



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes - Final City Commission Special Meeting

CITY COMMISSIONERS

Debbie McDowell, Mayor

Jill Luke, Vice Mayor

Christopher Hanks, Commissioner

Pete Emrich, Commissioner

Vanessa Carusone, Commissioner

APPOINTED OFFICIALS

Peter Lear, City Manager

Amber L. Slayton, City Attorney

Heather Taylor, City Clerk

Monday, June 15, 2020

9:00 AM

Zoom

CALL TO ORDER

Mayor McDowell called the meeting to order at 9:00 a.m.

ROLL CALL

Present: 4 - Mayor Debbie McDowell, Vice Mayor Jill Luke, Commissioner Vanessa Carusone and Commissioner Pete Emrich

Absent: 1 - Commissioner Christopher Hanks

Also Present

City Manager Peter Lear, City Attorney Amber Slayton, City Clerk Heather Taylor, Administrative Service Specialist Becky Frost, Administrative Service Specialist Laura Reed, Police Chief Todd Garrison, Planning Division Manager Nicole Galehouse, Senior Planner Alison Christie and Recording Secretary Ida Goodman.

Mayor McDowell announced there was a quorum.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Carusone.

Ms. Slayton provided a brief introduction relative to the virtual meeting.

1. APPROVAL OF AGENDA

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to approve the agenda as presented. The motion carried on the following vote:

Yes: 4 - Mayor McDowell, Vice Mayor Luke, Commissioner Carusone and Commissioner Emrich

Absent: 1 - Commissioner Hanks

2. PUBLIC COMMENT:

Ms. Frost read the following public comment into the record:

Judy Leach: Commission responsibility

Sarah Harrison: expressed opposition to the 7-11 development

Sandra Harris: expressed opposition to the 7-11 development

Richard Street: expressed opposition to the 7-11 development

Marsha Lynch: expressed opposition to the 7-11 development

Victor Waldron: expressed opposition to the 7-11 development

3. PUBLIC HEARINGS:

[RES. NO. 2020-R-11](#)

A Resolution of the City of North Port, Florida Granting a Special Exception for Petition No. SPX-19-269 to Allow for the Use of a Convenience Store with Fuel Pumps Located Generally at the Intersection of West Price Boulevard and North Cranberry Boulevard in the Neighborhood Commercial High Intensity (NC-HI) Zoning District, Pursuant to the City of North Port Unified Land Development Code Sections 53-179 And 53-259; Providing for Findings; Granting the Special Exception With Conditions; Providing for Severability; Providing for Conflicts; and Providing an Effective Date. (QUASI-JUDICIAL)

Mayor McDowell opened the public hearing, and noted this Special Meeting was originally scheduled for May 26, 2020 for at which time the Commission approved continuing the public hearing to June 15, 2020.

Ms. Slayton provided an overview, recommended the Commission start the meeting as an entirely new meeting due to procedural issues, and spoke to the process for the re-scheduled public hearing.

Mr. Lear noted that the meeting was properly noticed on May 29, 2020 to the citizens and advertised on May 31, 2020 in the local newspaper.

Ms. Taylor noted the aggrieved parties for these items include Stacy Tracy and Maria and John Leslie.

Attorney Jeff Boone, representing the applicant, spoke to Commissioner Hanks' technical difficulties and objected to moving forward without the presence of the full Commission.

Ms. Slayton noted that there is a quorum but the Commission could take a short recess to address the technical difficulties being experienced by Commissioner Hanks.

A motion was made by Commissioner Carusone, seconded by Vice Mayor Luke, to approve a 10 minute recess to allow Commissioner Hanks' technical difficulties to be addressed. The motion carried on the following vote:

Yes: 4 - Mayor McDowell, Vice Mayor Luke, Commissioner Carusone and Commissioner Emrich

Absent: 1 - Commissioner Hanks

Recess was taken from 9:21 a.m. to 9:31 a.m.

Commissioner Hanks joined the meeting at 9:31 a.m.

Mayor McDowell took roll call noting that all five Commissioners and Charter Officers were present.

Ms. Slayton noted that following research, it was recommended that the Commission start today's meeting as a new hearing disregarding any testimony and evidence provided at the previous meeting, notification to all parties, and inclusion of all public comment into the record.

