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BOARDROOM REPORT

News from recent REIS board meetings

Luncheon Programs:

Redevelopment opportunities with brownfield sites will be the focus of the August luncheon, with speaker Janet Peterson. Sponsored by [Roetzel & Andress](#).

The September 11 luncheon will be sponsored by [Brooks & Freund](#). [Ackerman Senterfitt](#) will sponsor the October luncheon.

REIS welcomes suggestions for programs from members. Please convey your ideas to [Steve Hurley](#), 239.337.3330. Sponsorships for future luncheons, workshops and social events are available. Contact [Jean Gruss](#) for details. (239.275.2230).

Scholarship Programs:

Scholarship Committee chairs Matt Simmons and Lisa Sands are seeking applicants for scholarships to be awarded this fall. Qualifying criteria and contacts for submitting applications at the participating universities and colleges are on the [REIS website](#).

Horizon Council:

Kevin M. Fitzgerald, REIS representative to the Horizon Council, reports that the annual Industry Appreciation banquet and awards ceremony will be September 21 at Harborside Event Center in Fort Myers.

Gala Social Event:

The REIS annual party will be at The Edison restaurant on November 15. To assist in planning or to reserve prime sponsorship positions contact Event Chair [Robin Mixon](#) at (239) 334-6870 or 872-3273.

Reception For Lee Commissioners:

The popular bi-annual reception will take place after the November elections at Edison National Bank and will be sponsored by Edison National Bank and Henderson Franklin Attorneys at Law. This festive gathering is exclusively for REIS members and their guests.

NEW REIS MEMBERSHIP OPPORTUNITY ANNOUNCED

A limited number of 2012 REIS memberships remain available and the annual dues have been deeply discounted to just \$50 for those who join in July. The new members will be entitled to full membership benefits, including member rates for luncheons and the upcoming educational workshop, and invitations to the exclusive member social events later this year. You will also be entitled to renew the membership in 2013.

Now is the perfect time to renew a lapsed membership or encourage business associates and fellow professionals to join REIS. Just submit the [membership application](#) on the REIS website. Dues may be paid online with VISA or MasterCard or by mailing a check.

REIS WORKSHOP SCHEDULED

Public-Private Partnerships will be the focus of a panel discussion and interactive workshop presented by REIS on September 14 at Florida Gulf Coast University.

The panel discussion, with an impressive roster of regional and local speakers, including noted consultant Lowell Clary, Chris Hodgkins from MAT, George Burgess from Becker & Poliakoff, Don Paight from the City of Fort Myers, and a consulting engineer. The program is sponsored by Becker & Poliakoff, PA, and HSA Engineers & Scientists.

Education Committee chairs Steven P. Kushner and Karen Miller are finalizing the agenda and will announce the itinerary and registration details shortly. Prime sponsorship opportunities are available. Contact [Steven](#) (239.433.7707) or [Karen](#) (239.936.4003) for details.

LET'S MIX IT UP

REIS members are invited to join with members of other development industry organizations at 5:30 on August 28 at Royal Palm Yacht Club for the annual mixer and exhibition. Details and registration at [Lee Building Industry Association \(BIA\)](#).



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END OF SELLER FINANCING?

The federal government is proceeding toward January implementation of laws that would severely restrict seller financing, which would limit builder and developer options for financing housing units in a difficult credit market. Key issues include a limit of 3 residential carrybacks within a 12-month period, loans must be fully amortizing, and you must verify the borrower's ability to repay. In addition, loans with rate adjustments or balloon payments within the first 5 years are prohibited unless created by a licensed loan originator.

The regulations were initiated by the Secure and Fair Enforcement for Mortgage Financing Act (SAFE Act) of 2008 and amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA) in 2010. Compliance was transferred to the Consumer Financial Protection Bureau (CFPB) in 2011. The CFPB has until January 2013 to make any changes to the regulations, which would then become effective January 2014. If the CFPB does not make changes, the regulations take effect in January 2013.

CAPE EASES DEVELOPMENT REGS

Cape Coral City Council is considering new Land Use and Development Regulations (LDRs) for the Community Redevelopment Area. The new LDRs are intended to be clearly defined, establish a predictable review process, and provide greater flexibility for development or redevelopment.

