski, Vice-Chairman  
Ronald Schultz  
Paul Wikle

Not Present:

Bill Bucolo  
Steve Klar  
Susan Reiter  
Clint Herbic (non-voting School Board Representative)

Also Present:

Glenn Bailey, Planning Department Zoning Manager  
Chelsea D. Hardy, Assistant County Attorney  
David S. Sadowsky, Senior Assistant County Attorney  
Renea Vincent, Planning Department Director  
Other interested individuals  
Lynn M. Abbott, Board Reporter, Deputy Clerk

CALL TO ORDER

Chairman Kardash called the meeting to order at 9:09 A.M. and reviewed the procedure for the public hearings; whereupon, she announced that today's case will be heard by the Board of County Commissioners (BCC) on July 18, and any documents to be reviewed by the Board should be submitted to staff by July 4.

MINUTES OF MAY 10, 2017 MEETING – APPROVED AS AMENDED

Upon presentation of the minutes of the meeting of May 10, 2017, Mr. Wikle indicated that the first two paragraphs on Page 6 of the minutes should reflect that Messrs. Schultz and Figurski agreed with Mr. Bucolo; and that Messrs. Bucolo, Schultz, and Figurski cast the dissenting votes; whereupon, he moved, seconded by Mr. Schulz and carried unanimously, that the minutes be approved with the above-noted corrections.

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 item. 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 AMENDMENT TO THE PINELLAS COUNTY FUTURE LAND USE MAP AND ZONING ATLAS

APPLICATION OF GAETANO AND GRACE CRITELLI THROUGH JAKE SEATON, CSC PROPERTIES, LLC, REPRESENTATIVE, FOR A ZONING CHANGE FROM C-1, NEIGHBORHOOD COMMERCIAL, TO C-2, GENERAL RETAIL COMMERCIAL AND LIMITED SERVICES AND A DEVELOPMENT AGREEMENT LIMITING THE USE TO A RESTAURANT WITH THE OPTION OF A DRIVE-THRU, PROHIBITING ACCESS TO 77TH AVENUE NORTH, LIMITING THE REAR (SOUTH) 25 FEET OF THE PROPERTY TO DRAINAGE RETENTION, SCREENING AND BUFFERING, DIRECTING EXTERIOR LIGHTING AWAY FROM NEARBY RESIDENTIAL PROPERTIES, LIMITING BUILDING INTENSITIES AND HEIGHT TO THOSE PERMITTED BY THE PROPERTY'S LAND USE AND ZONING DESIGNATIONS, ALLOWING VEHICULAR ACCESS TO THE PROPERTY ONLY VIA THE DRIVEWAY LOCATED ON THE ADJACENT PROPERTY TO THE WEST, AND ENSURING DEVELOPMENT OCCURS IN SUBSTANTIAL CONFORMANCE WITH THE SUBMITTED CONCEPT PLAN (Z-10-06-17) – RECOMMEND APPROVAL AS PER STAFF RECOMMENDATION

Public hearing was held on the application of Gaetano and Grace Critelli through Jake Seaton for the above change in zoning (Z-10-06-17), re approximately 0.55 acre located on the south side of Park Boulevard approximately 110 feet west of Oakhurst Road in the unincorporated area of Seminole. A document with 23 signatures in opposition to the application has been received.

Mr. Bailey referred to aerial and ground-level photographs and the zoning and land use map, pointed out the location of the subject property, and described surrounding land uses, noting that the proposed use is for a Dunkin Donuts or fast food restaurant to be built on the vacant property; that the zoning request for C-2 is to allow a drive-through restaurant; and that the existing land use category permits both neighborhood and general retail commercial zoning districts.

Mr. Bailey provided background information regarding the application, relating that restrictions included in the Development Agreement limit the use to a restaurant, prohibit access to 77th Avenue, direct lighting away from the residences, restrict access to the property via the existing driveway, and limit the rear 25 feet of the property to drainage retention, screening, and buffering. He related that the Development Agreement provides assurances, enhances

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compatibility with the surrounding area, and is consistent with the County's Comprehensive Plan; that the proposed amendment is appropriate with the Development Agreement in place; and that staff recommends approval of the application.

In response to queries by the members, Mr. Bailey identified the commercial node surrounding the subject property, described the difference between restaurants that are allowed under C-1 versus C-2, and indicated that the adjacent bank has a drive-through; whereupon, Attorney Hardy provided examples of the types of businesses that are allowed under C-1.

In response to the Chairman's call for the applicant, Katie Cole, Esquire, Hill Ward Henderson, Clearwater, appeared and indicated that the request is solely to allow a drive-through facility for a restaurant that would otherwise be permitted; that C-1 allows drive-throughs for uses that include pharmacies, banks, and dry cleaning services; and that there are a number of commercial uses near the subject property. Referring to a document titled *Exhibit B, Development Plan*, and aerial photographs, she pointed out the property, the surrounding commercial uses, the stormwater pond buffer, the 77th Avenue right-of-way, and the residential neighborhood located to the south.

