

**PUBLIC MEETING OF THE DESOTO COUNTY PLANNING COMMISSION
HELD ON THURSDAY, JANUARY 3RD, 2019 AT 5:30 PM
IN THE COUNTY COMMISSIONERS' MEETING ROOM
ARCADIA, FLORIDA**

I. CALL TO ORDER

Chairperson William Martin called the January 3rd, 2019 Planning Commission meeting to order at 5:30 pm.

II. PLEDGE OF ALLEGIANCE

Chairperson Martin led the Planning Commission in the pledge of allegiance.

III. ROLL CALL

Chairperson Martin requested Ms. Smith call the roll and the following persons were in attendance:

Members in Attendance

Chairperson, William "Bill" Martin
Commissioner, Danny Via
Commissioner, Mike Provau
Vice-Chairperson, Larry Hudson
Alternate, Judy Kirkpatrick

Others in Attendance

Development Director, Earl R. Hahn, ACIP
Administrative Assistant, Donna Smith
Planning Technician, Kathy Heitman
County Attorney, Donald D. Conn
Planning Manager, June Fisher

Ms. Smith announced a quorum was present and no ex-parte communications had occurred.

IV. SET OR AMEND THE AGENDA

Chairperson Martin requested a motion to set or amend the agenda. Development Director Earl Hahn requested to amend the agenda by removing agenda item number IX.C, which is the Nuco Citrus, LLC special exception use application, from the agenda and to move agenda item number IX.A.3, which is amendments to the Capital Improvements Element Five-Year Schedule of Capital Improvements, to the end of the agenda. Vice-Chairperson Hudson moved to approve the agenda amendments, which was seconded by Commissioner Via and which was approved unanimously 4-0.

V. PUBLIC FORUM FOR NON-AGENDA ITEMS

Chairperson Martin opened the floor to the public so that they could address the Planning Commission on any items.

Darvy Peden, 1442 SW County Road 661, Arcadia, Florida and LeAnn Humphries of 1508 NW County Road 661, Arcadia, Florida requested the Planning Commission regular meeting on February 5, 2019 be changed to another date so as to avoid a conflict with the DeSoto County Fair's Steer Show, which is going on at the same time. The change would allow more people to be able to attend the Commission meeting and provide input into the proposed Nuco Citrus, LLC special exception use application.

County Attorney Don Conn stated that he would speak with the County Administrator and get with Mr. Hahn to see if there was some way to accommodate the people in the community who are interested in providing public input into the proposed Nuco Citrus, LLC special exception use as well as the applicant who has interest in this being heard in a timely manner.

Commissioner Provau stated that he would have a conflict if the next meeting is moved to the first Thursday of February.

VI. PROOF OF PUBLICATION

Chairperson Martin requested a motion to approve filing the proof of publication. Commissioner Provau moved to approve filing proof of publication. Commissioner Via seconded the motion and which was approved unanimously 4-0.

VII. PLANNING COMMISSION MEETING MINUTES

There was no Planning Commission meeting minutes to be approved. The December 4, 2018 and January 3, 2019 meeting minutes will be approved during the February, 2019 Planning Commission meeting.

VIII. DEVELOPMENT DIRECTOR COMMENTS

Development Director Hahn welcomed the new Planning Commissioner, Danny Via, and introduced June Fisher as the new Planning Manager for the Development Department, who eventually will replace Director Hahn.

IX. ACTION ITEMS

A. Comprehensive Plan amendments:

1. *An Ordinance of the DeSoto County Board of County Commissioners granting to Bridlewood of Arcadia, LLC an amendment to the DeSoto County Comprehensive Plan Future Land Use Element Map Series Number 3, the Interim 2040 Future Land Use Map (FLUM) by changing from Employment Center (EC) to Medium Density Residential (MDR) the designation of 303± acres of land generally located on the east side of SW Highway 17 about 2,900 linear feet north of SW Enterprise Boulevard, the legal description being provided in Exhibit A; incorporating the whereas clauses and staff report; providing for severability; and providing for an effective date.*

Director Hahn read the title of the Ordinance into the record and gave a brief Power Point presentation summarizing the staff report for the Bridlewood of Arcadia, LLC Interim 2040 Future Land Use Map amendment, which changes from Employment Center to Medium Density Residential (MDR) the designation of 303+ acres of land. Director Hahn noted the proposed amendment was consistent with the

Comprehensive Plan and the state comprehensive plan requirements on avoidance of the proliferation of urban sprawl, and in conformance with the Land Development Regulations (LDR). He recommended the Commission forward the record to the Board with a recommendation of approval. Upon concluding his remarks, Director Hahn stated he would entertain any questions from the Planning Commission.