Mr. Lear noted that the public notices have been processed as required.

Ms. Taylor stated the identity of the aggrieved parties.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to approve the Commission conducting new quasi-judicial hearings and disregarding any evidence or other information provided in the May 26, 2020 meeting related to Resolution No. 2020-R-11 for Application No. SPX-19-269, Resolution No. 2020-R-12 for Application No. SPX-19-270 and Development Master Plan DMP-19-280.

Mayor McDowell inquired of the parties if they had any objection with starting the public hearing over.

Mr. Jeff Boone had no objection to starting the hearing over but objected to evidence provided at the May 26, 2020 meeting not being part of the record, and spoke to the City deciding to start over due to concerns over required notice and ex parte communications prior to the May 26, 2020 meeting which were not provided to the applicant prior to the May 26, 2020 hearing.

Staff and aggrieved parties did not object to the hearing starting over.

Ms. Slayton noted that Mr. Boone's objections were not applicable regarding due process, addressed Mr. Boones objections, and confirmed that the previous evidence can be submitted into the record including all public comment received on this item to date.

A motion was made by Commissioner Carusone, seconded by Mayor McDowell, to amend the main motion to allow previous evidence into the record as well as all additional evidence while starting over as intended by the main motion. The motion failed on the following vote:

Yes: 1 - Commissioner Carusone

No: 4 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks and Commissioner Emrich

The main motion carried on the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Slayton noted she reached out to all parties to consolidate the three items and two of the three parties did not agree, spoke to time limits for each procedure, and the Commission should vote to change the time limits with the parties in agreement or to consolidate the items.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to combine Resolution No. 2020-R-11 for Application No. SPX-19-269, Resolution No. 2020-R-12 for Application No. SPX-19-270 and Development Master Plan

DMP-19-280 into one hearing, allowing each party 60 minutes for presentations, 15 minutes for rebuttals and 15 minutes for closing arguments.

Mayor McDowell polled the parties to ensure they were in agreement with the motion.

All parties agreed with the combining of items and the time limits as listed in the motion.

The motion carried on the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Taylor read Resolution 2020-R-11 and Resolution 2020-R-12 into the record and swore in all those wishing to provide testimony.

Mayor McDowell queried Commissioners on ex parte communications. Commissioner Hanks disclosed conversations with Boone Law Firm in July 2019, emails and facebook messages which were submitted to the City Clerk, and meeting with Stacy Tracy in December 2019. Commissioner Emrich disclosed meeting with Stacy Tracy in January 2020, emails submitted to the City Clerk and attendance at the May 26, 2020 Commission meeting. Commissioner Carusone disclosed attendance at the May 26, 2020 Commission meeting and all emails received which were submitted to the City Clerk. Vice Mayor Luke disclosed meeting with attorneys representing the applicant and the developer in July 2019, meeting with Stacy Tracy in December 2019, meeting with Janice Wilbert in January 2020, phone calls, emails and facebook messages which were submitted to the City Clerk, reading editorial letters to the Sun Newspaper, listening to the Planning and Zoning Advisory Board (PZAB) meeting of May 7, 2020 and listening to the May 26, 2020 Commission meeting. Mayor McDowell disclosed that she lives within 1/4 mile of the proposed development, one-on-one with the applicant in July 2019, informed the neighbors regarding the pending development, attended the neighborhood meeting held in December 2019, had various conversations with neighbors regarding the proposed development, had one-on-one meetings with Stacy Tracy and Ms. Wilbert, received the neighborhood letter notifying of May 7, 2020 PZAB meeting, met with neighbors to clarify the PZAB meeting including the next steps, process for public comment and the Commission responsibility to make a determination regarding this development, received emails which have been submitted to the City Clerk, sent emails to citizens regarding the PZAB meeting and Commission meeting which were forwarded to the City Clerk, received a letter notifying of today's meeting, received information from the North Port Police Department regarding various gas stations and the Dollar General which was submitted to the City Clerk, a facebook post requesting input which was declined and sent to the City Clerk, attended the May 26, 2020 Commission meeting, and read articles and editorials in the newspaper regarding this development.

