

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
REGULAR MEETING

Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida

Board Members

Michael Gravesen, Chair
Paul Bigness, Vice-Chair
Stephen Vieira, Secretary
Don McCormick
Thomas P. Thornberry



District

District V
District III
District I
District II
District IV

MINUTES
REGULAR MEETING

July 12, 2021 at 1:30 P.M.

Call to Order

Chair Gravesen called the meeting to order at 1:30 pm

Roll Call

Upon the roll being called it was determined a quorum was present.

Approval of Minutes – June 14, 2021 Regular Meeting

The June 14, 2021 minutes were approved as circulated.

Announcements

The oath was provided by Recording Secretary Bennett for those wishing to provide testimony.

PETITIONS

Audio Timestamp 1:31

PFP-21-03-01 Quasi-judicial Commission District IV

Frank Tenteromano has requested Preliminary & Final Plat approval for a residential four-lot Minor Subdivision to be named North Casper. The site is 5.23± acres and located at 1157 Casper Street, in the Port Charlotte area.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PFP-21-03-01** with a recommendation of approval with a condition, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick asked if the board has seen this property before, it looks familiar.

Mr. Cullinan answered yes. They had been looking at a Preliminary Plat at a different point in time. They had to change the configuration because it was not a minor subdivision at that time.

Applicant's Presentation

Rob Berntsson, Big W Law on behalf of Lennar Homes, LLC, accepts Mr. Cullinan as an expert and has been sworn in. They have been in before with a different configuration. They have rearranged the lots. It is a 4-lot subdivision. Lot 1 also contains the parcels that are noncontiguous. We join and meet all the criteria as outlined in the staff report. Information was submitted as requested on Friday for the condition. For the record, Mr. Tenteromano is selling the property and it will be a different owner by the end of this month. They will provide a new mylar with the new owner's name, which will be the only change. With that they respectfully request the board's recommendation of approval.

Questions for Applicant

Mr. Bigness asked how does Lot-1 get access?

Mr. Berntsson informed them the area that would be built on is along Casper. There's no road frontage.

Public Input

None.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Vieira**, with a unanimous vote.

Recommendation

Mr. Bigness moved that **PPF-21-03-01** be sent to the Board of County Commissioners with a recommendation of Approval, with condition based on the staff report dated June 29, 2021, and testimony presented at today's meeting, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 1:37 p.m.

PP-21-04-11 Quasi-judicial Commission District II

Lennar Homes, LLC has requested Preliminary Plat approval to replat a subdivision to be named, Heritage Landing Phase II-B consisting of 338 single-family residential lots and 2 multi-family lots within the Heritage Landing Development of Regional Impact (DRI). The DRI contains 890.74± acres and is located northwest of Burnt Store Road and east of the Peace River, in portions of Sections 17, 19, and 20, Township 42 South, Range 23 East, in the Burnt Store area.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **PP-21-04-11** with a recommendation of approval with conditions, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick stated there is a lot going on Burnt Store Road, the compacity of Burnt Store Road at four lanes is not really being tested, at this time?

Mr. Cullinan answered as of right now, this area is already vested with the destiny and the entitlements here in the Heritage Landing, formally Turn Bay. This one has no impact on it. With that four lanes, the final section that has added a lot of compacity.

Applicant's Presentation

Rob Berntsson, Big W Law on behalf of Babcock Property Holdings, accepts Mr. Cullinan as an expert and has been sworn in. They join in the staff report, accepts the conditions. This is part as a DRI, and we are vested from our transportation standpoint. This is continuing the project that has been very successful and with respect recommends for the board's approval.

Public Input

None.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Bigness**, with a unanimous vote.

Recommendation

Mr. McCormick moved that **PP-21-04-11** be sent to the Board of County Commissioners with a recommendation of Approval, with the seven conditions, based on the findings and analysis in the staff report dated July 7, 2021, along with the evidence presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

Audio Timestamp 1:42

Z-21-56-17 Quasi-Judicial Commission District I

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial Neighborhood (CN) for property located at 1009 Loveland Boulevard, in the Port Charlotte area, containing 0.74± acres; Commission District I; Petition No. Z-21-56-17; Applicant: Loveland 1009 LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **Z-21-56-17** with a recommendation of denial, based on the reasons stated in the staff report.

Questions for Staff

None.

