

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
January 8, 2020

Agenda Item:

Consider a settlement agreement between CHHCLA Investments, LLC and the Village of Estero pertaining to property at 20170 South Tamiami Trail, at the intersection of US 41 and Trailside Drive.

Description:

This is a request for relief under the Florida Land Use and Environmental Dispute Resolution Act (Florida Statute Chapter 70.51) for a 0.4 acre site located at the intersection of US 41 and Trailside Drive.

Chronology –

The applicant was cited by Code Enforcement in 2016 for operating a granite sales business without a use permit. When the owner/tenant applied for the use permit, it was determined that there were encroachments onto the road right-of-way, and also that variances would be needed.

The Code Enforcement case was scheduled at the Special Magistrate and was continued several times to enable the applicant to pursue the variances. The variances were heard by the Planning and Zoning Board on August 20, 2019, and were denied.

The applicant subsequently filed an appeal of the Planning and Zoning Board decision to the Council, but before that was scheduled, the applicant filed a “Request for Relief” under the Florida Statutes “Florida Land Use and Environmental Dispute Resolution Act”. Under this procedure, a mutually agreed upon mediator was engaged and a meeting between the parties was held on November 21, 2019. Attending this meeting was the mediator, the property owner and his attorney, Village attorney Derek Rooney, Village land use attorney Nancy Stroud, and the Village Community Development Director. After discussion with the mediator, the parties reached a potential agreement. Under the statute, any agreement is a recommendation to Village Council. The Council can accept the agreement, reject the agreement, or modify the agreement.

Basis of Agreement –

The terms of the agreement include the following conditions relating to the application for 4 variances:

- Landscape buffers will be installed (within 60 days of approval of the Limited Development Order) as shown on the conceptual landscape buffer plan.
- Any use on the property will be configured consistent with the variance site plan.
- No outdoor storage is allowed.
- Outdoor display is limited to the area depicted on the variance site plan in yellow highlighting.
- Any pavement and fencing encroaching into the right-of-way shall be removed prior to any further development on site.
- A Limited Development Order may be approved administratively if consistent with this agreement.
- The variance application will be deemed withdrawn upon execution of this Agreement.

Action Requested:

Consider a settlement agreement between CHHCLA Investments, LLC and the Village of Estero pertaining to property at 20170 South Tamiami Trail, at the intersection of US 41 and Trailside Drive.

Financial Impact:

The Village will avoid potential further litigation and attorney costs if a settlement is approved. Under Florida Statute Chapter 70.51, the cost of mediation is split between the Village and the applicant.

Attachments:

1. Draft Settlement Agreement
2. Florida Statute Chapter 70.51
3. Applicant's Request for Relief