Ms. Cole reported that her client, CSC Properties, LLC is the contract purchaser of the subject property; that the current owner also owns the adjacent parcel and is willing to enter into the Development Agreement; and that all the restrictions listed under the C-1 zoning district are contained in the Agreement, except the permitting of the drive-through. She related that she has had discussions with Attorney Sadowsky regarding technical modifications to the Development Agreement, noting that *DD Park Boulevard, LLC* is recited as the owner of the property in the draft Agreement; that ownership will not be conveyed until after the entitlements are granted; and that the contract purchaser does have an equitable interest in the property and is eligible to enter into the Agreement.

In response to queries by Chairman Kardash, Ms. Cole reiterated the changes to the Development Agreement and related that the details can be worked out with the County Attorney's Office prior to the Board of County Commission meeting on July 18; that the intent of the Neighborhood Commercial zoning is to provide neighborhood services; and that the proposed use, a Dunkin Donuts restaurant, fits within that aura. She referred to letters of objection from neighbors and indicated that the Development Agreement addresses many of their concerns.

Responding to queries by the members, Ms. Cole discussed the number of drive-through bays in use at nearby businesses and related that the number of seats in the proposed restaurant is 31.

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In response to the Chairman's call for persons wishing to speak, the following nearby residents and property owners expressed opposition and responded to queries by the members, indicating that areas of concern include home values, proximity to the subdivision, environmental impacts, land use compatibility, property buffers, traffic, security, drainage, noise, and safety.

Mohammed Mos, Seminole  
John Meissmorr, Seminole  
Stefan Hoppe, Seminole,  
Rich Rippetoe, Seminole  
Anabelle Hoppe, Seminole  
Bill Hundt, Seminole  
James Sills, Seminole  
Robin Sills, Seminole  
Robert Oblinger, Seminole  
Xiofeng Liang, Seminole  
Christine Wolff, Seminole  
Alan Wolff, Seminole

In response to queries by the members, Mr. Bailey indicated that the road is approximately 30 feet wide with space on either side; and that specific types of buffering will be addressed in the site plan, noting that Code requires the installation of a six-foot fence. Attorney Hardy explained that individuals do not have a legally protected interest in the land use and zoning of neighboring properties; that the LPA and BCC are charged with determining whether the rezoning change is appropriate and consistent with the Comprehensive Plan; that rezoning is a process that was established and approved by the Florida Legislature and courts; and that ample notice was provided; whereupon, Mr. Bailey confirmed that notice was sent to property owners within a 400-foot radius.

Mr. Bailey referred to the Future Land Use Map, indicating that the land use designation is Commercial General, and discussed the distinction between the C-1 and C-2 zoning districts. Attorney Hardy clarified that only the zoning district is changing, not the land use designation. Mr. Bailey provided input, and discussion ensued.

In rebuttal, Ms. Cole addressed the objectors' concerns regarding buffers and exterior lighting and discussed protections provided by the Development Agreement, noting that the neighborhood is adjacent to a commercial node where drive-throughs are permitted, except for small restaurants; that the County could have limited the area to C-1 and did not; and that restrictions within the Agreement allow for consistency with the Comprehensive Plan and compliance with Code. Referring to aerial photographs, she provided clarification regarding the 77th Avenue right-of-way and proposed buffer; whereupon, she indicated that the applicant is willing to further amend the Agreement by retaining the C-1 requirement of 50 seats, noting the approval of a variance to increase the number of seats for a nearby business.

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Responding to queries by the members, Mr. Bailey and Ms. Cole provided information regarding the six-foot rear wall, number of parking spaces and stacking, drive-through queuing, business vehicles, and deliveries, noting that donuts are brought in daily and not made on-site; whereupon, discussion ensued regarding the inflow and outflow of traffic, and Mr. Bailey related that it will be addressed during site plan review.

Mr. Figurski moved, seconded by Mr. Wikle, that the LPA recommend approval of the application to the BCC in accordance with the staff recommendation. Responding to query by Chairman Kardash, Mr. Figurski confirmed that the motion included the amendments to the Development Agreement as discussed by Ms. Cole. Upon call for the vote, the motion carried 3 to 1, with Mr. Schultz casting the dissenting vote.

#### MISCELLANEOUS

Mr. Bailey indicated that the County is in the final draft stages of updating the Land Development Code and related that he would like to present an overview of the changes, noting that all chapters of the Code are included; whereupon, he related that the LPA typically cancels its August meeting due to the County Commission's budget process and suggested that the members could meet to discuss Code changes at that time.

#### ADJOURNMENT

There being no further business and upon motion by Mr. Wikle, seconded by Mr. Schultz and carried, Chairman Kardash adjourned the meeting at 10:26 A.M.

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Chairman