Applicant's Presentation

Geri Waksler, McCrory Law Firm representing Loveland 1009, LLC, she has been sworn and accepts Ms. Shao as an expert and asks the board to also recognize herself as a Land Use and Zoning expert. They have applied for a rezoning from RSF-3.5 to Commercial Neighborhood (CN). Rezoning's are evaluated against five criteria's, one being with the amendment be contrary to the comprehensive plan (CP). In Ms. Shao's staff report, she states that "sub neighborhood commercial centers may be permitted in low density residential land use." Low density residential land use is currently what this property has, they are not seeking a future land use map amendment. The future land use appendix list sub neighborhood commercial uses as a permitted use under the general range of uses. The proposed zoning is consistent with the uses permitted in low density residential. One special provision is that sub neighborhood commercial centers must have sufficient buffers to prevent intrusion into a residential area and may be developed only as 1) a planned development (PD) with no residential uses, or 2) under the commercial neighborhood zoning district. This project is proposed to develop as CN. The CP as you can see in the materials that she gave the board along with her resume, defines sub neighborhood commercial as "a small commercial area providing limited retail goods and services, such as groceries and daily sundries for nearby residential customers". Multiple uses are permitted within the site under the definition, each use is limited to 4,000 sq ft. Indoor uses are required. Sub neighborhood commercial shall be located within a residential neighborhood. Ms. Shao highlights, that the subject property is located within a maturing neighborhood and that the comp plan requires that residential subdivision within in the maturing neighborhood must be protected in the manner that assures compatibility within eternal and the adjacent future development. But Ms. Shao sites no facts or circumstances that would make this purposed CN use incompatible with the maturing neighborhood other than her concern about noises from outdoor uses, which are prohibited. To the contrary she notes that directly across Loveland from this site is a large shopping center, the Peachland Promenades. Ms. Shao completely ignores that under the CP the only place you are permitted to develop a sub neighborhood commercial use is in a residential neighborhood. She also ignores the explicit language of the CP, when she devotes a large part of her consisting analyses in her staff report to put Future Land Use (FLU) policy 5.4.2. First, this policy is within objective 5.4, which is dealing with economic corridors. Economic corridors are completely different framework category than the maturing neighborhood, in which this property is located. Secondly, policy 5.4.2 sates "the county shall deny FLUM amendments to the commercial category, that will allow new strip commercial development." This policy has no applicability, no FLUM amendment is requested, and the language is not ambiguous. For the CP, it comes down to FLU policy 4.1.6, this policy states there shall be specific review for rezoning to address residential compatibility and list criteria that should be considered when the county develops its specific review criteria. The policy itself doesn't establish criteria but just requires the that the zoning code does. Policy 4.1.6 says there should be a method for determine compatibly between residential zoning classifications. The remainder of the policy calls for buffer or transition requirements to achieve compatibility where appropriate. The stated purpose is to provide standards and predictable measures for establishing and creating compatibility through land scape buffers, natural areas, or transitional development practices to lesson impacts and integrate development along the edges of properties, where there are different zoning districts, to screen undesirable views to preserve tree canopies and vegetation and facilitate the safe moving of traffic and pedestrians in vehicle use areas. All of these

were implemented by the adopted CN zoning district. The CN district which implements the CP limits heights of buildings to 35 ft., limits lots coverage to 40%, mandates a 25 ft set back at all property lines that are contiguous to residentially zoned property. The code also contains specific landscape buffers and lighting. Ms. Shao omits that there is no ability to add enhanced landscaping or to minimize impacts from the purposed commercial neighborhood uses.

Questions for applicant

Mr. Bigness asked what are your requirements for onsite water retention?

Ms. Waksler answered the storm water retention will be placed within the 25 ft set back, which doesn't allow structures but can allow for storm water.

Mr. Herston answered it's basically the standard SW Florida Water management district requirements for a ten to certification. Which is less than 10 acers in size and less than 2 acers in perviousness. Charlotte County Storm water department does except swift muds permit issuances.

Mr. Bigness asked sloping and retention would have to be created? Build walls and fences and you'd have to combined that with your landscaping?

Mr. Herston answered it's a function of volume. He anticipates a dry retention area will be needed, which he has reviewed.

Mr. Bigness asked if some of the parking spaces are 8 and 9ft?

Mr. Herston answered at a minimum they are all by 9x18 ft. Charlotte County no longer allows for compact parking spaces.

Mr. Gravesen mentions that some of the question on the storm water is that the site plan doesn't indicate the area where your storm water will be retained. Where on your site plan is that intended?

Mr. Herston answered it will be in accordance with our landscaping requirements. For the 25ft required buffer, which he believes a certain percentage of that buffer can be a dry retention area.

Mr. Vieira asked if he could be specific? Where on the site would the retention be? He states he's concerned about the people that boarder on the west. Where there are two single-family homes and one to the south.

Mr. Herston states the retention area will be on along the west property line and the south property line. If necessary, we would burry some chambers underneath the parking lot.

Ms. Waksler comments a Type-C buffer can be contained within as little as 7ft. Would then be with a wall, with the vegetation in front of the wall. That's likely what you will see here, vegetation, a wall, storm water and then the building itself.

Mr. Bigness asked was this broken into 5 individual units?