Vice-Chairperson Hudson noted the proposed Concept Development Plan did not include any wetlands determinations or provide wetland boundary buffers. He asked if this would be addressed during the rezoning process. Director Hahn responded in the affirmative. There being no further questions from the Planning Commission, Chairperson Martin opened the floor to the applicant.

Lindsay Robin, Project Planner for Waldrop Engineering, introduced herself and the project team which consists of:

- Michael Lamelza – Applicant/Owner of Bridlewood of Arcadia, LLC
- Neal Montgomery – Pavese Law Firm – Land Use Attorney
- Alexis Crespo – Waldrop Engineering – Vice President of Planning
- Jim Banks – JMB Transportation Engineering, Inc. – Traffic Engineer
- Brown Collins – Synecological Analysts, Inc. – Environmental Scientist

Ms. Robin made a PowerPoint Presentation highlighting the proposed amendments consistency with the Comprehensive Plan and the state requirements, conformance with the LDR, and requested the Commission recommend approval of the proposed amendment. Upon conclusion of her presentation, Chairperson Martin asked whether the Planning Commission had any question.

Vice-Chairperson Hudson asked if putting the workforce residences in back and the industrial center up front on roadway is consistent with the planning development standards. Ms. Robin responded in the affirmative. She noted that placing the residences away from US 17 minimizes ambient noises generated by vehicular traffic. Vice-Chairperson Hudson asked what the concept or vision is for housing. Ms. Robin stated the project proposes market rate workforce housing, which will consist of modular single-family housing and some multi-family housing. There being no further questions from the Planning Commission, the Chairperson opened the floor to the public.

There being no public comments, Chairperson Martin closed the public hearing and requested the Planning Commission to begin their deliberations.

Vice-Chairperson Hudson spoke in favor of comp plan amendment, which would be a new tax base for the County.

Commissioner Via mirrored Vice-Chairperson Hudson's thoughts and thinks the project would be an asset to the County but he would not be in favor of a mobile home development. He expressed support for modular housing development.

Commissioner Provau stated this project is consistent with the forecasts for this area and supports the project.

Chairperson Martin agreed with all other Board members.

Chairperson Martin asked for a motion. Commissioner Via moved to approve the land use amendment which was seconded by Vice-Chairperson Hudson and which was approved unanimously 4-0.

2. *An Ordinance of the DeSoto County Board of County Commissioners amending the DeSoto County Comprehensive Plan by adding an Economic Development Element and Support Documents; incorporating the whereas clauses and staff report; providing for severability; and providing for an effective date.*

Development Director Hahn read the title of the Ordinance into the record and gave a brief PowerPoint Presentation summarizing the information in the staff report. He noted that the Board adopted an Economic Development Element (EDE) in 2002 but failed to re-adopt it in 2008. In 2015, the County Administrator directed that a new EDE be prepared and the County received a state grant to prepare the document. A consultant presented the draft EDE to the Planning Commission and Board in April 2018 and at the Board hearing, the Board requested additional public input before being brought back to the Board for adoption. Director Hahn noted that the EDE being considered today is the same one presented to the Board in April and that the County Administrator wanted to expedite EDE adoption. Director Hahn noted that the Economic Development Advisory Committee (EDAC) has already held numerous public hearing on the EDE. He noted that EDAC member Asena Mott is here to explain the EDAC's role in the process.

Mrs. Asena Mott stated the EDAC is the proper citizen group for reviewing the EDE as it has broad representation of the business community. She noted the EDAC began reviewing the EDE in September and is conducting a thorough review of each goal, objective, and policy as well as the data and analysis.