Stacy Tracy, aggrieved party, being duly sworn, noted that an email was mistakenly sent to a Commissioner through a group email and should be discarded.

Subsequent to Attorney Jeff Boone, representing the applicant and being duly sworn, noting the email reference from Ms. Tracy should be confirmed that it was not part of her presentation, Ms. Tracy acknowledged that the email reference was not part of her presentation.

Attorney Jackson Boone, representing the applicant and being duly sworn, introduced those present, provided an overview of the applications, appropriate codes regarding waivers, location and roadway designations of the project, and the Development Master Plan (DMP) map.

Robert Fletcher, Bass Fletcher and Associates, State Certified General Appraiser, being duly sworn, testified he has reviewed the site plan, the distance and buffers are sufficient to mitigate property values, and comparison of five examples with similar buffers.

Mr. Jackson Boone continued with his review of the DMP map including the site plan, vehicle access, height of store, fuel canopy and car wash and fuel tank system.

Neil Campbell, APAIM, being duly sworn, testified to the storage tank criteria, state regulatory standards and financial responsibility requirements, state rules and Federal Code, vapor protection regulations from the U.S. Environmental Protection Agency (EPA), regulatory enforcements for fuel standards and hazardous event regulations, safeguards within the pumps and above ground dispensers, periodic testing requirements and any fuel pump operator requirements.

Ms. Taylor noted that the material reviewed by Mr. Campbell was provided in the backup material.

Mr. Boone reviewed the lighting plan and noted a traffic study was conducted.

Michael Raysor, Raysor Transportation Consultants, being duly sworn, testified he performed the traffic study, noted the trip generation for this site and provided clarification on the process for developing a traffic study.

Mr. Jackson Boone spoke to the fiscal impact analysis by staff, the approximate fiscal increase, review of the professional environmental assessment, requested waivers and staff approval recommendations, and special exemption requests for fuel pumps and car wash with staff recommendations.

Jennifer Cowan, Bryant Miller Olive Law Firm, representing the City, being duly sworn, provided a presentation including background, project location, DMP proposal, zoning, waivers, staff analysis, staff review, advertising, and recommended action.

Nicole Galehouse, Planning Manager, being duly sworn, provided a presentation including DMP proposal, staff analysis on the waivers for consistency with Florida Statue, Comprehensive Plan and Unified Land Development Code (ULDC) special exception criteria, staff review and notice requirements and staff recommended actions.

Recess was taken from 11:42 a.m. to 12:15 p.m.

Mayor McDowell took roll call noting that all five Commissioners and Charter Officers were present and Commissioners reported no ex parte communications during recess.

Ms. Tracy, provided background information and a presentation reflecting objections to the development including commercial and residential developments in North Port, the proposed development design, community concerns, history and intent of the neighborhood commercial zone, neighborhood objections, special exceptions and waivers, traffic flow pattern, convenience store and local commercial development criminal activity, fire department responses in commercial developments, rodent infestation, litter and criminal activity in neighborhoods near commercial developments, North Port police reports regarding criminal activity and traffic issues, fuel spillage and gas fume issues, health and safety of neighboring residents, emails submitted objecting to the development, possibility of other locations for this development, PZAB action and board member misunderstanding of the project.

Maria Leslie, aggrieved party, being duly sworn, noted her objections to the proposed development including hours of operation and deliveries in Neighborhood Commercial High Intensity (HC-HI), special exception approval, criteria for a special exception, fuel spillage and gas fume issues, public health issues, vehicle and pedestrian traffic flow issues, fuel tank and well water issues, criminal activity in neighborhoods near gas station/convenient store developments, debris accumulation, location of other gas stations/convenient stores in North Port, property values near commercial developments, emails and posts objecting to this development, and developing the property as a acceptable benefit to the neighborhood.

Mayor McDowell noted that the presentation portion of the procedure was concluded and the rebuttal portion would start.

Mathew Gillespie, Kimley Horn Project Manager, being duly sworn, provided a rebuttal addressing the easement designs, water system concerns, spill prevention plan and vapor concerns.

Following Mr. Jackson Boone's request to correct the report on the PZAB recommendations, Ms. Galehouse clarified that the PZAB approved the development with a reduction in the number of fuel pumps to 14.