Mr. Herston answered yes.

Mr. McCormick comments that he is looking on the agenda and is having difficulty understanding that the community development department recommended approval for this?

Ms. Shao replied that it was a mistake, that the recommendation is a denial.

Public Input

Patricia Crow, lives in section 15, she states that she is a certified residential appraiser. She states that this change will negatively affect the values in that area. She has seen this everyday in her job also she has been in real estate for 30 years. There are many vacant lots across the street that they could build next to Firestone. No one is against building what they want to build, just not in the residential area. The neighbors bought their homes, knowing they could have enjoyment and peace for the rest of their lives. This property would take that away. She is very concerned that the values of the homes will go down. A petition was turned into the board members showing that many do not want this.

Tammy & Kailash Kukreja, lives right next to subject property, commented that they tried to purchase one of the subject properties lots, however they refused to separate the lots because they wanted to sell it as commercial. They enjoy the location of their property and how close it is to the Peachland Promenades. Also, how they still get the nice things that a neighborhood brings.

Suzanna Agard, lives behind subject property, expresses why does commercial have to be built in that location? It makes sense if it was built across the street by Publix, but not in the residential area. There are a lot of vacant lots in the area that would be better. She loves how close it is to the shopping stores, however she doesn't need commercial to be that close. She expresses how she does not want this commercial project to be in her backyard.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Bigness**, with a unanimous vote

Rebuttal

Ms. Waksler commented that they fully anticipated that the neighbors that lived immediately adjacent would not be thrilled with the idea of commercial here. They understand and will reach out and speak to them. She pointed out that CN was designed to be placed into commercial neighborhoods. That there are criteria for the zoning, that you can't vary from. That were put into place to ensure that it could integrate with an existing residential neighborhood. The setbacks, the buffers, the limit on height, the limit on the size and prohibition on outdoor uses. It's all well and good to be opposed to something, but the reality of what you see a CN at the corner of Rampart and Rio De Janeiro are that homes were built right up to it. No homes were knocked down to make it, commercial was there before any of the homes came in around it. She expresses that we need places for our small locally owned business's and that's what this is intended to be. She believes that this can be built based on the requirements of CN in a way that what the neighbors fear, will not come to pass. That they would be able to co-exist peacefully.

Staff Comments

Ms. Shao comments this is a unique situation. The CN is supposed to be established within the neighborhood, not immediately adjacent to a 30 acres commercial center. Also, the examples presented about Deep Creek is not CN, it's pure commercial zoning district. She believes that is has not been through a rezoning to change it to CN, it was already zoned for commercial development.

Mr. Cullinan stated that he takes umbrage with Ms. Waksler's comment about Ms. Shao not liking the project and that's the only reason why she's looking for ways to find this not in compliance. That is not true. Ms. Shao has been a planner and has taught planning for many years. She has the utmost integrity. With that being said, there are a few items and inconsistency's this form of development is purely strip. This is a 125 ft deep lot, we have too many of that. That's why we discourage it. That's why we have specific areas set aside for the Deeping of lots. If you remember the US-41 overlay, where we do encourage people to go into existing residential. However, that's established clearly in the plan. This area is not, Loveland Blvd is a pure dividing line between residential and commercial. With the statement that it is "within", webster defined as an adjective – which is ho this is being used in the comprehensive plan- within means enclosed. There is no sight of this area being enclosed by residential. I see it on some sides, but not enclosed. With respect to some of her other examples those have been there previously. The residential development occurred after that; the home purchasers knew what they were

purchasing since it was well established. Its not very often that staff finds something not into compliance. It is our professional opinion that this is pure encroachment into a residential neighborhood. That is why you find that it is not incompliance.

Ms. Waksler comments that if you read the intent of commercial neighborhood (CN) under the zoning district it specifically says within or adjacent too a residential neighborhood. It contemplates that it either would be within or on the edges of a residential neighborhood. She pointed out that the only place that you can do a CN is in a residential neighborhood. It allows as little as of 4/10 of an acre in size, under the comprehensive plan. It doesn't matter if this is strip commercial because the prohibition on strip commercial in the CP apply only to when you are changing the FLUM designation from residential to commercial. The applicant is not doing that. They are correct that the examples she gave are zoned commercial general (CG), the commercial and residential was develop together. That was planned for the residential to be there, as opposed to general development which didn't do that anywhere. The thing about CG properties they don't have the protections that CN provides. CG can go up to 60ft it doesn't require the 25 ft buffer and it doesn't have the limits on outdoor storage. The reality is, what gets built is what works within a neighborhood and what will be utilized by the residents around it. Again, this is consistent with the CP, they may not like it or may not want to see it here, but they have not sited specific policies that show that we are inconsistent. It is consistent with the CP. She asks for the board to recommend approval for the project.