Vice-Chairman Hudson expressed concern about the potential for the many private sector members on the EDAC to override the concerns of the sole agricultural appointed member. Mrs. Mott stated all of the EDAC members are sensitive to agricultural concerns. After the conclusion of her presentation, Director Hahn briefly noted the EDE is consistent with the data and analysis requirements for comprehensive plan amendments. At the conclusion of the presentation, Chairperson Martin opened the floor to public comments and there being no comments, the public hearing was closed.

County Attorney Donald D. Conn inquired why the EDE was being processed when the EDAC had not completed their review. Director Hahn noted the County Administrator requested the EDE be expedited and noted the EDAC should consider the state reviewing agencies comments before making their recommendation to the Board.

Commissioner Provau stated the present composition of the EDAC does a good job of balancing competing interest and hopes the Board will seriously consider their recommendation. He noted that in the past, the EDAC has not been able to accomplish much but now has an opportunity to provide valuable input. Director Hahn stated the EDE would provide guidance to the EDAC in providing recommendations to the Board on economic development matters.

There being no further Commission discussion, Chairperson Martin asked for a motion. Commissioner Provau moved to approve the ordinance on the first reading which was seconded by Commissioner Via and which was approved unanimously 4-0.

3. *An Ordinance of the DeSoto County Board of County Commissioners amending the Comprehensive Plan's Capital Improvements Element Support Documents (CIESD); amending and updating the CIESD Five-Year Schedule of Capital Improvements so that it coincides with the Florida Department of Transportation's Five Year Work Plan, the Heartland Regional Transportation Planning Organization's Transportation Improvement Plan and DeSoto County's Capital Improvements Plan; amending and updating the CIESD 2040 Capital Needs List for various elements; and providing for conflicts, severability, and an effective date.*

Director Hahn read the title of the Ordinance into the record and gave a brief PowerPoint Presentation summarizing the staff report findings on the CIE Capital Improvements.

Chairperson Martin asked the Commission if they had any questions. There being no questions and no public comments, Chairperson Martin requested the Commission to deliberate or make a motion.

Vice-Chairperson Hudson moved to approve the CIE Capital Improvements which was seconded by Commissioner Provau and which was approved unanimously 4-0.

- B. *Official Zoning District Atlas amendment. An Ordinance of the DeSoto County Board of County Commissioners amending the Official Zoning District Atlas identified in Land Development Regulations Article 2, Zoning Districts and Requirements, Section 2001, Establishment of Zoning Districts; granting with conditions to Copart of Connecticut, Inc. an Official Zoning District Atlas amendment (RZ 2018-07) to change the zoning district from 23.182-acres of Agricultural 5 (A-5) and 86.964-acres of Industrial Light (IL) to 110.146-acres of Planned Unit Development (PUD) for a vehicular sales and outdoor storage area use with Concept Development Plan (CDP) providing for an office building, customer parking, a shipping and receiving area, a short-term vehicle and equipment storage area for vehicle sales, and related improvements on property located on the west side of SW US Highway 17 between SW Senate Street and CR 761, the Property Identification Numbers being 19-39-24-0000-0020-0000, 24-39-23-0000-0020-0000, 24-39-23-0000-0021-0000, 24-39-23-0000-0290-0000, 24-39-23-0000-0300-0000, 24-39-23-0000-0310-0000, 24-39-23-0000-0330-0000, and 24-39-23-0000-0323-0000, and legally described in Exhibit 1; and providing an effective date.*

Mr. Conn gave a brief statement on the quasi-judicial hearing procedures. All parties were sworn in by Planning Technician Kathy Heitman.

Director Hahn read the title of the Ordinance into the record and gave a brief PowerPoint presentation summarizing the staff report findings and conclusions for the Copart rezoning request. Director Hahn stated the application is in conformance with the 13 PUD requirements, the 15 CDP requirements, and the 7 Supportive Report provided conditions are imposed. Based on the findings and conclusions contained, Director Hahn recommended the Planning Commission forward a recommendation to the Board approving the application. At the conclusion of the presentation, Director Hahn stated he would entertain questions.