Mr. Jackson Boone rebutted the crimes, fires and gas leak reported by Ms. Tracy noting they were not as reported, questioned Ms. Tracy regarding the photo of the 7-11 used in her presentation, and noted the photograph submitted was a 7-11 in Taiwan.

Mr. Jeff Boone clarified special exception and waiver regulations, presented an alternative development plan, spoke to meeting City code standards which could be developed, traffic concerns, and requested that the Commission make their decision based on the Price Boulevard widening.

Ms. Galehouse clarified the code allowing for convenience store, gas station and car wash special exemptions and waivers, the PZAB member request for clarification for the proposed development, noted that the police are available to address any crime issues. and that the presented conceptual plan is not in compliance with code.

Ms. Tracy, in rebuttal, noted the crimes she presented were reported in the North Port Sun Newspaper and police reports, the letter presented following the PZAB meeting did indicate a misunderstanding of the project, the conceptual plan does not apply, comparison of properties provided by the applicant were on commercial zoned properties or adjacent to vacant lots, traffic issues are relevant to the neighborhood, buffer issues for commercial development in relation to residential homes, neighborhood property values decreasing with this development, and disputed the information provided regarding fuel pump, fuel tanks and vapor omission safeguards.

Mr. John Leslie, aggrieved party, being duly sworn, questioned the developer's method of determining neighborhood concerns and reiterated objections to this development.

Ms. Reed and Ms. Frost read the following public comment into the record:

Keith Brown: expressed opposition to development
Jennifer Lafo: expressed opposition to development
Janice Wilbert: expressed opposition to development
Katherine: expressed opposition to development
Thomas Germann: expressed opposition to development

Alice White: expressed opposition to development
C.J. Baker: expressed opposition to development
Joann Butenhof: expressed opposition to development
Gabe Tracy: expressed opposition to development
Stephanie Posey: expressed concern with traffic
Jason Cachia: expressed opposition to development
David Iannottii: expressed opposition to development
Jennifer Perry: expressed opposition to development
Cameron Burkhart: expressed opposition to development
Alexis Marie: expressed opposition to development
Carl Hilbers: expressed opposition to development
Marissa: expressed opposition to development
Steven Harrison: expressed opposition to development
Diane Harrison: expressed opposition to development
Kenneth Lafo: expressed opposition to development
Laura Stuck: expressed opposition to development
Sarah Hayes: expressed opposition to development
Ryan Hayes: expressed opposition to development
Nancy Fearn: expressed opposition to development
Deborah Mays: expressed opposition to development
Dennis Burkhart: expressed opposition to development
Kristin Padalik: expressed opposition to development
Jennifer Burkhart: expressed opposition to development
Joanne Butenof: expressed opposition to development
CJ Baker: reading of previous public comment
Richard Schreep: expressed opposition to development
Judy Leach: expressed opposition to development

Recess was taken from 2:11 p.m. to 2:21 p.m.

Mayor McDowell took roll call noting that all five Commissioners and Charter Officers were present. Vice Mayor Luke reported she received a letter opposing the development and Commissioners reported no other ex parte communications during recess.

Questions from the Commission ensued regarding the undeveloped buffer with potential for improvements, the public art requirement, permitted uses allowable by special exemptions and waivers, the special exemption and waiver process, gas storage tank size for 16 pumps versus 14 pumps, location of fueling stations, establishment of neighborhood commercial zoning, striping for an entrance/exit on Cranberry Boulevard and staff recommendations, inability to add more fuel pumps in the future without redeveloping the site, fuel truck delivery schedules, routes and perimeters, the dumpster location, distance between the dumpster and buffer, monument sign design standards, size of the undeveloped property, sidewalk engineering design, lighting standards and timed lighting reduction, retention pond location and maintenance responsibility, height of the building, potable water and sewer connection and lift station installation.

A motion was made by Commissioner Carusone, seconded by Vice Mayor Luke, to recess the meeting for 10 minutes. The motion carried on the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Recess was taken from 3:10 p.m. to 3:20 p.m. due to Mayor McDowell's technical issues.