Mr. Cullinan expresses that the comment that Ms. Waksler made about the Future Land Use Map (FLUM) destination allows for a CN, she's correct. The reason for that is because CN already existed. The FLUM destination is a way to limit somebody coming in and changing CN into commercial, in the middle of an existing neighborhood. That's one of the reasons why we have that allowance for that zoning destination, under that FLUM destination.

Ms. Waksler comments that it is well and good to say that this is what we intended, but if the language is clear we don't look at what the intent was because you can discern the intent from the language of the CP. There is nothing in the CP that says we are keeping all these new polices about CN to prevent existing CG that's within neighborhoods to be rezoned to CN. The language talks about where it can go, what the limitations would be, how it should be placed, and this parcel meets all the expressed provisions of the CP.

Discussion

Mr. Gravesen states that it is his understanding that CN is a relatively new category?

Ms. Shao answered that CN was allowed in 1997 and 2010 Comp Plan, it's under low/medium/high density residential. In 2010 we re-wrote the CP process and we noticed people tried to use that in a CN to intrude into the pure neighborhood. Then we took that out and put CN must under the commercial FLUM destination.

Mr. McCormick asked the screening that associated to the Publix loading docks is that to current code? It doesn't seem to be an elaborate screen and was wondering how that would compare with current code?

Mr. Cullinan answered he believes that was built in 2010 and that the landscape codes since then have been changed. That is not under a the most recent code, but it is not that old of a project.

Mr. Bigness shared his concern on buffering and the maintenance of the buffering throughout the years.

Mr. Vieira expressed that he clearly sees this as an intrusion into a residential neighborhood. He agrees with Ms. Crow that the property values will be affected by development of this property. His senses the wants and needs of the neighborhood are clearly taken care of by the economic center to the east. He finds this to be an intrusion to the neighborhood and doesn't see how there can be a peaceful solution to letting this development move forward.

Mr. McCormick expressed his concern if he fails to support this plan it would put an economic burden on the owners of the three lots because they are very difficult to imagine being developed residentially.

Mr. Gravesen expresses his conundrum on this, he can see that the property owner has all the rights to make this presentation for this petition to get it. He can see benefits for it being there because of the devolvement of it being commercial and it does create a buffering situation to the residents. There are residents there that does not want that, so that creates an issue that it is residential area there is sufficient commercial across the street.

Mr. Bigness comments that he has a tough time supporting this. With respect to the other areas that were set up for examples, he views each case individually. With regards to trips, he doesn't see how less trips with 5 individual business's being there than there would be with 3 single-family homes. He agrees with the clear delineation between commercial and residential. He express's that as volunteers they are there to represent the citizens of the community, to him he thinks that existing owners have rights too. When he looks at a zoning change that affects the existing property owners, who are against it, to him takes a higher bar to approve that change.

Recommendation

Mr. Vieira moved that **Z-21-56-17** be sent to the Board of County Commissioners with a reluctant recommendation of Approval, based on the findings and analysis in the staff report dated June 28, 2021, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, for the record Mr. Vieira states he still stands by what he had said; he believes this is a definite intrusion in the neighborhood and agrees that the existing property owners do have rights and doesn't think enough consideration has been given to their rights in this whole conversation, second by **Mr. McCormick**; and motion failed with a 2-2 recommendation.

Mr. Bigness moved that **Z-21-56-17** be sent to the Board of County Commissioners with a recommendation of Denial, based on the findings and analysis in the staff report dated June 28, 2021, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Gravesen**; the motion passed with 3-1 recommendation.

Audio Timestamp 2:53

NOPC-20-34-24 Quasi-Judicial Commission District I

A Resolution pursuant to Section 380.06(7), Florida Statutes (F.S.) and Section 3-9-10.1, Development of Regional Impact (DRI) Development Order (DO) Amendment Process and Procedure under Chapter 3-9, Zoning, the County's Land Development Regulations, amending the Master Development Order (MDO) for the Babcock Ranch Community Master Development of Regional Impact (DRI), Resolution Numbers 2017-187 and 2018-077, to generally update to reflect current development plans, remove outdated information and completed conditions, and incorporate the results of the Master Traffic Study Update. Specific changes include the following: 1) revise "Whereas Clauses" by updating and removing outdated information; 2) amend "Findings of Fact and Conclusions of Law" to clarify the category of clubhouses and similar neighborhood amenities and to reflect the latest information; 3) remove all references to "DEO"; 4) revise Condition A.(1) under the Affordable Housing section to reflect the definition of workforce housing that was in effect at the time of the original development order approval, Condition A.(7) under the Affordable Housing section to clarify the parties that may agree to an alternative methodology, and Condition A.(13) under the Affordable Housing section in accordance with Section 125.01055, Florida Statutes; 5) revise Condition A.(4), Condition A.(20), Condition B.(3), Condition B.(4) and Condition B.(5) under the Stormwater Management and Flood Plains section to clarify where reports required by NPDES permits are to be maintained, reference the SWFWMD Conceptual ERP, to identify the District, rather than the Developer, for littoral zone maintenance and annual inspections, and to clarify who is responsible for regularly scheduled vacuum sweeping of streets and parking areas, and indicate what streets and parking areas will be regularly maintained; 6) revise the Transportation section by amending Condition B.(1)(a) to update horizon year from 2030 to 2040; revising Condition B.(1)(b) to reference "community capture rate" and update, consistent with the Master Traffic Study Update (MTSU); revising Condition B.(1)(c)-(e) to reflect changes, consistent with the