Chairperson Martin needed verification on the recommended actions for consideration. Director Hahn stated there are four (4) actions for their consideration. He stated the Department's recommendation is that the Commission forward the record to the Board with a recommendation the Ordinance be adopted with conditions.

Vice-Chairperson Hudson stated that the applicant has asked for forgiveness on certain items. He asked what would be the nexus for not complying with the ordinances and requirements that the County has adopted. Director Hahn stated the deviations are typical. This project asked for a deviation of sidewalks along US 17 and changing some of the landscaping. They are proposing to install similar landscaping and buffer. Vice-Chairperson Hudson stated he would recommend the sidewalks and feels there should be a minimum of a six (6) foot fencing barrier from the height of the crown of the abutting roadways. He feels these items should not be a deviation.

Chairperson Martin asked if this is the time to impose conditions. Director Hahn stated the Commission has the authority to recommend conditions provided there is an appropriate nexus.

Commissioner Provau was concerned what else could go in this area if Copart were to go out of business and sell the property. Director Hahn stated the Applicant is proposing a PUD zoning district that includes most of the same land uses allowed within the Industrial Light zoning district. Consequently, a number of different uses could occupy the property based on the proposed PUD zoning district.

Vice-Chairperson Hudson stated that a PUD has very strict development guidelines and we need to know what the development will be before adoption, if it is going to be a PUD. Vice-Chairperson Hudson requested the applicants be allowed to make their presentation.

Attorney Geri Waksler of McCrory Law Firm gave a brief summary of the development and stated that Copart is highly unlikely to go bankrupt as they are a Publicly Traded Company on-line auction company. They provide on-line liquidation services for assets such as used vehicles, watercraft, trailers, and such. There will be no auctions on premises, it is on-line only. There will be no dismantling, draining fluids, crushing, no stacking, and no sale of parts. The area will not be open to the general public. This is a short-term storage facility for their assets which would include an office, customer parking and receiving area. The property will have six (6) foot fencing, berm and landscaping buffers. Wetlands have been preserved. Attorney Waksler stated that Copart operations are comparable to uses already listed in the Industrial Light zoning district. Attorney Waksler concluded by stating that the record, which includes the application, staff report, and presentation provides evidence to support a recommendation for approval.

Chairperson Martin asked about the days and hours of operation. Attorney Waksler stated Monday through Friday.

Commissioner Via asked how many vehicles would be parked at the site at any given time. Attorney Waksler stated it can vary. Assets usually stay anywhere from thirty (30) to sixty (60) days. There is a constant turnover. Assets are transported in. Commissioner Via asked about any environmental impacts. Attorney Waksler stated the assets are brought in to the receiving area and inspected to verify their condition before they are placed in the storage area. The building will be approximately 4,800 square feet and have ten (10) to fifteen (15) employees.

Vice-Chairperson Hudson was concerned with transport of the vehicles and access to the site from northbound US 17. Todd Rebol of Banks engineering responded they will seek a left turning lane from FDOT and right turn lane if need be based on the traffic study.

County Attorney Conn stated that part of a PUD is to approve a concept development plan. Mr. Conn questioned if this is the concept development plan that the applicant wishes to be approved if the Board gives approval and was it submitted for review. Attorney Waksler responded in the affirmative. Mr. Conn asked for approval to attach the exhibit to the resolution of approval. Attorney Waksler stated she would encourage it to be an exhibit to the resolution.

Vice-Chairperson Hudson asked what was the nexus in choosing this site as the location for Copart? He opined that this project was not in conformance with the characteristics of the community. Attorney Waksler stated that this project is in conformance with its Employment Center FLUM designation and the existing Industrial Light zoning district and these factors are what drew Copart to the site. Vice-Chairperson Hudson felt that this is simply a junk yard. Attorney Waksler stated it is not a junk yard but a storage facility.

Chairperson Martin asked for verification on the acreage. Attorney Waksler stated 23.182-acres is zoned Agricultural 5 (A-5) district and 86.964-acres is zoned Industrial Light (IL) district.

Vice-Chairperson Hudson asked how this project would improve the characteristics, economy and viability of the community. Attorney Waksler stated there will be jobs, site development, increase property taxes and place landscaping along US 17.