Mayor McDowell took roll call noting that all five Commissioners and Charter Officers

were present and Commissioners reported no ex parte communications during recess.

A summary of issues discussed during technical issues was provided to Mayor McDowell.

Ms. Taylor swore in Darrell Smith, Construction Inspector Supervisor, who responded to Commission questions regarding utilities including water main on Cranberry and Price Boulevards, installation of private lift station and payment of water and sewer capacity fees.

Further questions were addressed including car wash runoff, noise ordinance, gas station examples open 24/7, the distance of the Lowe's building to the residential homes, applicant's traffic study, economic fiscal impact analysis, park impact fee use, PZAB recommendation, ownership of the conservation easement, property values, buffer wall on the driveway on Price Boulevard, Unified Land Development Code (ULDC) regulations regarding the sale of propane tanks, proposed size of vegetative buffering, conservation area and retention pond maintenance responsibilities, and protections in place for fuel spillage through normal activity.

Elizabeth Wong, Stormwater Manager, being duly sworn, spoke to pond maintenance, size and development requirements, a trench drain being installed to capture fuel and oil spillage and a fuel vapor recovery system being installed.

Additional questions were addressed regarding generator availability to regulate fuel tank operations and hurricane plans, safeguards for fuel pump hazards, alcohol sales, check cashing services, the proposed lift station location, requirements and installation process, fuel truck delivery requirements and regulating delivery hours, the timeline of the receipt of this application, and criminal activity safeguards.

Ms. Leslie provided closing arguments citing ULDC referencing the intent of a neighborhood commercial district and location of commercial developments adjacent to residential areas, appropriate uses within a neighborhood setting, disruption of commercial developments on adjacent neighborhood area, traffic flow and noise issues, more appropriate locations for this type of development, her property location effected by the proposed driveway and buffer, and the neighborhood's input supporting her opposition to this development.

Ms. Tracy provided closing arguments noting her time researching the issues regarding this development, truck delivery time provided by the local 7-11, the lack of generator availability when a weather event could happen damaging fuel equipment, 24 hour operation would violate noise ordinances and create traffic issues, fuel vapors will be apparent to nearby residents, buffers will not mitigate noise, traffic flow and fuel vapors, possible criminal activity, and Mr. Boone's expert witnesses lack of document submission.

Ms. Cowen provided closing arguments on behalf of staff noting that staff recommends approval the DMP 19-280 with conditions 1 through 5 and denial of waiver 2, the testimony and evidence support, Resolution 2020-R-11 for SPX 19-269, with conditions, if the Commission denies the special exception for the fuel pumps then staff would recommend denial of waiver 1 with regard to the signage.

Mr. Jeff Boone provided closing arguments in support of the project including site design, willingness to relocate Price Boulevard driveway, crime statistics, traffic and market statistics, disputed Ms. Tracy's testimony noting no expert testimony was provided by

Ms. Tracy.

Mayor McDowell closed the public hearing.

Recess was taken from 5:05 p.m. to 5:15 p.m.

Mayor McDowell took roll call noting that all five Commissioners and Charter Officers were present and Commissioners reported no ex parte communications during recess.

Ms. Slayton noted a code provision for section 53-259(3) of the ULDC needs to be corrected in the suggested motions, and provided direction on how to make the motions with a clear understanding.

A motion was made by Commissioner Carusone, to approve Resolution 2020-R-11 pursuant to the City of North Port Land Development Code Section 53-259 providing for findings granting the Special Exception, proper notice was provided, granting the special exception will not adversely affect the public interest, health, safety and general welfare; the specific requirements in the schedule of district regulations governing the individual special exception have been met; and the 16 standards listed in section 52-259(3) of the Unified Land Development Code have been met with the following conditions:

(1) the allowable flow from the site that can be discharged into Price Boulevard cannot exceed the flow permitted in the drainage model that was approved by Southwest Florida Management Water District in permit 43044411.000 issued February 13, 2020

(2) limiting no more 14 pumps

(3) limit the delivery of products and gas to no deliveries during the school bus off loading times of 2:30 p.m. to 5:30 p.m. during the school year while school is in session and in addition times that comply with section 46.42 of the Administration Code which is nothing prior to 7:00 a.m. and nothing after 10:00 p.m. The motion failed for lack of second.