MTSU; revising Conditions B.(2)(a) to be consistent with the MTSU and remove text that is no longer applicable or has been completed; revising Conditions B.(2)(a)(2)a. and c. to be consistent with the MTSU; updating Conditions B.(2)(b)(1), (c), and (d) to be consistent with the MTSU and remove condition language that is no longer applicable; deleting Condition B.(5), as the condition has been completed; revising renumbered Condition B.(5) to clarify timing of when an external transit feasibility study will be provided, at the request of the County; revising renumbered Condition B.(6) to indicate locations of permanent traffic count stations installed at specific BRC ingress/egress points; deleting Condition B.(8), as it has been completed; revising Condition C.(1)(a) to clarify significantly impacted external road segments are shown on Exhibit "F"; updating Condition C.(1)(c) to be consistent with the MTSU; revising Condition C.(1)(f) to remove references to State Statutes that no longer exist; updating Condition C.(2)(c) to specify that access points are established in the MDO; deleting Condition C.(6)(d) as the State Statute referenced is no longer in effect, deleting Condition C.(7) regarding the Lee Road Agreement, as that agreement has been fulfilled and neither party has any further obligation to the other thereunder (refer to Paragraph 3 of the Babcock Ranch Memorandum of Understanding with Lee County dated September 23, 2008); 7) revise Condition A.(13) and Condition B.(2) under the Vegetation, Wildlife, and Wetlands section to clarify timing of conservation easements for existing agricultural uses outside of development areas and that conservation easements will only be recorded for on-site mitigation and not for off-site (State-owned lands) property, and to reflect currently documented listed species, as noted in the most up-to-date threatened and endangered species management plans; 8) Revise Condition A.(1) and Condition A.(9) under the Wastewater Management and Water Supply to reflect low volume plumbing fixture maximum flow volume of 1.28 gallons per flush for toilets, and to clarify locations for on-site wastewater treatment systems; 9) update Condition A.(1), Conditions B.(4) and (5), and Condition B.(7) under the Police and Fire section to clarify Developer or District responsibility and clarify definition of shell building, to reflect commitments that have been fulfilled for the Sheriff's Sub-Station and EMS vehicle, pursuant to Exhibit "D", and to clarify Developer or District responsibility; 10) revise Condition A, Condition B.(1) under the Hurricane Preparedness section to clarify the Developer's or District's responsibility and to revise language regarding building standards, as well as to clarify that District or POA will develop a hurricane preparation and shelter information program; 11) delete Condition B.(2) under the Hurricane Preparedness section because it is required by Florida Building Code; 12) update Condition A.(5) under the Open Space, Parks, and Library section to clarify Developer's or District's responsibility and to clarify definition of shell building; 13) delete Condition B.(3) under the Open Space, Parks, and Library section regarding the mining lake, as all mining has now ceased; 14) revise Condition A.(2) and Condition A.(6) under the Energy section to clarify Developer's or District's responsibility regarding internal transit options, to address water closet water usage limits; 15) delete Conditions B.(4) and (5) under the Energy section related to alternative energy or energy efficient features, as builders provide these options; 16) revise Condition A. under the Mining Operations section to reflect the completion of mining; 17) delete Condition H. under the General Provisions section regarding certified copies of the Development Order, as State Statutes have been amended and the referenced Subsection is no longer in effect; 18) update Buildout and Expiration Dates of this Development Order (DO) per Governor's Executive Orders; 19) revise this DO for internal consistency and to reflect updates to Florida Statutes, as applicable; 20) update notes within Exhibit B Master Concept Plan (Map H) to be consistent with approved entitlements; 21) update Exhibit D Updated Summary of Land Dedications and Facilities Construction to reflect land dedication and shell building requirements; and 22) update Exhibit F and its title to be consistent with the MTSU; for property located east of S.R. 31, south of C.R. 74 (Bermont Road), west of the Glades County line, and north of the Lee County line, containing 13,630± acres, in the East County area; Commission District I, Petition No. NOPC-20-34-24; Applicant: Babcock Property Holdings, LLC; providing an effective date.