HAZARDOUS WILDLIFE AMENDMENT

Lee County Port Authority has submitted a proposed amendment to the Lee Comprehensive Plan designed to minimize wildlife hazards and "wildlife attractants" that attract such wildlife, with the primary concern being birds. "Wildlife attractants" include any man-made structure, land use practice, or man-made or natural geographic feature that can attract or sustain hazardous wildlife. The plan would prohibit most wetland mitigation within a 5-mile radius of Page Field Airport and SWF International Airport, which involves about half of the county. Both public and private lands would be affected. County staff is now reviewing the amendment and public hearings will be scheduled in the coming months.

TRANSFER DEVELOPMENT RIGHTS

Southwest Florida counties are taking a fresh look at the Transfer of Development Rights (TDRs) as a means to stimulate development and generate revenue. Sarasota County is presently discussing a proposal to sell the rights to development units that came with land bought for conservation. The resulting dwelling units would be built on developer-owned property while the county would use the proceeds from selling the TDR units to buy and maintain environmentally sensitive property. Sarasota staff recommends TDR units be priced at up to 5% of the property's assessed value or a few thousand dollars each, which has been criticized by environmental groups as a sell-out to developers.

Lee County staff is discussing a TDR option with 20/20 conservation lands. One issue is whether development rights can be resurrected from lands that have been reclassified as conservation, with no development rights.

Collier County initiated a TDR program in 2005 that would allow property owners to retain TDR units when selling land to Conservation Collier, thereby reducing the price the county paid for land.

COLLIER ECONOMIC DEVELOPMENT

Collier County is forming the Collier County Government Office of Business and Economic Development to promote a better business climate and break down barriers to business growth. The office replaces the Economic Development Council of Collier County, a nonprofit partnership between government and business, which closed in September. Local businesses and organizations recently formed The Partnership for Collier's Future Economy, which is focused on helping existing businesses grow. The Greater Naples Chamber of Commerce led the formation of that organization.

MARKET INSIGHTS

Lynda McNally, of Hanley Wood Market Intelligence, will analyze SW Florida market trends, distressed real estate inventory, buyer demographics, funding sources and future demand at the July 24th meeting of the Lee Building Industry Association (BIA). Open to members and non-members. Details and registration at www.bia.net.

Advertise your business here!
Contact Bill Burdette for details:
(239) 936-1404
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ZONING & PERMITTING EFFICIENCY

The Business Issues Task Force of Lee County's Horizon Council, chaired by former REIS President Russell Schropp, has presented County Commissioners with the following recommendations.

Business Issues Task Force Final Recommendations Regarding Zoning and Permitting Efficiency

I. Sufficiency Review Processes. The goal should be to achieve sufficiency in a large majority of both rezoning and development order cases after just one sufficiency round. Both administrative changes and legislative changes should be implemented, including the following:

Required conferences between staff and applicant after the first sufficiency review to clarify issues and facilitate correct and final re-submittals. This change has been implemented administratively by the Director of Community Development ("Director").

In the zoning process, issue a finding of "sufficiency" subject to submittal of minor clarifications or changes within a specified number of days so as to allow scheduling of matter for hearing. This change is also being implemented administratively by the Director.

Elimination of new comments and questions raised after an insufficiency letter has been sent. Issues not raised during the initial sufficiency review should not be the basis for a finding of insufficiency during subsequent sufficiency rounds. This change should be implemented administratively by the Director, but should also be supported by legislative change.

Right of Applicant to terminate the sufficiency review process under LDC Chapter 34 (non-mining) cases after two sufficiency rounds and proceed to Hearing Examiner (subject to possible Staff recommendation of denial based upon the failure of the applicant to meet its initial burden of proof). This change can be implemented administratively to a certain extent, but should be supported by legislative change.

II. Issues Regarding Various Submittal Requirements: Recurring issues have been identified with certain submittal requirements for rezonings and development orders. The following recommendations are made:

The requirement for an updated and sealed legal description and survey for all development orders and rezonings should be a waivable requirement. This change is being implemented by staff but should be supported by legislative amendment. The issue regarding "gap" affidavits needs to be addressed by the county attorney.

The narratives required by the LDC as part of the rezoning process for comp plan consistency and compliance with LDC requirements should not be the subject of sufficiency review. This change is being implemented administratively.

Minor improvements to buildings, parking areas, and similar items should not require an upgrade in buffering or landscaping, even to the extent reasonably possible. Common sense application (or non-application) of landscaping and buffer requirements should be made to minor improvements and site alterations. This change is being implemented administratively.

