

# Procedures and Processes

Estero Planning and Zoning Board

May 5, 2015

# Powers and duties of the PZB

- 1. Comprehensive Planning
  - Develop the Village's first comprehensive plan, including preparation of the future land use map (FLUM)
    - *During the transition, the Lee County Comprehensive Plan is the Village Comprehensive Plan until amended*
  - Conduct public hearings and review proposed amendments to the comprehensive plan and make recommendations to the Village Council regarding the proposed amendments
    - *In the near future: conduct public hearings on applications for comprehensive plan amendments found to be sufficient for public hearing*
    - *Community Planning Initiative proposed amendments*
  - Conduct public information workshops required of applicants, as determined by the Village Manager

# Comprehensive Planning, cont.

- Act as the Local Planning Agency per the Florida Community Planning Act:
  - “Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan.”
  - “Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required.”
  - “Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof.”

# Powers and duties of the PZB

- 2. Land development code
  - Prepare and review the initial land development code for the Village and subsequent amendments
    - *During the transition, the Lee County Land Development Code is the Village Land Development Code until amended*
  - Conduct hearings and make recommendations to the Village Council regarding amendments to the Land Development Code, including rezonings and amendments to the Code
    - *In the near future: conduct public hearings on applications for rezonings found to be sufficient for public hearing*
    - *Community Planning Initiative proposed code amendments*
  - Conduct public information workshops required of applicants, as determined by the Village Manager

# Powers and Duties of the PZB

- Make decisions regarding certain zoning applications:
  - Administrative actions
  - Deviations relating to the height of building and structures
  - Variances
  - Special Exceptions
- *The Lee County Land Development Code will apply to these decisions until the Code is amended*
- *Public workshops may be required, as determined by the Village Manager, prior to the application being found sufficient*
- *A public hearing will be required for the decision; the PAB decision will be memorialized in a Resolution*
- *An appeal can be made of the PZB decision to the Village Council*

# PZB decisions

- Administrative Actions

- *The Land Development Code allows county staff to make certain limited decisions on development applications, without the need to go to the hearing examiner or the county commission. The actions and the standards for approval are set out in the Code. For example-- some parking reductions or on-premise alcohol consumption. The Village of Estero has delegated these decisions to the PZB instead.*

## Administrative Deviation for Height

*The Code also allows county staff to approval certain increases in the height of buildings, as set out specifically in the Code. The Village of Estero has delegated this to the PZB.*

# PZB decisions

- Variances

- *A variance allows adjustment to certain dimensional requirements for sites and buildings. For example – setbacks, lot coverage, landscaping area. The Code prohibits use variances. For example- if a zoning district does not allow a commercial use, no variance can be granted to allow the commercial use therein. Variances are allowed only to prevent unreasonable hardship that is created by extraordinary conditions (not created by the property owner). The grant of the variance, among other things, must not be injurious to the neighborhood.*

## Special Exceptions

- *These are uses may be allowed in zoning district, when specifically listed in the code, provided that the PZB determines that they meet code criteria, including a requirement that they are not injurious to the neighborhood and are compatible with existing or planned uses.*

# Powers and Duties of the PZB

- 4. Review and make recommendations on all plats for subdivision of land
- 5. Perform other duties as may be assigned by the Village Council

# Rules of Procedure

- The Board will adopt procedures for the conduct of business and meetings, conduct of public hearings, and conduct of workshops
- The Board will adopt minutes of each meeting
- The Village Clerk will maintain the Board's records (agendas, reports, minutes)
- At least 7 days' notice of all meetings and the agenda for the meeting will be provided

# Quasi-Judicial proceedings

- All rezoning hearings, and the decisions delegated to the PZB in Ordinance 2015-01 will be heard by the PZB in a quasi-judicial proceeding. These include Administrative Actions, Deviations relating to the height of building and structures, Variances, and Special Exceptions
- Florida caselaw requires quasi-judicial proceedings to ensure that due process is provided to applicants for site-specific zoning decisions

# Quasi-Judicial proceedings

- Minimum requirements for quasi-judicial proceedings:
  - 1. An impartial decision-maker (ex parte disclosures)
  - 2. All fact witnesses to be sworn and testimony under oath
  - 3. Proponents (applicants), staff and interested parties have full opportunity to present evidence and argument, including expert witnesses
  - 4. Witnesses may be cross-examined by the parties
  - 5. Public testimony may be allowed
  - 6. Formal rules of evidence do not apply, but fundamental due process is required
  - 6. A written decision supported by competent, substantial evidence in the record of the proceedings

# Planning and Zoning Board

Questions?