Jie Shao, Principal Planner provided the findings and analysis for Petition **NOPC-20-34-24**, with a recommendation of approval with, based on the reasons stated in the staff report.

Questions for Staff

Mr. McCormick asked if the parks and recreation operation gets turned over to their MPO or their homeowner's association? Does the Library, Police and Fire become the responsibility of the county?

Ms. Shao answered only the parks will be owned by them, however, the Library, Police and Fire will be operated by the county.

Mr. Vieira asked with that being said, is the county responsible for the construction of these shell facilities or is it the developer or the district? Is the district a CDD or an association that's going to be responsible for the monetary aspect of that?

Ms. Shao answered the developer will build the shell, but the county will complete.

Mr. Vieira asked under exhibit D; it says that a 12,000 sq ft shell building is required prior to reaching 12,500 persons within in a development. Who sets that date or that action to take place?

Ms. Shao replied their existing code has a triggering point based on the CO, they have realized that the CO sometimes single-family is accurate CO. But for the multi-family you can have 10 buildings only one CO. We noticed that is not accurate, that's why different departments of staff had meetings with Babcock team to make sure they have good trigger point. We all agreed and discussed that 2.5 person per unit to reach that population. In that code it specifically said that is commencement of operation must be done. The first fire and EMS station has an October 1, 2024 operation. However, there is turnover the time for that. It is very important within that purposed Exhibit D, we said we need to buy annual meetings with the developer so that is a more accurate projection and to know what's going the next 5 years so the county can plan.

Applicant's Presentation

Rob Bertsson, Big W Law on behalf of Babcock Property Holdings, LLC, states he has been sworn and accepts Ms. Shao as an expert. First, he wanted to thank staff. This has been a huge undertaking on the staff side and the development team. The Exhibit D amendments have been going on for the last 8-9 months on discussions on how to do that. A lot of this came into being in 2007, when the initial DRI came forward. Just technology alone changes the needs for libraries between now and then. What was the standard for a library then and what the standard is now, the same with fire fighting and policing, those things evolved. The master development order was triggered by the master traffic study. That was really what we were looking to do, but as we worked with staff all these other issues; updating outdated statues, change statues and recognizing those changes. It's been a comprehensive project. They are happy to answer questions, this has been truly vetted through staff. Through a long and tedious procedure but one that will result in a better development in the long run. They would appreciate their recommendation of approval.

Public Input

None offered.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Bigness**, with a unanimous vote

Discussion

Mr. Bigness asked is how much of the taxpayers are on the hook for this project? Also, how much of it is self-contained being it's a self-contained well delineated project?

Assistant County Attorney, Thomas David replied this is an unusual set up. They have an independent special taxing district that has been adopted by the state legislature. The differentiation between what the county's responsibly and their essential local government out their responsibility is clear. Where the county retains responsibly is for services that we generally provide, and they are not allowed to do Planning and Zoning. Everything else is paid for by the residents out there.

Mr. McCormick stated that the residents out there are paying a county tax as well as their own tax. Based on population they will be self-funding their Library and their Fire stations, etc.

Recommendation

Mr. Vieira moved that **NOPC-20-34-24** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated June 18, 2021, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. McCormick**; and carried by a unanimous vote.

Audio Timestamp 3:16

DRI-20-46-23 Quasi-Judicial Commission District I

A Resolution pursuant to Section 380.06, Florida Statutes (F.S.), and Section 3-9-10.1, Development of Regional Impact (DRI) Development Order (DO) Amendment Process and Procedure under Chapter 3-9, Zoning, the County's Land Development Regulations, the Charlotte County Planning and Zoning Board is holding a public hearing to consider a request for approval of an incremental development order for the Babcock Ranch Community, called Babcock Ranch Community Increment 2 Development Order (DO); for property generally located east of State Road 31, south of County Road 74 (Bermont Road), west of the Glades County line, and north of the Lee County line, containing 4,021± acres, in the East County area; Commission District I, Petition No. DRI-20-46-23; Applicant: Babcock Property Holdings, LLC, providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **DRI-20-46-23** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

Rob Berntsson, Big W Law on behalf of Babcock Property Holdings, LLC, states he has been sworn and accepts Ms. Shao as an expert. On this increment 2 is really the 2/3 of the project, so to speak. The first phase was the 1/3 and this is the 2/3 of the project that is coming through. This allows development to continue to the east of existing development and the expansion of the existing development. Many of the things that went into the master and filtered down into Increment 2 and it's very similar to the Increment 1 with regards to uses, etc. The whole development team is present for any further questions.

Public Input

None offered.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Vieira**, with a unanimous vote

Discussion

Mr. Vieira stated that in the presentation housing was referred for the work force that will construct this phase, are those housing figures included in the total build out figures?