Vice-Chairperson Hudson argued the application was not in conformance with the existing land use pattern and was incompatible with the character of the area. He noted that Fort Ogden is a historic community, consisting primarily of agricultural (i.e., pasturelands and orchards), single-family, and institutional uses and that this heavy commercial/light industrial use was not in conformance with the existing land use pattern. He also argued that while the proposed use was consistent with the FLUM designation and zoning district, the application was

premature because that area is not ripe for that type of intense development. He suggested an overlay zoning district be created to prevent future harm to the Fort Ogden area. There being no further Commission questions, Chairperson Martin opened the floor for public discussion.

Gill MacAdam of 7798 SW Sunny Oak Drive, Arcadia introduced himself. Mr. MacAdam stated his interest is in preservation and interpretation of Fort Ogden. He has a lot of experience in dealing with preservation. His concerns are with the environment and the wetlands. He feels the different types of trees in the 23 acres should be preserved under the A-5 zoning district and is questioning the long term protection. He also questioned the visual change, buffering and pollution. He feels this project is not a good fit for Fort Ogden and should be placed elsewhere.

Asena Mott of 9775 SW Brooke Avenue, Arcadia introduced herself. Mrs. Mott stated she is concerned with what we are covering up since there are so many buffers, landscaping and fences. She feels this is not a good fit or feel right for Fort Ogden. Fort Ogden is a residential area and she would like it to take that way. She is for growth, just not in this area.

Wayne Earnest of 5085 SW Senate Street in Fort Ogden introduced himself as the Senior Pastor at the First Baptist Church of Fort Ogden. They are currently building a new Church which will be across the street from the Copart facility. He feels that a vehicular junk yard across the street from the church is inappropriate. He stated that he and approximately 600 followers are in opposition of the zoning change and feels it is incompatible with Fort Ogden. He is not opposed to residential development coming to the area but not this type of project.

Attorney Waksler responded there is no protection for wetlands in the A-5 zoning district. The protection comes under the comprehensive plan and applies in all zoning districts. All industrial uses require significant buffering due to the nature of the industrial uses. This project is consistent with the Employment Center FLUM designation and with what could be placed on the property. Attorney Waksler respectfully requested a recommendation of approval to the Board of County Commissioners.

JC Deriso of 3990 SE Barton Terrace was sworn in and introduced himself. Mr. Conn verified that Mr. Deriso is not speaking as a County Commissioner but as a citizen and business owner. Mr. Conn also verified that Mr. Deriso was not representing the views of the County Commission. Mr. Deriso had questions about sales taxes and online sales. He asked if the tax revenues stay in the County or because they are online will they be going to a different County. Attorney Waksler stated she doesn't have an answer to those questions but will research it and have an answer when it comes before the Board of County

Commissioners. Mr. Conn stated there is a lot of controversy on online sales and state and local taxes.

Chairperson Martin asked the Commission if there were any questions or discussions.

Commissioner Provau felt like this is not a good fit for the Fort Ogden area but it is not what we are here to do. He felt that legally we have no ground to stand on by denying approval.

Commissioner Via feels the same as Commissioner Provau but sees both sides and stated he too would like to see what the benefits are for DeSoto County.

Vice-Chairperson Hudson stated his position is clear and recommends all documents and evidence entered into the records for the proposed ordinance be forwarded to the Board of County Commissioners with a recommendation to deny adoption. The motion died for lack of a second. He then asked that a condition be imposed requiring the height of the fence to be measured based on the crown of the adjacent roadway. Director Hahn stated he believed the LDR already requires the fence to be measured that way but if not it could be added as a condition. Attorney Waksler responded they had no objection to such a condition

Chairperson Martin feels that with the 87 acres already zoning industrial light district, they should be able to move forward with the project.

Chairperson Martin asked the Commission for a recommendation. Commissioner Provau moved to approve the rezoning which was seconded by Commissioner Via. The motion passed 3-1, with Vice-Chairperson Hudson dissenting.