A motion was made by Vice Mayor Luke, seconded by Mayor McDowell, to deny Resolution No. 2020-R-11 and find that, based on the testimony and evidence provided: granting the special exception will adversely affect the public interest, health, safety and general welfare: all of the 16 standards listed in section 53-259(3) of the Unified Land Development Code have not been met; and the competent substantial evidence does not show in items:

(a) The proposed use shall be consistent with the intent, goals objectives, policies and programs of the City of North Port Comprehensive Plan and the intent of the zoning district as defined in this Unified Land Development Code for the area in which the property is located.

(b) The density or intensity of the proposed use shall be consistent with the intended future use of the designated land use area in which the property is located, in accordance with the provisions of the Future Land Use Plan Map contained in the Comprehensive Plan.

(c) The proposed use, singularly or in combination with other previously approved special exceptions, must not be detrimental to the health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the neighborhood or adjacent uses; and shall be an economic benefit to the economy of the City.

(d) The intensity of the proposed use shall be harmonious with the character of other uses in the neighborhood.

Reasons primarily in each of those being that the intent and intensity of the development is contrary to it but the remaining of the standards were met.

Discussion ensued regarding location, intent of a Neighborhood Commercial High

Intensity (NC-HI), the health, safety and welfare of the community, the standards as noted in the motion, economic viability to the City, services readily available in other near by areas, type of businesses intended for NC-HI, the ULDC, Code and Comprehensive Plan addressing this type of development, the need for economic development, the conditions and mitigations to address concerns, a reasonable tax base to benefit the citizens, and the expressed concerns regarding fuel and noise issues.

The motion carried on the following vote:

Yes: 4 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks and Commissioner Emrich

No: 1 - Commissioner Carusone

Commissioner Carusone noted her reasons for dissent including she believes the requested special exception meets all 16 standards, the intent of NC-HI have been met and concerns could have been addressed through conditions and mitigation such as reducing the hours of operation.

**[RES. NO.
2020-R-12](#)**

A Resolution of the City of North Port, Florida Granting a Special Exception for Petition No. SPX-19-270 to Allow for the Use of a Convenience Store With Car Wash Located Generally at the Intersection of West Price Boulevard and North Cranberry Boulevard in the Neighborhood Commercial High Intensity (NC-HI) Zoning District, Pursuant to the City of North Port Unified Land Development Code Sections 53-179 And 53-259; Providing for Findings; Granting the Special Exception With Conditions; Providing for Severability; Providing for Conflicts; and Providing an Effective Date. (QUASI-JUDICIAL)

This item was discussed under Resolution No. 2020-R-11.

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to deny Resolution No. 2020-R-12 and find that based on the testimony and evidence provided: granting the Special Exception will adversely affect the public interest, health, safety and general welfare: all of the 16 standards listed in section 53-259(3) of the Unified Land Development Code have not been met; and the competent substantial evidence does not show:

(a) The proposed use shall be consistent with the intent, goals and objectives, policies and programs of the City of North Port Comprehensive Plan and the intent of the zoning district as defined in this Unified Land Development Code for the area in which the property is located.

(b) The density or intensity of the proposed use shall be consistent with the intended future use of the designated land use area in which the property is located, in accordance with the provisions of the Future Land Use Plan Map contained in the Comprehensive Plan.

(c) The proposed use, singularly or in combination with other previously approved special exceptions, must not be detrimental to the health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the neighborhood or adjacent uses; and shall be an economic benefit to the economy of the City.

(d) The intensity of the proposed use shall be harmonious with the character of other uses in the neighborhood.

The remainder are compliant.

Vice Mayor Luke noted her comments are the same as Resolution No. 2020-R-11 and Commissioner Emrich was in agreement.

Commissioner Carusone noted the intent of the NC-HI, mitigation and conditions addressing concerns, the special exception requested meeting the 16 standards, reducing the hours of operations and proposed car wash runoff system. .

Mayor McDowell noted the Comprehensive Plan, economic benefits, the fuel pumps and car wash noise and drive through factors.