III. Expediting the Rezoning Process: The following changes are recommended to expedite the rezoning process.

Greater use of conventional zoning districts should be encouraged. This change can be implemented administratively, but will also require the support of the County Commission in actual practice. It should be possible to use the conventional zoning categories without being forced to answer all of the sufficiency questions normally associated with Planned Developments. Through the development review process and the standards in LDC Chapter 10 Lee County has some very strict site planning requirements imposed on all developments of any significant size in the county. Conventional zoning should not be discouraged, but should be expedited with the recognition that the development details can be addressed through the LDC Chapter 10 Development Order process. In many respects, the details of the Planned Development rezoning process simply duplicate (or perhaps accelerate) the requirements of getting a DO.

Amend the code to provide additional authority for staff approved administrative amendments to planned developments and amend the code to broaden those items that may be approved as administrative deviations. These changes require legislative amendment. The goal is to increase the flexibility for administrative action and eliminate the need to go back through the entire zoning process for changes that are reasonable and not contrary to the public interest. Specifically, increased flexibility needs to be provided with regard to such changes as: (1) buffers; (2) changes on the perimeter of projects that do not have **significant** external impacts; and (3) reductions in open space that do not exceed 10% of what was required under a zoning approval, so long as the reduction does not exceed the minimum open space required by Code.

ZONING & PERMITTING EFFICIENCY

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IV. MCP Renewals: As the recession ends, more focus will be shifted to planned development rezonings that have Master Concept Plans or phases that have expired or will be expiring shortly. Presently, the Code requires that a development order be obtained for a certain percentage of development approved by the MCP, or the MCP will expire.. The following recommendation is made:

Remove the automatic expiration of MCPs. This recommendation is supported by several policy reasons. (1) There is no public policy served by obtaining development orders before the market is ready for construction of the approved industrial, commercial or residential planned development. (2) The approval of a development order that is obtained simply to protect the duration of the MCP is counted against the Community Planning District allocation. (3) The expiration of an MCP leaves the property in somewhat of a "zoning limbo" in which the PD zoning remains on the property but the owner has no development rights because the MCP has been vacated. (4) The time and cost of proceeding through the PD zoning process and obtaining MCP approval should "vest" the project from expiring. (5) No such similar expiration occurs for conventional rezonings.

V. Community Plan Review Processes Should Be More Streamlined, Predictable and Productive: The number of community plans in effect has increased through recent years, along with the requirement to undergo review by a community planning panel. The scheduling and completion of these meetings is often unpredictable, costly and time-consuming. For minor matters and matters that propose minor changes to already approved development, the review results in delay and cost that is unnecessary. The following recommendations are made with regard to community planning panel review of (A) Development Order applications, and (B) Zoning applications:

A. Development Orders: Unless a specific requirement already exists in an adopted Community Plan, review of Development Order applications by Community Planning Panels should not be required. If the requirement already exists within a Community Plan, the requirement should be removed. If not removed, Limited Review Development Orders should not require community review/public informational session.

B. Zoning: Review of zoning applications by Community Planning Panels should be limited by the following:

Administrative amendments to PDs, administrative deviations, and other such administrative actions should not be subject to public presentation before community planning panels. If Staff has determined the proposed change to be administrative, the change is minimal in nature and should not necessitate the extra time and cost of a presentation to a community planning panel.

The Applicant should not be required to respond or modify applications based upon concerns/issues raised at community planning panel meetings in order to have the application deemed sufficient for scheduling. Insufficiency comments and/or staff recommendations for denial should only relate to the application's compliance with the Lee Plan and LDC, including community specific design criteria. A key issue is the interpretation of the language "*a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised*". This language should not be used to delay sufficiency or proceeding through the permitting process. If the applicant is unable or unwilling to respond to issues raised by a Planning Panel, a sufficiency finding should not be withheld.

Review of zoning actions by a Community Planning Panel for property outside of the Panel's Community Plan should not be permitted or required.

A uniform procedure for public presentations before community planning panels should be established. Variations between community planning panels undermine predictability in the process. Such variations include fees for placement on panel agendas, "continuances" of meetings requiring repeat presentations and delays, timing for placement on agendas, and different procedures established by multiple planning panels within a single planning district.

The Lee County Board of County Commissioners is expected to discuss the recommendations in the next few months. Meetings and public hearings will be posted on the calendar on the REIS website.