- C. *Special exception use application. A Resolution of the Desoto County Board of County Commissioners granting to Nuco Citrus, LLC a special exception use development order with conditions to allow within the Agricultural 10 (A-10) zoning district an agriculturally related processing use on a vacant and unplatted 196.36-acre property generally located on the south side of State Road 72 about 1.4 miles from its intersection with State Road 70, the Property Identification Numbers being 33-37-24-0000-0520-0000, 34-37-24-0000-0183-0000, 34-37-24-0000-0160-0000, 34-37-24-0000-0182-0000 and a portion of 33-37-24-0000-0010-0000, and the legal description and sketch being provided in Exhibit 1; incorporating the whereas clauses; incorporating the Development Review Report; and providing an effective date.*

Development Director Hahn advised the Commission and the Public that this item was pulled from the agenda and will place on the February 5th, 2019 agenda.

D. Other

1. *An Ordinance of DeSoto County, Florida, repealing Ordinance 2005-33 and dissolving the StoneyBrook Oaks Community Development district and providing for an effective date.*

Director Hahn gave a brief summary of the Stoneybrook Oaks Community Development District (CDD) which was created in 2005 and stated the owners wanted to dissolve since the development never happened.

Chairperson Martin asked the Commission if there were any questions or discussions there were none. There being no questions of Director Hahn and there being no Applicant or public comment, Chairperson Martin closed the public hearing and requested the Commission begin their deliberations or offer a motion.

Vice-Chairperson Hudson moved to approve the dissolution of the Stoneybrook Oaks Development District which was seconded by Commissioner Provau and which was approved unanimously 4-0.

2. *An Ordinance by the Board of County Commissioners of DeSoto County, Florida establishing the Oak Stone East Community Development District pursuant to Chapter 190, Florida Statutes; Naming the District; Describing the external boundaries of the District; Describing the Functions and Powers of the District; Granting special powers; designating five persons to serve as the initial members of the District's Board of Supervisors; Providing a severability clause; and providing an effective date.*

Director Hahn read the title of the Ordinance into the record and gave a brief PowerPoint Presentation summarizing the findings and conclusions in the staff report. He stated the application was in conformance with state statutory requirements and recommended the Commission forward the record to the Board with a recommendation the ordinance be adopted.

Chairperson Martin asked the Commission if there were any questions for Mr. Hahn. There being none, and there being no applicant or public, the public hearing was closed..

Chairperson Martin requested the Commission to commence their deliberations or offer a motion. Commissioner Via moved to approve the

creation of the Oak Stone East Community Development District which was seconded by Commissioner Provau and which was approved unanimously 4-0.

3. *A Resolution of the DeSoto County Board of County Commissioners amending and restating the Planning and Zoning Division and Engineering Division Fee Schedule as provided in Exhibits "A" and "B" respectively; and providing for an effective date.*

Director Hahn read the title of the Resolution into the record and gave a brief PowerPoint Presentation summarizing the findings and conclusions in the staff report. Upon conclusion of the presentation, Director Hahn stated he would entertain any questions..

Vice-Chairperson Hudson asked if the bio-solid spreading and hauling fees were for contractors or someone spreading bio-solids on their lands. Director Hahn stated there are no changes on the bio-solid hauling and spreading fees. It's only if someone comes in and files an application for bio-solid spreading. Vice-Chairperson Hudson asked if an agricultural land owner contracts with treatment facility and owns his own truck would fees be charged the fees. Director Hahn stated the truck cost would still apply. Mr. Conn stated we needed to do some more research on this matter for agriculture to see if they are exempt.

Chairperson Martin asked for a motion and Commissioner Provau moved to approve the Resolution which was seconded by Vice-Chairperson Hudson and which was approved unanimously 4-0.

- X. **DISCUSSION ITEMS** – None
- XI. **INFORMATIONAL ITEMS** – None
- XII. **NEW BUSINESS** – None
- XIII. **OLD BUSINESS** – None
- XIV. **PLANNING COMMISSION MEMBER REMARKS** – None
- XV. **ADJOURNMENT** - The meeting adjourned at 7:23 p.m.

**PLANNING COMMISSION
DESOTO COUNTY, FLORIDA**

By: _____
William "Bill" Martin, Chairperson

Date