The motion carried on the following voice vote:

Yes: 4 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks and Commissioner Emrich

No: 1 - Commissioner Carusone

[CC](#)
[DMP-19-280](#)

Development Master Plan, 7-11 Full-Service Convenience Store (QUASI-JUDICIAL)

This item was discussed under Resolution No. 2020-R-11.

A motion was made by Vice Mayor Luke, seconded by Mayor McDowell, to deny DMP-19-280 and find that, based on the competent substantial evidence:

(b) The proposed Development Master Plan does not comply with the City of North Port Comprehensive Plan, the zoning regulations or other sections of the Unified Land Development Code and other laws, ordinances, and regulations.

Specifically the 24 hour operation waiver.

Ms. Slayton noted that the motion is unclear as to what law or section of the Comprehensive Plan the requested DMP does not comply and the suggested waivers only apply if approved and needs to be specified in the motion for the motion to be sufficient.

Discussion ensued regarding the waiver for 24 hours of operation, the DMP being granted without approving the 24 hour operation, the denied special exceptions and approving the DMP, the possible development in denying the DMP, review of the requested waivers, clarification on approval of the DMP and DMP with waivers, and the need to re-do the DMP if approved without waivers.

Vice Mayor Luke withdrew her motion and Mayor McDowell withdrew her second.

Ms. Galehouse noted that staff recommends that if the DMP is approved, it is approved with the removal of the fuel pumps and carwash and that the site would need to be modified.

Discussion continued regarding approving a DMP as presented with the removal of special exceptions and the major site and development review addressing the changes in the DMP leaving the stormwater pond, convenience store and general layout for review.

A motion was made by Commissioner Carusone, seconded by Commissioner Hanks, to approve the Development Master Plan 7-11 with the special exceptions as previously stated being removed specifically the gas station and the carwash and addressing the waivers:

(1) The applicant request as per the monument sign is allowed, however it will meet the nearest activity center design standards while keeping with the 7-11 trademark or any other trademark it deems necessary.

(2) To not allow a 24 hour/7day operation but to allow a limited 5:00 a.m. to 11:00 p.m. operation 7 days a week.

(3) To allow a buffer zone only.

(4) To provide bollards instead of wheel stops.

The DMP meets all of the criteria.

Ms. Cowen noted that waiver number 1 in the motion is referring to a gas station signage and if there is not going to be a gas station, this would not apply.

Ms. Slayton noted that if there are modifications to the DMP and to deliberate the question, the public hearing would have to be reopened and the motion on the floor can stand.

Ms. Galehouse spoke to the DMP approval process, normal hours of operation for a convenience store in a neighborhood commercial zone, and monument sign design standards.

A motion was made by Commissioner Hanks, seconded by Vice Mayor Luke to reopen the public hearing. The motion carried on the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Addressing questions Ms. Galehouse addressed waiver number 1 regarding monument sign and noted without fuel pumps staff does not recommend approval of this waiver.

Mr. Jeff Boone noted he is satisfied with the record as presented and has no further testimony.

Ms. Tracy and Ms. Leslie had nothing to add.

In addressing a question regarding designing a buffer to shield the two properties which could be effected by the lights and flow of traffic, Mr. Jeff Boone reiterated that he is satisfied with the record as presented and has no further testimony.

It was clarified that the conditions and waivers should be addressed with the motion regarding approval of the DMP.

Mayor McDowell closed the public hearing.

Noting further questions, Ms. Slayton clarified that the public hearing should reopen.

A motion was made by Vice Mayor Luke, seconded by Mayor McDowell, to reopen the public hearing. The motion carried on the following voice vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Cowen inquired if the applicant wants to proceed with the DMP considering the special exceptions have been denied.

Mr. Jeff Boone reiterated they are satisfied with the record as presented and have no further testimony.

Addressing a question, Ms. Galehouse clarified that the 5 conditions will apply with or without the special exceptions being granted.

Ms. Slayton noted that the motion is to modify the DMP and the applicant should be polled as to if they are willing to modify their DMP to remove the carwash and the fuel stations.

Mayor McDowell inquired if the applicant is willing to change the DMP.

Mr. Jeff Boone noted that staff recommended approval of the DMP and the applicant is not in agreement with any modifications to the DMP.