Ms. Shao answered that is temporary housing. That was established in the MDO since 2007.

Mr. Vieira asked has a design criteria on that work force housing, or are we just using it as a general term for the time being?

Ms. Shao answered for the temporary housing there is no design just the development rights. Once the construction is finished, they will be removed.

Mr. Bigness asked on page 75, the proposed drainage plan, does it go off property or does it collect it at the edge of the property?

John Broderick, with Kitson Partners, answered that all the drainage will be permitted through the South Florida Water Management district. Everything on the property will be draining off the property at some point but at a slower rate than it is as of today.

Recommendation

Mr. Vieira moved that **DRI-20-46-23** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated June 18, 2021, Charlotte County's Comprehensive Plan and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. McCormick**; and carried by a unanimous vote.

Mr. Cullinan respectfully request to move last item, **TLDR-21-02**, up next.

Audio Timestamp 3:28

TLDR-21-02 Revisions to the ECAP Code Legislative Commission District II

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Charlotte County Code Chapter 3-9: Zoning, Article II: District Regulations, by revising subsection (g) Conditional Uses and Structures under Section 3-9-48, Enterprise Charlotte Airport Park (ECAP) to add Truck Stops as Conditional uses and structures; providing for additional development standards for such uses; providing for conflict with other ordinances; providing for severability; and providing for an effective date. Applicant: RaceTrac Petroleum, Inc.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition **TLDR-21-02** with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

Mr. Cullinan explains the standards that they are proposing are mostly locational and developmental such as enhance land scaping; the locations must be within in half a mile of the interchanges. It will functionally limit it, but they do provide a service to the both the traveling public and as well as the business in the ECAP.

Mr. Gravesen asked is this to be applied over the whole ECAP? **Mr. Cullinan** responded it will apply and it is the ECAP code, but again the standards being proposed would functionally limit it to the areas of Piper Rd and Jones Loop Rd, and Piper Rd and US-17.

Mr. Gravesen asked is this something that you would get comments from the airport? **Mr. Cullinan** answered yes sir, he has personally met with Jim Perish. They understand the need for it, they are having some issues with some trucks parking out on that area, just on the road why they are waiting. He was also supportive of the standards that we are proposing here in, the applicant as well to speak on this. They have stated to them that they are in agreement to all of the standards being proposed by staff.

Applicant's Presentation

Derek Rooney, on behalf of RaceTrac Petroleum, Inc., states he does concur with the expert opinion of Charlotte County staff of this applications review. It was a shock to him to learn that truck stops were not a use allowed in the ECAP, when it was initially developed. The importance as a strategic intermodal system for FDOT has only grown with the location of Chaney Brothers and other distribution facilities into the ECAP. As well as the extension of Piper Rd. Staff had some concerns when this request was made about buffering the gateway into the City of Punta Groda and locational standards as to how much would this be a proliferation throughout the ECAP? He did meet with the airport authority, the entire board and Mr. Perish and they understand the concerns out there. They do believe it will provide some staging opportunities as well as relieve some to the issues they've had in the

past. This has been a significant issue for FDOT, they requested to double the parking available. However, given the location with residential housing and other issues, we agree with the staff conditions and are proposing a site plan that has significant buffering.

Questions

Mr. Bigness asked does RaceTrac do truck stops?

Mr. Rooney replied it is his understanding that they only done one travel center like this previously. Given the need in the area, they have identified this as their first real truck stop. The initial site plan had twice the parking, after consultation with the county we reduced that. At a second entrance the parking will all be shielded to the back. There will be no overnight parking. Primarily RaceTrac is looking to serve the traveling public. This facility will be clean, it will have separate entrances as much as possible they will try to keep those issues about the truck prop placement behind the facilities and out of the public view.

Public Input

None offered.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Vieira**, with a unanimous vote

Comments

Mr. Bigness comments that he can see the increase of trucks parked all over the place. The public may not understand that FDOT, not too many years ago, cut down how many hours a driver can drive. They have logbooks and they've tried to switch even from logbooks, which could be doctored, to electronic systems. Trucks are very much constrained especially if you don't have a tag team driver and they must stop after driving a certain number of hours. He believes this will be an asset.

Mr. McCormick commented that the state closed the rest stop that was on rest stop that was on Jones Loop. Which had a big impact on staging trucks.

Mr. Vieira commented that he was driving on I-75 and saw the flashing sign on the weigh station that there were 22 sites available for overnight parking. So there seems to be a true need for some sort of service for the truckers.

Recommendation

Mr. McCormick moved that **TLDR-21-02** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the Comprehensive Planning Division staff memorandum dated July 1, 2021, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Vieira**; and carried by a unanimous vote.