Ms. Galehouse clarified that if the motion passes, the DMP would be based on the motion and the special exceptions would not be approved.

Mayor McDowell closed the public hearing.

Commissioner Carusone withdrew her motion and Commissioner Hanks withdrew his second.

A motion was made by Commissioner Carusone, seconded by Commissioner Hanks, to approve the DMP as presented with the conditions recommended by staff.

Ms. Slayton noted the language requirements for the motion and stated the motion was not sufficient..

Commissioner Carusone withdrew her motion and Commissioner Hanks withdrew his second.

A motion was made by Commissioner Carusone, seconded by Commissioner Hanks, to approve the Development Master Plan based on competent and substantial evidence pursuant to the City of North Port Unified Land Development Code 53-7 including all waivers and conditions approved by staff excluding waiver 1 which is no longer necessary.

Clarification on the motion was requested including the denied special exceptions of the DMP and clarification of the waivers, conservation easement, buffer wall by the 2 entrances, landscape buffer to shield the ingress and egress for residents, and the motion stating as waivers recommended by staff which removes the 24 hour operation.

Commissioner Carusone clarified her motion noting approval of the 4 waivers with the conditions and those that were denied by the staff, the special exemptions being design, the 7-11 would be developed with a walking path and park dedicated to the City, waiver 2 did not have support and would not be part of the DMP, waiver 3 supported a passive park replacing the standard buffer, waiver 4 had staff support and that is what would be voted on.

The motion failed on the following vote:

Yes: 2 - Commissioner Hanks and Commissioner Carusone

No: 3 - Mayor McDowell, Vice Mayor Luke and Commissioner Emrich

Mayor McDowell, Vice Mayor Luke and Commissioner Emrich stated they dissented due to the motion not being a clear motion and more information needed on the DMP.

Commissioner Hanks noted the motion was to approve a convenience store without the 24 hour of operation.

Ms. Slayton noted that the motion language should include the findings and listing the waivers which are approved or denied.

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to approve DMP 19-280 taking out the special exceptions with the following

conditions:

(1) The allowable flow from the site that can be discharged into Price Boulevard, cannot exceed the flow permitted in the drainage model that was approved by SWFMWD in Permit 43044411.000 issued February 13, 2020.

(2) The allowable flow from the site that can be discharged into Cranberry Boulevard, cannot exceed the existing condition flow into Cranberry Boulevard.

(3) The driveway connections to Price Boulevard and Cranberry Boulevard shall have structural channeling devices to limit to right-in/right-out access.

(4) The Price Boulevard driveway connection and storm drainage discharge connectivity may need to be revised to existing conditions of Price Boulevard, if the proposed development is constructed before the Price Boulevard Widening Project construction phase is completed. Refer to Stormwater Manager comments regarding stormwater discharge volume and flow rate in Condition 1.

(5) The construction phase of the Price Boulevard Widening Project is anticipated to last several years from start to finish and the development shall expect associated business impacts.

Based on the competent and substantial evidence the Development Master Plan meets the standards in Section 53-7 of the Unified Land Development Code having the 5 conditions and approving waiver 3 buffer for conservation area only and waiver 4 to allow for bollards rather than wheel stops.

Mayor McDowell passed the gavel to Vice Mayor Luke.

A motion was made by Mayor McDowell, seconded by Commissioner Carusone, to amend the motion to include the 7-11 design standards would be for the nearest activity center keeping the 7-11 coloring and brand, the buffer wall adjacent properties to the 2 entrances ingress and egress, the one on Price Boulevard and the one on Cranberry Boulevard to include a buffer wall and landscape buffer for both of those residents.

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

The main motion as amended carried as follows:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

The gavel was returned to Mayor McDowell.

4. PUBLIC COMMENT:

There was no public comment.

Mayor McDowell recognized the efforts of the applicant, aggrieved parties and staff.

5. ADJOURNMENT:

Mayor McDowell adjourned the meeting at 6:55 p.m.

City of North Port, Florida

By: _____
Debbie McDowell, Mayor

Attest: _____
Heather Taylor, City Clerk

Minutes approved at the Commission Regular Meeting this ____ day of _____, 2020.