Audio Timestamp 3:37

Revisions to the Murdock Village Redevelopment Agency's Community Redevelopment Plan Legislative Commission District IV

A Resolution of the Board of County Commissioners of Charlotte County, Florida, pursuant to Chapter 163, Part III, Florida Statutes (the "Community Redevelopment Act"), particularly Section 163.361, Florida Statutes, and other applicable provisions of law, approving an amendment to Section 5.05 of the Murdock Village Redevelopment Agency's Community Redevelopment Plan relating to the number of dwelling units, vested rights and concurrency; for properties located south of US 41(Tamiami Trail), north of SR 776 (El Jobean Road), west of the Auburn Waterway, and east of the Crestwood Waterway, containing 1,197.8± acres; providing for findings; providing an effective date; Applicant: Charlotte County Board of County Commissioners.

Assistant County Attorney, Thomas David, provided the findings and analysis for Petition Revisions to the Murdock Village Redevelopment Agency's Community Redevelopment Plan with a recommendation of approval, based on the reasons stated in the staff report.

Questions for Staff

None offered.

Applicant's Presentation

Assistant County Attorney, Thomas David, explained that one of the requirements for a Community Redevelopment Agency under statute is to habit the Community Redevelopment plan. The county has a redevelopment plan for the Charlotte Harbor CRA and for the Murdock Village CRA. Occasionally we look at it and make changes when we feel a need. When this plan was first adopted the Murdock Village area was under a development regional impact and was regulated by through state statues on that. You will see in the resolution a reference to a daily trip count. The number of daily trips regulated the intensity on how much you can do before you trigger concurrent payments or road improvements, etc. The agreement between the county and the state was that there will be 97,961 vested daily trips. After that the state radically revised the DRI law so its no longer a state concern. The DRI still remains but it is not regulated the same way. Also, there has been substantial changes made to US-41 to 776 and there are additional plans for Toledo Blade. The county is in the process of discussing a couple of transactions remaining to the property that the County/CRA owns. They wanted to make sure in this Community Redevelopment plan reflected a procedure for the Board of County Commissioners to adjust those vested daily trips when the circumstances warrant it. It makes no sense to put in a fixed number when the reality is that number is not fixed, it changes. The paragraph that is being inserted in subsection D, is to make sure that the understanding that this Community Redevelopment plan will not interfere with any transactions. That it's based on the Boards authority. This one section is vague and can cause problems in the future. This is sort of legal covering to make sure that the flexibility to adjust the intensity and development rights are protected for the Board of County Commissioners. For example, when we sell property in a CRA, all the properties plan for sale must be compliant with this plan. That's one of the key issues. We want to make sure this plan left enough flexibility for the board to make the determination on what the intensity and density will be on that site. We would appreciate it if you would consider sending it along for approval and would be happy to answer any question.

Public Input

None Offered.

- **Mr. McCormick** moved to close the public comment, second by **Mr. Vieira**, with a unanimous vote

Recommendation

Mr. McCormick moved that **Revisions to the Murdock Village Redevelopment Agency's Community Redevelopment Plan** be sent to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis on the staff memorandum dated June 28, 2021, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board, second by **Mr. Vieira**; and carried by a unanimous vote.

Appointment of a Planning and Zoning Board member for Affordable Housing Advisory Committee

Questions

Mr. Gravesen asked staff if most of the meetings are out this way and central county? Or do they rotate around the county?

Mr. Cullinan answers they typically meet at the Human Services building off Loveland Blvd. A few meetings recently due to that room being booked, they've had the meeting at the Punta Gorda housing authority site.

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Mr. Gravesen asked what kind of commitments or once approved, could you resign from representing the Planning and Zoning and get someone else from the Planning and Zoning board? Is there a term limit to it?

Assistant County Attorney, Thomas David answered he doesn't believe there are any of those things. There is one commissioner on it, there not wanting for quorum generally when he's seen them. They do have a lot on their plate, they have a very active Department Director that runs the show and her assistant. The Board of County Commissioners have tasked with finding ways to resolve the affordable housing problem here in Charlotte County. Which has become acute here, without a doubt.

Mr. Cullinan states they meet every other month. The meetings are typically 2 hours in the morning, usually 9:30 to 11:30. It is a requirement that there be one member from the Planning and Zoning on that board.

Assistant County Attorney, Thomas David comments everyone recognizes that you have a very busy schedule. If you can't accommodate it in your schedule, then you may just want to push it to another meeting. To see if Mr. Thornberry shows up and if he has the time.

Mr. Bigness motioned to nominate **Mr. Gravesen** as the Planning and Zoning Board member for Affordable Housing Advisory Committee, second by **Mr. Vieira**; and carried by a unanimous vote.

ADJOURNMENT

The meeting was adjourned at 3:49 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair